

As Reported by the Senate Health and Human Services Committee

131st General Assembly

Regular Session

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Sub. S. B. No. 127

Senators Lehner, Hottinger

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

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 reasonable medical judgment, based upon the facts 75
known to the physician at that time, so complicates the woman's 76
pregnancy as to necessitate the immediate performance or 77

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

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

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

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

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

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

(H) "Serious risk of the substantial and irreversible 99
impairment of a major bodily function" means any medically 100
diagnosed condition that so complicates the pregnancy of the 101
woman as to directly or indirectly cause the substantial and 102
irreversible impairment of a major bodily function. A medically 103
diagnosed condition that constitutes a "serious risk of the 104
substantial and irreversible impairment of a major bodily 105
function" includes pre-eclampsia, inevitable abortion, and 106

premature rupture of the membranes, may include, but is not 107
limited to, diabetes and multiple sclerosis, and does not 108
include a condition related to the woman's mental health. 109

(I) "Unborn child" means an individual organism of the 110
species homo sapiens from fertilization until live birth. 111

Sec. 2919.201. (A) No person shall purposely perform or 112
induce or purposely attempt to perform or induce an abortion on 113
a pregnant woman when the probable post-fertilization age of the 114
unborn child is twenty weeks or greater. 115

(B) (1) It is an affirmative defense to a charge under 116
division (A) of this section that the abortion was purposely 117
performed or induced or purposely attempted to be performed or 118
induced by a physician and that the physician determined, in the 119
physician's reasonable medical judgment, based on the facts 120
known to the physician at that time, that either of the 121
following applied: 122

(a) The probable post-fertilization age of the unborn 123
child was less than twenty weeks. 124

(b) The abortion was necessary to prevent the death of the 125
pregnant woman or a serious risk of the substantial and 126
irreversible impairment of a major bodily function of the 127
pregnant woman. 128

(2) No abortion shall be considered necessary under 129
division (B) (1) (b) of this section on the basis of a claim or 130
diagnosis that the pregnant woman will engage in conduct that 131
would result in the pregnant woman's death or a substantial and 132
irreversible impairment of a major bodily function of the 133
pregnant woman or based on any reason related to the woman's 134
mental health. 135

(C) Except when a medical emergency exists that prevents 136
compliance with section 2919.203 of the Revised Code, the 137
affirmative defense set forth in division (B)(1)(a) of this 138
section does not apply unless the physician who purposely 139
performs or induces or purposely attempts to perform or induce 140
the abortion makes a determination of the probable post- 141
fertilization age of the unborn child as required by division 142
(A) of section 2919.203 of the Revised Code or relied upon such 143
a determination made by another physician and certifies in 144
writing, based on the results of the tests performed, that in 145
the physician's reasonable medical judgment the unborn child's 146
probable post-fertilization age is less than twenty weeks. 147

(D) Except when a medical emergency exists that prevents 148
compliance with one or more of the following conditions, the 149
affirmative defense set forth in division (B)(1)(b) of this 150
section does not apply unless the physician who purposely 151
performs or induces or purposely attempts to perform or induce 152
the abortion complies with all of the following conditions: 153

(1) The physician who purposely performs or induces or 154
purposely attempts to perform or induce the abortion certifies 155
in writing that, in the physician's reasonable medical judgment, 156
based on the facts known to the physician at that time, the 157
abortion is necessary to prevent the death of the pregnant woman 158
or a serious risk of the substantial and irreversible impairment 159
of a major bodily function of the pregnant woman. 160

(2) A different physician not professionally related to 161
the physician described in division (D)(1) of this section 162
certifies in writing that, in that different physician's 163
reasonable medical judgment, based on the facts known to that 164
different physician at that time, the abortion is necessary to 165

prevent the death of the pregnant woman or a serious risk of the 166
substantial and irreversible impairment of a major bodily 167
function of the pregnant woman. 168

(3) The physician purposely performs or induces or 169
purposely attempts to perform or induce the abortion in a 170
hospital or other health care facility that has appropriate 171
neonatal services for premature infants. 172

(4) The physician who purposely performs or induces or 173
purposely attempts to perform or induce the abortion terminates 174
or attempts to terminate the pregnancy in the manner that 175
provides the best opportunity for the unborn child to survive, 176
unless that physician determines, in the physician's reasonable 177
medical judgment, based on the facts known to the physician at 178
that time, that the termination of the pregnancy in that manner 179
poses a greater risk of the death of the pregnant woman or a 180
greater risk of the substantial and irreversible impairment of a 181
major bodily function of the pregnant woman than would other 182
available methods of abortion. 183

