

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 127**

**Senators Lehner, Hottinger**

**Cosponsors: Senators Uecker, Hite, Eklund, Jones, Burke, Gardner, Oelslager,  
Obhof**

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**A BILL**

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

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

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

**Sec. 2305.11.** (A) An action for libel, slander, malicious  
prosecution, or false imprisonment, an action for malpractice  
other than an action upon a medical, dental, optometric, or  
chiropractic claim, or an action upon a statute for a penalty or  
forfeiture shall be commenced within one year after the cause of  
action accrued, provided that an action by an employee for the  
payment of unpaid minimum wages, unpaid overtime compensation,

or liquidated damages by reason of the nonpayment of minimum 19  
wages or overtime compensation shall be commenced within two 20  
years after the cause of action accrued. 21

(B) A civil action for unlawful abortion pursuant to 22  
section 2919.12 of the Revised Code, a civil action authorized 23  
by division (H) of section 2317.56 of the Revised Code, ~~a civil~~ 24  
~~action pursuant to division (B) (1) or (2) of section 2307.51 of~~ 25  
~~the Revised Code for performing a dilation and extraction~~ 26  
~~procedure or attempting to perform a dilation and extraction~~ 27  
~~procedure in violation of section 2919.15 of the Revised Code,~~ 28  
~~and~~ a civil action pursuant to division (B) of section 2307.52 29  
of the Revised Code for terminating or attempting to terminate a 30  
human pregnancy after viability in violation of division (A) of 31  
section 2919.17 of the Revised Code, and a civil action for 32  
terminating or attempting to terminate a human pregnancy of a 33  
pain-capable unborn child in violation of division (E) of 34  
section 2919.201 of the Revised Code shall be commenced within 35  
one year after the performance or inducement of the abortion, or 36  
within one year after the attempt to perform or induce the 37  
abortion in violation of division (A) of section 2919.17 of the 38  
Revised Code or division (E) of section 2919.201 of the Revised 39  
Code, ~~within one year after the performance of the dilation and~~ 40  
~~extraction procedure, or, in the case of a civil action pursuant~~ 41  
~~to division (B) (2) of section 2307.51 of the Revised Code,~~ 42  
~~within one year after the attempt to perform the dilation and~~ 43  
~~extraction procedure.~~ 44

(C) As used in this section, "medical claim," "dental 45  
claim," "optometric claim," and "chiropractic claim" have the 46  
same meanings as in section 2305.113 of the Revised Code. 47

Sec. 2307.54. (A) As used in this section, "frivolous" 48

conduct" has the same meaning as in section 2323.51 of the 49  
Revised Code. 50

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

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

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

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

(B) "Medical emergency" means a condition that in the 74  
physician's good faith medical judgment, based upon the facts 75  
known to the physician at that time, so complicates the woman's 76  
pregnancy as to necessitate the immediate performance or 77

inducement of an abortion in order to prevent the death of the 78  
pregnant woman or to avoid a serious risk of the substantial and 79  
irreversible impairment of a major bodily function of the 80  
pregnant woman that delay in the performance or inducement of 81  
the abortion would create. 82

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

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

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

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

(G) "Serious risk of the substantial and irreversible 95  
impairment of a major bodily function" means any medically 96  
diagnosed condition that so complicates the pregnancy of the 97  
woman as to directly or indirectly cause the substantial and 98  
irreversible impairment of a major bodily function. A medically 99  
diagnosed condition that constitutes a "serious risk of the 100  
substantial and irreversible impairment of a major bodily 101  
function" includes pre-eclampsia, inevitable abortion, and 102  
premature rupture of the membranes, may include, but is not 103  
limited to, diabetes and multiple sclerosis, and does not 104  
include a condition related to the woman's mental health. 105

(H) "Unborn child" means an individual organism of the 106

species homo sapiens from fertilization until live birth. 107

Sec. 2919.201. (A) No person shall purposely perform or 108  
induce or purposely attempt to perform or induce an abortion on 109  
a pregnant woman when the probable post-fertilization age of the 110  
unborn child is twenty weeks or greater. 111

(B)(1) It is an affirmative defense to a charge under 112  
division (A) of this section that the abortion was purposely 113  
performed or induced or purposely attempted to be performed or 114  
induced by a physician and that the physician determined, in the 115  
physician's good faith medical judgment, based on the facts 116  
known to the physician at that time, that either of the 117  
following applied: 118

(a) The probable post-fertilization age of the unborn 119  
child was less than twenty weeks. 120

(b) The abortion was necessary to prevent the death of the 121  
pregnant woman or a serious risk of the substantial and 122  
irreversible impairment of a major bodily function of the 123  
pregnant woman. 124

(2) No abortion shall be considered necessary under 125  
division (B)(1)(b) of this section on the basis of a claim or 126  
diagnosis that the pregnant woman will engage in conduct that 127  
would result in the pregnant woman's death or a substantial and 128  
irreversible impairment of a major bodily function of the 129  
pregnant woman or based on any reason related to the woman's 130  
mental health. 131

(C) Except when a medical emergency exists that prevents 132  
compliance with section 2919.203 of the Revised Code, the 133  
affirmative defense set forth in division (B)(1)(a) of this 134  
section does not apply unless the physician who purposely 135

performs or induces or purposely attempts to perform or induce 136  
the abortion makes a determination of the probable post- 137  
fertilization age of the unborn child as required by division 138  
(A) of section 2919.203 of the Revised Code or relied upon such 139  
a determination made by another physician and certifies in 140  
writing, based on the results of the tests performed, that in 141  
the physician's good faith medical judgment the unborn child's 142  
probable post-fertilization age is less than twenty weeks. 143

(D) Except when a medical emergency exists that prevents 144  
compliance with one or more of the following conditions, the 145  
affirmative defense set forth in division (B) (1) (b) of this 146  
section does not apply unless the physician who purposely 147  
performs or induces or purposely attempts to perform or induce 148  
the abortion complies with all of the following conditions: 149

(1) The physician who purposely performs or induces or 150  
purposely attempts to perform or induce the abortion certifies 151  
in writing that, in the physician's good faith medical judgment, 152  
based on the facts known to the physician at that time, the 153  
abortion is necessary to prevent the death of the pregnant woman 154  
or a serious risk of the substantial and irreversible impairment 155  
of a major bodily function of the pregnant woman. 156

(2) A different physician not professionally related to 157  
the physician described in division (D) (1) of this section 158  
certifies in writing that, in that different physician's good 159  
faith medical judgment, based on the facts known to that 160  
different physician at that time, the abortion is necessary to 161  
prevent the death of the pregnant woman or a serious risk of the 162  
substantial and irreversible impairment of a major bodily 163  
function of the pregnant woman. 164

(3) The physician purposely performs or induces or 165

purposely attempts to perform or induce the abortion in a 166  
hospital or other health care facility that has appropriate 167  
neonatal services for premature infants. 168

(4) The physician who purposely performs or induces or 169  
purposely attempts to perform or induce the abortion terminates 170  
or attempts to terminate the pregnancy in the manner that 171  
provides the best opportunity for the unborn child to survive, 172  
unless that physician determines, in the physician's good faith 173  
medical judgment, based on the facts known to the physician at 174  
that time, that the termination of the pregnancy in that manner 175  
poses a greater risk of the death of the pregnant woman or a 176  
greater risk of the substantial and irreversible impairment of a 177  
major bodily function of the pregnant woman than would other 178  
available methods of abortion. 179

(5) The physician certifies in writing the available 180  
method or techniques considered and the reasons for choosing the 181  
method or technique employed. 182

(6) The physician who purposely performs or induces or 183  
purposely attempts to perform or induce the abortion has 184  
arranged for the attendance in the same room in which the 185  
abortion is to be performed or induced or attempted to be 186  
performed or induced at least one other physician who is to take 187  
control of, provide immediate medical care for, and take all 188  
reasonable steps necessary to preserve the life and health of 189  
the unborn child immediately upon the child's complete expulsion 190  
or extraction from the pregnant woman. 191

(E) Whoever purposely performs or induces or purposely 192  
attempts to perform or induce an abortion in violation of, or 193  
without complying with, the requirements of this section is 194  
guilty of terminating or attempting to terminate a human 195

pregnancy of a pain-capable unborn child, a felony of the fourth 196  
degree. 197

(F) The state medical board shall revoke a physician's 198  
license to practice medicine in this state if the physician 199  
violates or fails to comply with this section. 200

(G) Any physician who purposely performs or induces an 201  
abortion or purposely attempts to perform or induce an abortion 202  
with actual knowledge that neither of the affirmative defenses 203  
set forth in division (B)(1) of this section applies, or with a 204  
heedless indifference as to whether either an affirmative 205  
defense applies, is liable in a civil action for compensatory 206  
and exemplary damages and reasonable attorney's fees to any 207  
person, or the representative of the estate of any person, who 208  
sustains injury, death, or loss to person or property as the 209  
result of the performance or inducement or the attempted 210  
performance or inducement of the abortion. In any action under 211  
this division, the court also may award any injunctive or other 212  
equitable relief that the court considers appropriate. 213

(H) A pregnant woman on whom an abortion is purposely 214  
performed or induced or purposely attempted to be performed or 215  
induced in violation of division (A) of this section is not 216  
guilty of violating division (A) of this section or of 217  
attempting to commit, conspiring to commit, or complicity in 218  
committing a violation of division (A) of this section. 219

**Sec. 2919.202.** (A) A physician who performs or induces or 220  
attempts to perform or induce an abortion on a pregnant woman 221  
shall submit a report to the department of health in accordance 222  
with the forms, rules, and regulations adopted by the department 223  
that includes all of the information the physician is required 224  
to certify in writing or determine under sections 2919.201 and 225



2919.203 of the Revised Code. 226

(B) By the thirtieth day of September of each year, the 227  
department of health shall issue a public report that provides 228  
statistics for the previous calendar year compiled from all of 229  
the reports covering that calendar year submitted to the 230  
department in accordance with this section for each of the items 231  
listed in division (A) of this section. The report shall also 232  
provide the statistics for each previous calendar year in which 233  
a report was filed with the department pursuant to this section, 234  
adjusted to reflect any additional information that a physician 235  
provides to the department in a late or corrected report. The 236  
department shall ensure that none of the information included in 237  
the report could reasonably lead to the identification of any 238  
pregnant woman upon whom an abortion is performed. 239