(5) The physician certifies in writing the available 184
method or techniques considered and the reasons for choosing the 185
method or technique employed. 186

(6) The physician who purposely performs or induces or 187
purposely attempts to perform or induce the abortion has 188
arranged for the attendance in the same room in which the 189
abortion is to be performed or induced or attempted to be 190
performed or induced at least one other physician who is to take 191
control of, provide immediate medical care for, and take all 192
reasonable steps necessary to preserve the life and health of 193
the unborn child immediately upon the child's complete expulsion 194
or extraction from the pregnant woman. 195

(E) Whoever purposely performs or induces or purposely attempts to perform or induce an abortion in violation of, or without complying with, the requirements of this section is guilty of terminating or attempting to terminate a human pregnancy of a pain-capable unborn child, a felony of the fourth degree. 196
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(F) The state medical board shall revoke a physician's license to practice medicine in this state if the physician violates or fails to comply with this section. 202
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(G) Any physician who purposely performs or induces an abortion or purposely attempts to perform or induce an abortion with actual knowledge that neither of the affirmative defenses set forth in division (B)(1) of this section applies, or with a heedless indifference as to whether either an affirmative defense applies, is liable in a civil action for compensatory and exemplary damages and reasonable attorney's fees to any person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as the result of the performance or inducement or the attempted performance or inducement of the abortion. In any action under this division, the court also may award any injunctive or other equitable relief that the court considers appropriate. 205
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(H) A pregnant woman on whom an abortion is purposely performed or induced or purposely attempted to be performed or induced in violation of division (A) of this section is not guilty of violating division (A) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of division (A) of this section. 218
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Sec. 2919.202. (A) A physician who performs or induces or attempts to perform or induce an abortion on a pregnant woman 224
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shall submit a report to the department of health in accordance 226
with the forms, rules, and regulations adopted by the department 227
that includes all of the information the physician is required 228
to certify in writing or determine under sections 2919.201 and 229
2919.203 of the Revised Code. 230

(B) By the thirtieth day of September of each year, the 231
department of health shall issue a public report that provides 232
statistics for the previous calendar year compiled from all of 233
the reports covering that calendar year submitted to the 234
department in accordance with this section for each of the items 235
listed in division (A) of this section. The report shall also 236
provide the statistics for each previous calendar year in which 237
a report was filed with the department pursuant to this section, 238
adjusted to reflect any additional information that a physician 239
provides to the department in a late or corrected report. The 240
department shall ensure that none of the information included in 241
the report could reasonably lead to the identification of any 242
pregnant woman upon whom an abortion is performed. 243

(C) (1) The physician shall submit the report described in 244
division (A) of this section to the department of health within 245
fifteen days after the woman is discharged. If the physician 246
fails to submit the report more than thirty days after that 247
fifteen-day deadline, the physician shall be subject to a late 248
fee of five hundred dollars for each additional thirty-day 249
period or portion of a thirty-day period the report is overdue. 250
A physician who is required to submit to the department of 251
health a report under division (A) of this section and who has 252
not submitted a report or has submitted an incomplete report 253
more than one year following the last day of the fifteen-day 254
deadline may, in an action brought by the department of health, 255
be directed by a court of competent jurisdiction to submit a 256

complete report to the department of health within a period of 257
time stated in a court order or be subject to contempt of court. 258

(2) If a physician fails to comply with the requirements 259
of this section, other than filing a late report with the 260
department of health, or fails to submit a complete report to 261
the department of health in accordance with a court order, the 262
physician is subject to division (B)(44) of section 4731.22 of 263
the Revised Code. 264

(3) No person shall purposely falsify any report required 265
under this section. Whoever purposely violates this division is 266
guilty of pain-capable unborn child abortion report 267
falsification, a misdemeanor of the first degree. 268

(D) Within ninety days of the effective date of this 269
section, the department of health shall adopt rules pursuant to 270
section 111.15 of the Revised Code to assist in compliance with 271
this section. 272