(C) (1) The physician shall submit the report described in 240  
division (A) of this section to the department of health within 241  
fifteen days after the woman is discharged. If the physician 242  
fails to submit the report more than thirty days after that 243  
fifteen-day deadline, the physician shall be subject to a late 244  
fee of five hundred dollars for each additional thirty-day 245  
period or portion of a thirty-day period the report is overdue. 246  
A physician who is required to submit to the department of 247  
health a report under division (A) of this section and who has 248  
not submitted a report or has submitted an incomplete report 249  
more than one year following the last day of the fifteen-day 250  
deadline may, in an action brought by the department of health, 251  
be directed by a court of competent jurisdiction to submit a 252  
complete report to the department of health within a period of 253  
time stated in a court order or be subject to contempt of court. 254

(2) If a physician fails to comply with the requirements 255

of this section, other than filing a late report with the 256  
department of health, or fails to submit a complete report to 257  
the department of health in accordance with a court order, the 258  
physician is subject to division (B) (44) of section 4731.22 of 259  
the Revised Code. 260

(3) No person shall purposely falsify any report required 261  
under this section. Whoever purposely violates this division is 262  
guilty of pain-capable unborn child abortion report 263  
falsification, a misdemeanor of the first degree. 264

(D) Within ninety days of the effective date of this 265  
section, the department of health shall adopt rules pursuant to 266  
section 111.15 of the Revised Code to assist in compliance with 267  
this section. 268

**Sec. 2919.203.** (A) Except in a medical emergency that 269  
prevents compliance with this division, no physician shall 270  
purposely perform or induce or purposely attempt to perform or 271  
induce an abortion on a pregnant woman after the unborn child 272  
reaches the probable post-fertilization age of twenty weeks 273  
unless, prior to the performance or inducement of the abortion 274  
or the attempt to perform or induce the abortion, the physician 275  
determines, in the physician's good faith medical judgment, the 276  
unborn child's probable post-fertilization age. The physician 277  
shall make that determination after making inquiries of the 278  
pregnant woman and performing any medical examinations or tests 279  
of the pregnant woman the physician considers necessary as a 280  
reasonably prudent physician, knowledgeable about the case and 281  
medical conditions involved, would consider necessary to 282  
determine the unborn child's probable post-fertilization age. 283

(B) Except in a medical emergency that prevents compliance 284  
with this division, no physician shall purposely perform or 285

induce or purposely attempt to perform or induce an abortion on 286  
a pregnant woman after the unborn child reaches the probable 287  
post-fertilization age of twenty weeks without first entering 288  
the determination made in division (A) of this section and the 289  
associated findings of the medical examination and tests in the 290  
medical record of the pregnant woman. 291

(C) Whoever violates division (A) of this section is 292  
guilty of failure to perform probable post-fertilization age 293  
testing, a misdemeanor of the fourth degree. 294

(D) The state medical board shall suspend a physician's 295  
license to practice medicine in this state for a period of not 296  
less than six months if the physician violates this section. 297

**Sec. 2919.204.** There is hereby created in the state 298  
treasury the Ohio pain-capable unborn child protection act 299  
litigation fund to be used by the attorney general to pay for 300  
any costs and expenses incurred by the attorney general in 301  
relation to actions surrounding defense of the provisions 302  
of ....B. of the 131st general assembly. The fund shall consist 303  
of appropriations made to it and any donations, gifts, or grants 304  
made to the fund. Any interest earned on the fund shall be 305  
credited to the fund. 306

**Sec. 2919.205.** Sections 2307.54 and 2919.20 to 2919.205 307  
and the provisions of section 2305.11 of the Revised Code as 308  
amended or enacted by this bill shall not be construed to 309  
repeal, by implication or otherwise, any law regulating or 310  
restricting abortion. An abortion that complies with the 311  
provisions of those sections as amended or enacted by this bill 312  
but violates the provisions of any otherwise applicable 313  
provision of state law shall be deemed unlawful as provided in 314  
such provision. An abortion that complies with the provisions of 315

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

**Sec. 4731.22.** (A) The state medical board, by an 329  
affirmative vote of not fewer than six of its members, may 330  
limit, revoke, or suspend an individual's certificate to 331  
practice, refuse to grant a certificate to an individual, refuse 332  
to register an individual, refuse to reinstate a certificate, or 333  
reprimand or place on probation the holder of a certificate if 334  
the individual or certificate holder is found by the board to 335  
have committed fraud during the administration of the 336  
examination for a certificate to practice or to have committed 337  
fraud, misrepresentation, or deception in applying for or 338  
securing any certificate to practice or certificate of 339  
registration issued by the board. 340

(B) The board, by an affirmative vote of not fewer than 341  
six members, shall, to the extent permitted by law, limit, 342  
revoke, or suspend an individual's certificate to practice, 343  
refuse to register an individual, refuse to reinstate a 344  
certificate, or reprimand or place on probation the holder of a 345  
certificate for one or more of the following reasons: 346

(1) Permitting one's name or one's certificate to practice 347  
or certificate of registration to be used by a person, group, or 348  
corporation when the individual concerned is not actually 349  
directing the treatment given; 350

(2) Failure to maintain minimal standards applicable to 351  
the selection or administration of drugs, or failure to employ 352  
acceptable scientific methods in the selection of drugs or other 353  
modalities for treatment of disease; 354