Sec. 2919.203. (A) Except in a medical emergency that 273
prevents compliance with this division, no physician shall 274
purposely perform or induce or purposely attempt to perform or 275
induce an abortion on a pregnant woman after the unborn child 276
reaches the probable post-fertilization age of twenty weeks 277
unless, prior to the performance or inducement of the abortion 278
or the attempt to perform or induce the abortion, the physician 279
determines, in the physician's reasonable medical judgment, the 280
unborn child's probable post-fertilization age. The physician 281
shall make that determination after making inquiries of the 282
pregnant woman and performing any medical examinations or tests 283
of the pregnant woman the physician considers necessary as a 284
reasonably prudent physician, knowledgeable about the case and 285
medical conditions involved, would consider necessary to 286

determine the unborn child's probable post-fertilization age. 287

(B) Except in a medical emergency that prevents compliance 288
with this division, no physician shall purposely perform or 289
induce or purposely attempt to perform or induce an abortion on 290
a pregnant woman after the unborn child reaches the probable 291
post-fertilization age of twenty weeks without first entering 292
the determination made in division (A) of this section and the 293
associated findings of the medical examination and tests in the 294
medical record of the pregnant woman. 295

(C) Whoever violates division (A) of this section is 296
guilty of failure to perform probable post-fertilization age 297
testing, a misdemeanor of the fourth degree. 298

(D) The state medical board shall suspend a physician's 299
license to practice medicine in this state for a period of not 300
less than six months if the physician violates this section. 301

Sec. 2919.204. There is hereby created in the state 302
treasury the Ohio pain-capable unborn child protection act 303
litigation fund to be used by the attorney general to pay for 304
any costs and expenses incurred by the attorney general in 305
relation to actions surrounding defense of the provisions 306
ofB. of the 131st general assembly. The fund shall consist 307
of appropriations made to it and any donations, gifts, or grants 308
made to the fund. Any interest earned on the fund shall be 309
credited to the fund. 310

Sec. 2919.205. Sections 2307.54 and 2919.20 to 2919.205 311
and the provisions of section 2305.11 of the Revised Code as 312
amended or enacted by this bill shall not be construed to 313
repeal, by implication or otherwise, any law regulating or 314
restricting abortion. An abortion that complies with the 315

provisions of those sections as amended or enacted by this bill 316
but violates the provisions of any otherwise applicable 317
provision of state law shall be deemed unlawful as provided in 318
such provision. An abortion that complies with the provisions of 319
state law regulating or restricting abortion but violates the 320
provisions of those sections as amended or enacted by this bill 321
shall be deemed unlawful as provided in those sections. If some 322
or all of the provisions of sections 2307.54 and 2919.20 to 323
2919.205 and the provisions of section 2305.11 of the Revised 324
Code as amended or enacted by this bill are ever temporarily or 325
permanently restrained or enjoined by judicial order, all other 326
provisions of state law regulating or restricting abortion shall 327
be enforced as though such restrained or enjoined provisions had 328
not been adopted; provided, however, that whenever such 329
temporary or permanent restraining order of injunction is stayed 330
or dissolved, or otherwise ceases to have effect, such 331
provisions shall have full force and effect. 332

Sec. 4731.22. (A) The state medical board, by an 333
affirmative vote of not fewer than six of its members, may 334
limit, revoke, or suspend an individual's certificate to 335
practice, refuse to grant a certificate to an individual, refuse 336
to register an individual, refuse to reinstate a certificate, or 337
reprimand or place on probation the holder of a certificate if 338
the individual or certificate holder is found by the board to 339
have committed fraud during the administration of the 340
examination for a certificate to practice or to have committed 341
fraud, misrepresentation, or deception in applying for or 342
securing any certificate to practice or certificate of 343
registration issued by the board. 344

(B) The board, by an affirmative vote of not fewer than 345
six members, shall, to the extent permitted by law, limit, 346

revoke, or suspend an individual's certificate to practice, 347
refuse to register an individual, refuse to reinstate a 348
certificate, or reprimand or place on probation the holder of a 349
certificate for one or more of the following reasons: 350

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

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

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

(4) Willfully betraying a professional confidence. 366

For purposes of this division, "willfully betraying a 367
professional confidence" does not include providing any 368
information, documents, or reports to a child fatality review 369
board under sections 307.621 to 307.629 of the Revised Code and 370
does not include the making of a report of an employee's use of 371
a drug of abuse, or a report of a condition of an employee other 372
than one involving the use of a drug of abuse, to the employer 373
of the employee as described in division (B) of section 2305.33 374
of the Revised Code. Nothing in this division affects the 375

immunity from civil liability conferred by that section upon a 376
physician who makes either type of report in accordance with 377
division (B) of that section. As used in this division, 378
"employee," "employer," and "physician" have the same meanings 379
as in section 2305.33 of the Revised Code. 380

(5) Making a false, fraudulent, deceptive, or misleading 381
statement in the solicitation of or advertising for patients; in 382
relation to the practice of medicine and surgery, osteopathic 383
medicine and surgery, podiatric medicine and surgery, or a 384
limited branch of medicine; or in securing or attempting to 385
secure any certificate to practice or certificate of 386
registration issued by the board. 387

As used in this division, "false, fraudulent, deceptive, 388
or misleading statement" means a statement that includes a 389
misrepresentation of fact, is likely to mislead or deceive 390
because of a failure to disclose material facts, is intended or 391
is likely to create false or unjustified expectations of 392
favorable results, or includes representations or implications 393
that in reasonable probability will cause an ordinarily prudent 394
person to misunderstand or be deceived. 395

(6) A departure from, or the failure to conform to, 396
minimal standards of care of similar practitioners under the 397
same or similar circumstances, whether or not actual injury to a 398
patient is established; 399

(7) Representing, with the purpose of obtaining 400
compensation or other advantage as personal gain or for any 401
other person, that an incurable disease or injury, or other 402
incurable condition, can be permanently cured; 403

(8) The obtaining of, or attempting to obtain, money or 404

anything of value by fraudulent misrepresentations in the course 405
of practice; 406

(9) A plea of guilty to, a judicial finding of guilt of, 407
or a judicial finding of eligibility for intervention in lieu of 408
conviction for, a felony; 409

(10) Commission of an act that constitutes a felony in 410
this state, regardless of the jurisdiction in which the act was 411
committed; 412

(11) A plea of guilty to, a judicial finding of guilt of, 413
or a judicial finding of eligibility for intervention in lieu of 414
conviction for, a misdemeanor committed in the course of 415
practice; 416

(12) Commission of an act in the course of practice that 417
constitutes a misdemeanor in this state, regardless of the 418
jurisdiction in which the act was committed; 419

(13) A plea of guilty to, a judicial finding of guilt of, 420
or a judicial finding of eligibility for intervention in lieu of 421
conviction for, a misdemeanor involving moral turpitude; 422

(14) Commission of an act involving moral turpitude that 423
constitutes a misdemeanor in this state, regardless of the 424
jurisdiction in which the act was committed; 425

(15) Violation of the conditions of limitation placed by 426
the board upon a certificate to practice; 427

(16) Failure to pay license renewal fees specified in this 428
chapter; 429

(17) Except as authorized in section 4731.31 of the 430
Revised Code, engaging in the division of fees for referral of 431
patients, or the receiving of a thing of value in return for a 432

specific referral of a patient to utilize a particular service 433
or business; 434

(18) Subject to section 4731.226 of the Revised Code, 435
violation of any provision of a code of ethics of the American 436
medical association, the American osteopathic association, the 437
American podiatric medical association, or any other national 438
professional organizations that the board specifies by rule. The 439
state medical board shall obtain and keep on file current copies 440
of the codes of ethics of the various national professional 441
organizations. The individual whose certificate is being 442
suspended or revoked shall not be found to have violated any 443
provision of a code of ethics of an organization not appropriate 444
to the individual's profession. 445

For purposes of this division, a "provision of a code of 446
ethics of a national professional organization" does not include 447
any provision that would preclude the making of a report by a 448
physician of an employee's use of a drug of abuse, or of a 449
condition of an employee other than one involving the use of a 450
drug of abuse, to the employer of the employee as described in 451
division (B) of section 2305.33 of the Revised Code. Nothing in 452
this division affects the immunity from civil liability 453
conferred by that section upon a physician who makes either type 454
of report in accordance with division (B) of that section. As 455
used in this division, "employee," "employer," and "physician" 456
have the same meanings as in section 2305.33 of the Revised 457
Code. 458