(3) Selling, giving away, personally furnishing, 355  
prescribing, or administering drugs for other than legal and 356  
legitimate therapeutic purposes or a plea of guilty to, a 357  
judicial finding of guilt of, or a judicial finding of 358  
eligibility for intervention in lieu of conviction of, a 359  
violation of any federal or state law regulating the possession, 360  
distribution, or use of any drug; 361

(4) Willfully betraying a professional confidence. 362

For purposes of this division, "willfully betraying a 363  
professional confidence" does not include providing any 364  
information, documents, or reports to a child fatality review 365  
board under sections 307.621 to 307.629 of the Revised Code and 366  
does not include the making of a report of an employee's use of 367  
a drug of abuse, or a report of a condition of an employee other 368  
than one involving the use of a drug of abuse, to the employer 369  
of the employee as described in division (B) of section 2305.33 370  
of the Revised Code. Nothing in this division affects the 371  
immunity from civil liability conferred by that section upon a 372  
physician who makes either type of report in accordance with 373  
division (B) of that section. As used in this division, 374  
"employee," "employer," and "physician" have the same meanings 375  
as in section 2305.33 of the Revised Code. 376

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

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

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

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

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

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

(10) Commission of an act that constitutes a felony in 406  
this state, regardless of the jurisdiction in which the act was 407  
committed; 408

(11) A plea of guilty to, a judicial finding of guilt of, 409  
or a judicial finding of eligibility for intervention in lieu of 410  
conviction for, a misdemeanor committed in the course of 411  
practice; 412

(12) Commission of an act in the course of practice that 413  
constitutes a misdemeanor in this state, regardless of the 414  
jurisdiction in which the act was committed; 415

(13) A plea of guilty to, a judicial finding of guilt of, 416  
or a judicial finding of eligibility for intervention in lieu of 417  
conviction for, a misdemeanor involving moral turpitude; 418

(14) Commission of an act involving moral turpitude that 419  
constitutes a misdemeanor in this state, regardless of the 420  
jurisdiction in which the act was committed; 421

(15) Violation of the conditions of limitation placed by 422  
the board upon a certificate to practice; 423

(16) Failure to pay license renewal fees specified in this 424  
chapter; 425

(17) Except as authorized in section 4731.31 of the 426  
Revised Code, engaging in the division of fees for referral of 427  
patients, or the receiving of a thing of value in return for a 428  
specific referral of a patient to utilize a particular service 429  
or business; 430

(18) Subject to section 4731.226 of the Revised Code, 431  
violation of any provision of a code of ethics of the American 432  
medical association, the American osteopathic association, the 433

American podiatric medical association, or any other national 434  
professional organizations that the board specifies by rule. The 435  
state medical board shall obtain and keep on file current copies 436  
of the codes of ethics of the various national professional 437  
organizations. The individual whose certificate is being 438  
suspended or revoked shall not be found to have violated any 439  
provision of a code of ethics of an organization not appropriate 440  
to the individual's profession. 441

For purposes of this division, a "provision of a code of 442  
ethics of a national professional organization" does not include 443  
any provision that would preclude the making of a report by a 444  
physician of an employee's use of a drug of abuse, or of a 445  
condition of an employee other than one involving the use of a 446  
drug of abuse, to the employer of the employee as described in 447  
division (B) of section 2305.33 of the Revised Code. Nothing in 448  
this division affects the immunity from civil liability 449  
conferred by that section upon a physician who makes either type 450  
of report in accordance with division (B) of that section. As 451  
used in this division, "employee," "employer," and "physician" 452  
have the same meanings as in section 2305.33 of the Revised 453  
Code. 454

(19) Inability to practice according to acceptable and 455  
prevailing standards of care by reason of mental illness or 456  
physical illness, including, but not limited to, physical 457  
deterioration that adversely affects cognitive, motor, or 458  
perceptive skills. 459

In enforcing this division, the board, upon a showing of a 460  
possible violation, may compel any individual authorized to 461  
practice by this chapter or who has submitted an application 462  
pursuant to this chapter to submit to a mental examination, 463



physical examination, including an HIV test, or both a mental 464  
and a physical examination. The expense of the examination is 465  
the responsibility of the individual compelled to be examined. 466  
Failure to submit to a mental or physical examination or consent 467  
to an HIV test ordered by the board constitutes an admission of 468  
the allegations against the individual unless the failure is due 469  
to circumstances beyond the individual's control, and a default 470  
and final order may be entered without the taking of testimony 471  
or presentation of evidence. If the board finds an individual 472  
unable to practice because of the reasons set forth in this 473  
division, the board shall require the individual to submit to 474  
care, counseling, or treatment by physicians approved or 475  
designated by the board, as a condition for initial, continued, 476  
reinstated, or renewed authority to practice. An individual 477  
affected under this division shall be afforded an opportunity to 478  
demonstrate to the board the ability to resume practice in 479  
compliance with acceptable and prevailing standards under the 480  
provisions of the individual's certificate. For the purpose of 481  
this division, any individual who applies for or receives a 482  
certificate to practice under this chapter accepts the privilege 483  
of practicing in this state and, by so doing, shall be deemed to 484  
have given consent to submit to a mental or physical examination 485  
when directed to do so in writing by the board, and to have 486  
waived all objections to the admissibility of testimony or 487  
examination reports that constitute a privileged communication. 488