(19) Inability to practice according to acceptable and 459
prevailing standards of care by reason of mental illness or 460
physical illness, including, but not limited to, physical 461
deterioration that adversely affects cognitive, motor, or 462

perceptive skills. 463

In enforcing this division, the board, upon a showing of a 464
possible violation, may compel any individual authorized to 465
practice by this chapter or who has submitted an application 466
pursuant to this chapter to submit to a mental examination, 467
physical examination, including an HIV test, or both a mental 468
and a physical examination. The expense of the examination is 469
the responsibility of the individual compelled to be examined. 470
Failure to submit to a mental or physical examination or consent 471
to an HIV test ordered by the board constitutes an admission of 472
the allegations against the individual unless the failure is due 473
to circumstances beyond the individual's control, and a default 474
and final order may be entered without the taking of testimony 475
or presentation of evidence. If the board finds an individual 476
unable to practice because of the reasons set forth in this 477
division, the board shall require the individual to submit to 478
care, counseling, or treatment by physicians approved or 479
designated by the board, as a condition for initial, continued, 480
reinstated, or renewed authority to practice. An individual 481
affected under this division shall be afforded an opportunity to 482
demonstrate to the board the ability to resume practice in 483
compliance with acceptable and prevailing standards under the 484
provisions of the individual's certificate. For the purpose of 485
this division, any individual who applies for or receives a 486
certificate to practice under this chapter accepts the privilege 487
of practicing in this state and, by so doing, shall be deemed to 488
have given consent to submit to a mental or physical examination 489
when directed to do so in writing by the board, and to have 490
waived all objections to the admissibility of testimony or 491
examination reports that constitute a privileged communication. 492

(20) Except when civil penalties are imposed under section 493

4731.225 or 4731.281 of the Revised Code, and subject to section 494
4731.226 of the Revised Code, violating or attempting to 495
violate, directly or indirectly, or assisting in or abetting the 496
violation of, or conspiring to violate, any provisions of this 497
chapter or any rule promulgated by the board. 498

This division does not apply to a violation or attempted 499
violation of, assisting in or abetting the violation of, or a 500
conspiracy to violate, any provision of this chapter or any rule 501
adopted by the board that would preclude the making of a report 502
by a physician of an employee's use of a drug of abuse, or of a 503
condition of an employee other than one involving the use of a 504
drug of abuse, to the employer of the employee as described in 505
division (B) of section 2305.33 of the Revised Code. Nothing in 506
this division affects the immunity from civil liability 507
conferred by that section upon a physician who makes either type 508
of report in accordance with division (B) of that section. As 509
used in this division, "employee," "employer," and "physician" 510
have the same meanings as in section 2305.33 of the Revised 511
Code. 512

(21) The violation of section 3701.79 of the Revised Code 513
or of any abortion rule adopted by the public health council 514
pursuant to section 3701.341 of the Revised Code; 515

(22) Any of the following actions taken by an agency 516
responsible for authorizing, certifying, or regulating an 517
individual to practice a health care occupation or provide 518
health care services in this state or another jurisdiction, for 519
any reason other than the nonpayment of fees: the limitation, 520
revocation, or suspension of an individual's license to 521
practice; acceptance of an individual's license surrender; 522
denial of a license; refusal to renew or reinstate a license; 523

imposition of probation; or issuance of an order of censure or 524
other reprimand; 525

(23) The violation of section 2919.12 of the Revised Code 526
or the performance or inducement of an abortion upon a pregnant 527
woman with actual knowledge that the conditions specified in 528
division (B) of section 2317.56 of the Revised Code have not 529
been satisfied or with a heedless indifference as to whether 530
those conditions have been satisfied, unless an affirmative 531
defense as specified in division (H) (2) of that section would 532
apply in a civil action authorized by division (H) (1) of that 533
section; 534

(24) The revocation, suspension, restriction, reduction, 535
or termination of clinical privileges by the United States 536
department of defense or department of veterans affairs or the 537
termination or suspension of a certificate of registration to 538
prescribe drugs by the drug enforcement administration of the 539
United States department of justice; 540

(25) Termination or suspension from participation in the 541
medicare or medicaid programs by the department of health and 542
human services or other responsible agency for any act or acts 543
that also would constitute a violation of division (B) (2), (3), 544
(6), (8), or (19) of this section; 545

(26) Impairment of ability to practice according to 546
acceptable and prevailing standards of care because of habitual 547
or excessive use or abuse of drugs, alcohol, or other substances 548
that impair ability to practice. 549

For the purposes of this division, any individual 550
authorized to practice by this chapter accepts the privilege of 551
practicing in this state subject to supervision by the board. By 552

filing an application for or holding a certificate to practice 553
under this chapter, an individual shall be deemed to have given 554
consent to submit to a mental or physical examination when 555
ordered to do so by the board in writing, and to have waived all 556
objections to the admissibility of testimony or examination 557
reports that constitute privileged communications. 558