(20) Except when civil penalties are imposed under section 489  
4731.225 or 4731.281 of the Revised Code, and subject to section 490  
4731.226 of the Revised Code, violating or attempting to 491  
violate, directly or indirectly, or assisting in or abetting the 492  
violation of, or conspiring to violate, any provisions of this 493  
chapter or any rule promulgated by the board. 494

This division does not apply to a violation or attempted 495  
violation of, assisting in or abetting the violation of, or a 496  
conspiracy to violate, any provision of this chapter or any rule 497  
adopted by the board that would preclude the making of a report 498  
by a physician of an employee's use of a drug of abuse, or of a 499  
condition of an employee other than one involving the use of a 500  
drug of abuse, to the employer of the employee as described in 501  
division (B) of section 2305.33 of the Revised Code. Nothing in 502  
this division affects the immunity from civil liability 503  
conferred by that section upon a physician who makes either type 504  
of report in accordance with division (B) of that section. As 505  
used in this division, "employee," "employer," and "physician" 506  
have the same meanings as in section 2305.33 of the Revised 507  
Code. 508

(21) The violation of section 3701.79 of the Revised Code 509  
or of any abortion rule adopted by the public health council 510  
pursuant to section 3701.341 of the Revised Code; 511

(22) Any of the following actions taken by an agency 512  
responsible for authorizing, certifying, or regulating an 513  
individual to practice a health care occupation or provide 514  
health care services in this state or another jurisdiction, for 515  
any reason other than the nonpayment of fees: the limitation, 516  
revocation, or suspension of an individual's license to 517  
practice; acceptance of an individual's license surrender; 518  
denial of a license; refusal to renew or reinstate a license; 519  
imposition of probation; or issuance of an order of censure or 520  
other reprimand; 521

(23) The violation of section 2919.12 of the Revised Code 522  
or the performance or inducement of an abortion upon a pregnant 523  
woman with actual knowledge that the conditions specified in 524

division (B) of section 2317.56 of the Revised Code have not 525  
been satisfied or with a heedless indifference as to whether 526  
those conditions have been satisfied, unless an affirmative 527  
defense as specified in division (H) (2) of that section would 528  
apply in a civil action authorized by division (H) (1) of that 529  
section; 530

(24) The revocation, suspension, restriction, reduction, 531  
or termination of clinical privileges by the United States 532  
department of defense or department of veterans affairs or the 533  
termination or suspension of a certificate of registration to 534  
prescribe drugs by the drug enforcement administration of the 535  
United States department of justice; 536

(25) Termination or suspension from participation in the 537  
medicare or medicaid programs by the department of health and 538  
human services or other responsible agency for any act or acts 539  
that also would constitute a violation of division (B) (2), (3), 540  
(6), (8), or (19) of this section; 541

(26) Impairment of ability to practice according to 542  
acceptable and prevailing standards of care because of habitual 543  
or excessive use or abuse of drugs, alcohol, or other substances 544  
that impair ability to practice. 545

For the purposes of this division, any individual 546  
authorized to practice by this chapter accepts the privilege of 547  
practicing in this state subject to supervision by the board. By 548  
filing an application for or holding a certificate to practice 549  
under this chapter, an individual shall be deemed to have given 550  
consent to submit to a mental or physical examination when 551  
ordered to do so by the board in writing, and to have waived all 552  
objections to the admissibility of testimony or examination 553  
reports that constitute privileged communications. 554

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

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

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

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

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

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

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

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

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

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

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

patients to receive health care services from that individual; 614

(b) Advertising that the individual will waive the payment 615  
of all or any part of a deductible or copayment that a patient, 616  
pursuant to a health insurance or health care policy, contract, 617  
or plan that covers the individual's services, otherwise would 618  
be required to pay. 619

(29) Failure to use universal blood and body fluid 620  
precautions established by rules adopted under section 4731.051 621  
of the Revised Code; 622

(30) Failure to provide notice to, and receive 623  
acknowledgment of the notice from, a patient when required by 624  
section 4731.143 of the Revised Code prior to providing 625  
nonemergency professional services, or failure to maintain that 626  
notice in the patient's file; 627

(31) Failure of a physician supervising a physician 628  
assistant to maintain supervision in accordance with the 629  
requirements of Chapter 4730. of the Revised Code and the rules 630  
adopted under that chapter; 631

(32) Failure of a physician or podiatrist to enter into a 632  
standard care arrangement with a clinical nurse specialist, 633  
certified nurse-midwife, or certified nurse practitioner with 634  
whom the physician or podiatrist is in collaboration pursuant to 635  
section 4731.27 of the Revised Code or failure to fulfill the 636  
responsibilities of collaboration after entering into a standard 637  
care arrangement; 638

(33) Failure to comply with the terms of a consult 639  
agreement entered into with a pharmacist pursuant to section 640  
4729.39 of the Revised Code; 641

(34) Failure to cooperate in an investigation conducted by 642

the board under division (F) of this section, including failure 643  
to comply with a subpoena or order issued by the board or 644  
failure to answer truthfully a question presented by the board 645  
in an investigative interview, an investigative office 646  
conference, at a deposition, or in written interrogatories, 647  
except that failure to cooperate with an investigation shall not 648  
constitute grounds for discipline under this section if a court 649  
of competent jurisdiction has issued an order that either 650  
quashes a subpoena or permits the individual to withhold the 651  
testimony or evidence in issue; 652

(35) Failure to supervise an oriental medicine 653  
practitioner or acupuncturist in accordance with Chapter 4762. 654  
of the Revised Code and the board's rules for providing that 655  
supervision; 656

(36) Failure to supervise an anesthesiologist assistant in 657  
accordance with Chapter 4760. of the Revised Code and the 658  
board's rules for supervision of an anesthesiologist assistant; 659

(37) Assisting suicide as defined in section 3795.01 of 660  
the Revised Code; 661

(38) Failure to comply with the requirements of section 662  
2317.561 of the Revised Code; 663

(39) Failure to supervise a radiologist assistant in 664  
accordance with Chapter 4774. of the Revised Code and the 665  
board's rules for supervision of radiologist assistants; 666

(40) Performing or inducing an abortion at an office or 667  
facility with knowledge that the office or facility fails to 668  
post the notice required under section 3701.791 of the Revised 669  
Code; 670

(41) Failure to comply with the standards and procedures 671

established in rules under section 4731.054 of the Revised Code 672  
for the operation of or the provision of care at a pain 673  
management clinic; 674

(42) Failure to comply with the standards and procedures 675  
established in rules under section 4731.054 of the Revised Code 676  
for providing supervision, direction, and control of individuals 677  
at a pain management clinic; 678

(43) Failure to comply with the requirements of section 679  
4729.79 of the Revised Code, unless the state board of pharmacy 680  
no longer maintains a drug database pursuant to section 4729.75 681  
of the Revised Code; 682

(44) Failure to comply with the requirements of section 683  
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 684  
to submit to the department of health in accordance with a court 685  
order a complete report as described in section 2919.171 or 686  
2919.202 of the Revised Code; 687

(45) Practicing at a facility that is subject to licensure 688  
as a category III terminal distributor of dangerous drugs with a 689  
pain management clinic classification unless the person 690  
operating the facility has obtained and maintains the license 691  
with the classification; 692

(46) Owning a facility that is subject to licensure as a 693  
category III terminal distributor of dangerous drugs with a pain 694  
management clinic classification unless the facility is licensed 695  
with the classification; 696

(47) Failure to comply with the requirement regarding 697  
maintaining notes described in division (B) of section 2919.191 698  
of the Revised Code or failure to satisfy the requirements of 699  
section 2919.191 of the Revised Code prior to performing or 700



inducing an abortion upon a pregnant woman; 701

(48) Failure to comply with the requirements in section 702  
3719.061 of the Revised Code before issuing for a minor a 703  
prescription for an opioid analgesic, as defined in section 704  
3719.01 of the Revised Code. 705

(C) Disciplinary actions taken by the board under 706  
divisions (A) and (B) of this section shall be taken pursuant to 707  
an adjudication under Chapter 119. of the Revised Code, except 708  
that in lieu of an adjudication, the board may enter into a 709  
consent agreement with an individual to resolve an allegation of 710  
a violation of this chapter or any rule adopted under it. A 711  
consent agreement, when ratified by an affirmative vote of not 712  
fewer than six members of the board, shall constitute the 713  
findings and order of the board with respect to the matter 714  
addressed in the agreement. If the board refuses to ratify a 715  
consent agreement, the admissions and findings contained in the 716  
consent agreement shall be of no force or effect. 717

A telephone conference call may be utilized for 718  
ratification of a consent agreement that revokes or suspends an 719  
individual's certificate to practice. The telephone conference 720  
call shall be considered a special meeting under division (F) of 721  
section 121.22 of the Revised Code. 722

If the board takes disciplinary action against an 723  
individual under division (B) of this section for a second or 724  
subsequent plea of guilty to, or judicial finding of guilt of, a 725  
violation of section 2919.123 of the Revised Code, the 726  
disciplinary action shall consist of a suspension of the 727  
individual's certificate to practice for a period of at least 728  
one year or, if determined appropriate by the board, a more 729  
serious sanction involving the individual's certificate to 730

practice. Any consent agreement entered into under this division 731  
with an individual that pertains to a second or subsequent plea 732  
of guilty to, or judicial finding of guilt of, a violation of 733  
that section shall provide for a suspension of the individual's 734  
certificate to practice for a period of at least one year or, if 735  
determined appropriate by the board, a more serious sanction 736  
involving the individual's certificate to practice. 737

(D) For purposes of divisions (B) (10), (12), and (14) of 738  
this section, the commission of the act may be established by a 739  
finding by the board, pursuant to an adjudication under Chapter 740  
119. of the Revised Code, that the individual committed the act. 741  
The board does not have jurisdiction under those divisions if 742  
the trial court renders a final judgment in the individual's 743  
favor and that judgment is based upon an adjudication on the 744  
merits. The board has jurisdiction under those divisions if the 745  
trial court issues an order of dismissal upon technical or 746  
procedural grounds. 747

(E) The sealing of conviction records by any court shall 748  
have no effect upon a prior board order entered under this 749  
section or upon the board's jurisdiction to take action under 750  
this section if, based upon a plea of guilty, a judicial finding 751  
of guilt, or a judicial finding of eligibility for intervention 752  
in lieu of conviction, the board issued a notice of opportunity 753  
for a hearing prior to the court's order to seal the records. 754  
The board shall not be required to seal, destroy, redact, or 755  
otherwise modify its records to reflect the court's sealing of 756  
conviction records. 757

(F) (1) The board shall investigate evidence that appears 758  
to show that a person has violated any provision of this chapter 759  
or any rule adopted under it. Any person may report to the board 760

in a signed writing any information that the person may have 761  
that appears to show a violation of any provision of this 762  
chapter or any rule adopted under it. In the absence of bad 763  
faith, any person who reports information of that nature or who 764  
testifies before the board in any adjudication conducted under 765  
Chapter 119. of the Revised Code shall not be liable in damages 766  
in a civil action as a result of the report or testimony. Each 767  
complaint or allegation of a violation received by the board 768  
shall be assigned a case number and shall be recorded by the 769  
board. 770

(2) Investigations of alleged violations of this chapter 771  
or any rule adopted under it shall be supervised by the 772  
supervising member elected by the board in accordance with 773  
section 4731.02 of the Revised Code and by the secretary as 774  
provided in section 4731.39 of the Revised Code. The president 775  
may designate another member of the board to supervise the 776  
investigation in place of the supervising member. No member of 777  
the board who supervises the investigation of a case shall 778  
participate in further adjudication of the case. 779

(3) In investigating a possible violation of this chapter 780  
or any rule adopted under this chapter, or in conducting an 781  
inspection under division (E) of section 4731.054 of the Revised 782  
Code, the board may question witnesses, conduct interviews, 783  
administer oaths, order the taking of depositions, inspect and 784  
copy any books, accounts, papers, records, or documents, issue 785  
subpoenas, and compel the attendance of witnesses and production 786  
of books, accounts, papers, records, documents, and testimony, 787  
except that a subpoena for patient record information shall not 788  
be issued without consultation with the attorney general's 789  
office and approval of the secretary and supervising member of 790  
the board. 791

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

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

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

(d) A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the

board in obedience to a subpoena shall receive the fees and 822  
mileage provided for under section 119.094 of the Revised Code. 823

(4) All hearings, investigations, and inspections of the 824  
board shall be considered civil actions for the purposes of 825  
section 2305.252 of the Revised Code. 826

(5) A report required to be submitted to the board under 827  
this chapter, a complaint, or information received by the board 828  
pursuant to an investigation or pursuant to an inspection under 829  
division (E) of section 4731.054 of the Revised Code is 830  
confidential and not subject to discovery in any civil action. 831

The board shall conduct all investigations or inspections 832  
and proceedings in a manner that protects the confidentiality of 833  
patients and persons who file complaints with the board. The 834  
board shall not make public the names or any other identifying 835  
information about patients or complainants unless proper consent 836  
is given or, in the case of a patient, a waiver of the patient 837  
privilege exists under division (B) of section 2317.02 of the 838  
Revised Code, except that consent or a waiver of that nature is 839  
not required if the board possesses reliable and substantial 840  
evidence that no bona fide physician-patient relationship 841  
exists. 842

The board may share any information it receives pursuant 843  
to an investigation or inspection, including patient records and 844  
patient record information, with law enforcement agencies, other 845  
licensing boards, and other governmental agencies that are 846  
prosecuting, adjudicating, or investigating alleged violations 847  
of statutes or administrative rules. An agency or board that 848  
receives the information shall comply with the same requirements 849  
regarding confidentiality as those with which the state medical 850  
board must comply, notwithstanding any conflicting provision of 851

the Revised Code or procedure of the agency or board that 852  
applies when it is dealing with other information in its 853  
possession. In a judicial proceeding, the information may be 854  
admitted into evidence only in accordance with the Rules of 855  
Evidence, but the court shall require that appropriate measures 856  
are taken to ensure that confidentiality is maintained with 857  
respect to any part of the information that contains names or 858  
other identifying information about patients or complainants 859  
whose confidentiality was protected by the state medical board 860  
when the information was in the board's possession. Measures to 861  
ensure confidentiality that may be taken by the court include 862  
sealing its records or deleting specific information from its 863  
records. 864

(6) On a quarterly basis, the board shall prepare a report 865  
that documents the disposition of all cases during the preceding 866  
three months. The report shall contain the following information 867  
for each case with which the board has completed its activities: 868

(a) The case number assigned to the complaint or alleged 869  
violation; 870

(b) The type of certificate to practice, if any, held by 871  
the individual against whom the complaint is directed; 872

(c) A description of the allegations contained in the 873  
complaint; 874

(d) The disposition of the case. 875

The report shall state how many cases are still pending 876  
and shall be prepared in a manner that protects the identity of 877  
each person involved in each case. The report shall be a public 878  
record under section 149.43 of the Revised Code. 879

(G) If the secretary and supervising member determine both 880

of the following, they may recommend that the board suspend an individual's certificate to practice without a prior hearing:

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

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

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

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

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue

the order within seventy-five days shall result in dissolution 910  
of the summary suspension order but shall not invalidate any 911  
subsequent, final adjudicative order. 912

(H) If the board takes action under division (B) (9), (11), 913  
or (13) of this section and the judicial finding of guilt, 914  
guilty plea, or judicial finding of eligibility for intervention 915  
in lieu of conviction is overturned on appeal, upon exhaustion 916  
of the criminal appeal, a petition for reconsideration of the 917  
order may be filed with the board along with appropriate court 918  
documents. Upon receipt of a petition of that nature and 919  
supporting court documents, the board shall reinstate the 920  
individual's certificate to practice. The board may then hold an 921  
adjudication under Chapter 119. of the Revised Code to determine 922  
whether the individual committed the act in question. Notice of 923  
an opportunity for a hearing shall be given in accordance with 924  
Chapter 119. of the Revised Code. If the board finds, pursuant 925  
to an adjudication held under this division, that the individual 926  
committed the act or if no hearing is requested, the board may 927  
order any of the sanctions identified under division (B) of this 928  
section. 929

(I) The certificate to practice issued to an individual 930  
under this chapter and the individual's practice in this state 931  
are automatically suspended as of the date of the individual's 932  
second or subsequent plea of guilty to, or judicial finding of 933  
guilt of, a violation of section 2919.123 of the Revised Code, 934  
or the date the individual pleads guilty to, is found by a judge 935  
or jury to be guilty of, or is subject to a judicial finding of 936  
eligibility for intervention in lieu of conviction in this state 937  
or treatment or intervention in lieu of conviction in another 938  
jurisdiction for any of the following criminal offenses in this 939  
state or a substantially equivalent criminal offense in another 940



jurisdiction: aggravated murder, murder, voluntary manslaughter, 941  
felonious assault, kidnapping, rape, sexual battery, gross 942  
sexual imposition, aggravated arson, aggravated robbery, or 943  
aggravated burglary. Continued practice after suspension shall 944  
be considered practicing without a certificate. 945

The board shall notify the individual subject to the 946  
suspension by certified mail or in person in accordance with 947  
section 119.07 of the Revised Code. If an individual whose 948  
certificate is automatically suspended under this division fails 949  
to make a timely request for an adjudication under Chapter 119. 950  
of the Revised Code, the board shall do whichever of the 951  
following is applicable: 952

(1) If the automatic suspension under this division is for 953  
a second or subsequent plea of guilty to, or judicial finding of 954  
guilt of, a violation of section 2919.123 of the Revised Code, 955  
the board shall enter an order suspending the individual's 956  
certificate to practice for a period of at least one year or, if 957  
determined appropriate by the board, imposing a more serious 958  
sanction involving the individual's certificate to practice. 959

(2) In all circumstances in which division (I)(1) of this 960  
section does not apply, enter a final order permanently revoking 961  
the individual's certificate to practice. 962

(J) If the board is required by Chapter 119. of the 963  
Revised Code to give notice of an opportunity for a hearing and 964  
if the individual subject to the notice does not timely request 965  
a hearing in accordance with section 119.07 of the Revised Code, 966  
the board is not required to hold a hearing, but may adopt, by 967  
an affirmative vote of not fewer than six of its members, a 968  
final order that contains the board's findings. In that final 969  
order, the board may order any of the sanctions identified under 970

division (A) or (B) of this section. 971

(K) Any action taken by the board under division (B) of 972  
this section resulting in a suspension from practice shall be 973  
accompanied by a written statement of the conditions under which 974  
the individual's certificate to practice may be reinstated. The 975  
board shall adopt rules governing conditions to be imposed for 976  
reinstatement. Reinstatement of a certificate suspended pursuant 977  
to division (B) of this section requires an affirmative vote of 978  
not fewer than six members of the board. 979

(L) When the board refuses to grant a certificate to an 980  
applicant, revokes an individual's certificate to practice, 981  
refuses to register an applicant, or refuses to reinstate an 982  
individual's certificate to practice, the board may specify that 983  
its action is permanent. An individual subject to a permanent 984  
action taken by the board is forever thereafter ineligible to 985  
hold a certificate to practice and the board shall not accept an 986  
application for reinstatement of the certificate or for issuance 987  
of a new certificate. 988

(M) Notwithstanding any other provision of the Revised 989  
Code, all of the following apply: 990

(1) The surrender of a certificate issued under this 991  
chapter shall not be effective unless or until accepted by the 992  
board. A telephone conference call may be utilized for 993  
acceptance of the surrender of an individual's certificate to 994  
practice. The telephone conference call shall be considered a 995  
special meeting under division (F) of section 121.22 of the 996  
Revised Code. Reinstatement of a certificate surrendered to the 997  
board requires an affirmative vote of not fewer than six members 998  
of the board. 999

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

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

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

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

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

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

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

and implementing the quality intervention program, the board may 1029  
do all of the following: 1030

(1) Offer in appropriate cases as determined by the board 1031  
an educational and assessment program pursuant to an 1032  
investigation the board conducts under this section; 1033

(2) Select providers of educational and assessment 1034  
services, including a quality intervention program panel of case 1035  
reviewers; 1036

(3) Make referrals to educational and assessment service 1037  
providers and approve individual educational programs 1038  
recommended by those providers. The board shall monitor the 1039  
progress of each individual undertaking a recommended individual 1040  
educational program. 1041

(4) Determine what constitutes successful completion of an 1042  
individual educational program and require further monitoring of 1043  
the individual who completed the program or other action that 1044  
the board determines to be appropriate; 1045

(5) Adopt rules in accordance with Chapter 119. of the 1046  
Revised Code to further implement the quality intervention 1047  
program. 1048

An individual who participates in an individual 1049  
educational program pursuant to this division shall pay the 1050  
financial obligations arising from that educational program. 1051

**Section 2.** That existing sections 2305.11 and 4731.22 of 1052  
the Revised Code are hereby repealed. 1053