If it has reason to believe that any individual authorized 559
to practice by this chapter or any applicant for certification 560
to practice suffers such impairment, the board may compel the 561
individual to submit to a mental or physical examination, or 562
both. The expense of the examination is the responsibility of 563
the individual compelled to be examined. Any mental or physical 564
examination required under this division shall be undertaken by 565
a treatment provider or physician who is qualified to conduct 566
the examination and who is chosen by the board. 567

Failure to submit to a mental or physical examination 568
ordered by the board constitutes an admission of the allegations 569
against the individual unless the failure is due to 570
circumstances beyond the individual's control, and a default and 571
final order may be entered without the taking of testimony or 572
presentation of evidence. If the board determines that the 573
individual's ability to practice is impaired, the board shall 574
suspend the individual's certificate or deny the individual's 575
application and shall require the individual, as a condition for 576
initial, continued, reinstated, or renewed certification to 577
practice, to submit to treatment. 578

Before being eligible to apply for reinstatement of a 579
certificate suspended under this division, the impaired 580
practitioner shall demonstrate to the board the ability to 581
resume practice in compliance with acceptable and prevailing 582

standards of care under the provisions of the practitioner's 583
certificate. The demonstration shall include, but shall not be 584
limited to, the following: 585

(a) Certification from a treatment provider approved under 586
section 4731.25 of the Revised Code that the individual has 587
successfully completed any required inpatient treatment; 588

(b) Evidence of continuing full compliance with an 589
aftercare contract or consent agreement; 590

(c) Two written reports indicating that the individual's 591
ability to practice has been assessed and that the individual 592
has been found capable of practicing according to acceptable and 593
prevailing standards of care. The reports shall be made by 594
individuals or providers approved by the board for making the 595
assessments and shall describe the basis for their 596
determination. 597

The board may reinstate a certificate suspended under this 598
division after that demonstration and after the individual has 599
entered into a written consent agreement. 600

When the impaired practitioner resumes practice, the board 601
shall require continued monitoring of the individual. The 602
monitoring shall include, but not be limited to, compliance with 603
the written consent agreement entered into before reinstatement 604
or with conditions imposed by board order after a hearing, and, 605
upon termination of the consent agreement, submission to the 606
board for at least two years of annual written progress reports 607
made under penalty of perjury stating whether the individual has 608
maintained sobriety. 609

(27) A second or subsequent violation of section 4731.66 610
or 4731.69 of the Revised Code; 611

- (28) Except as provided in division (N) of this section: 612
- (a) Waiving the payment of all or any part of a deductible 613
or copayment that a patient, pursuant to a health insurance or 614
health care policy, contract, or plan that covers the 615
individual's services, otherwise would be required to pay if the 616
waiver is used as an enticement to a patient or group of 617
patients to receive health care services from that individual; 618
- (b) Advertising that the individual will waive the payment 619
of all or any part of a deductible or copayment that a patient, 620
pursuant to a health insurance or health care policy, contract, 621
or plan that covers the individual's services, otherwise would 622
be required to pay. 623
- (29) Failure to use universal blood and body fluid 624
precautions established by rules adopted under section 4731.051 625
of the Revised Code; 626
- (30) Failure to provide notice to, and receive 627
acknowledgment of the notice from, a patient when required by 628
section 4731.143 of the Revised Code prior to providing 629
nonemergency professional services, or failure to maintain that 630
notice in the patient's file; 631
- (31) Failure of a physician supervising a physician 632
assistant to maintain supervision in accordance with the 633
requirements of Chapter 4730. of the Revised Code and the rules 634
adopted under that chapter; 635
- (32) Failure of a physician or podiatrist to enter into a 636
standard care arrangement with a clinical nurse specialist, 637
certified nurse-midwife, or certified nurse practitioner with 638
whom the physician or podiatrist is in collaboration pursuant to 639
section 4731.27 of the Revised Code or failure to fulfill the 640

responsibilities of collaboration after entering into a standard 641
care arrangement; 642

(33) Failure to comply with the terms of a consult 643
agreement entered into with a pharmacist pursuant to section 644
4729.39 of the Revised Code; 645

(34) Failure to cooperate in an investigation conducted by 646
the board under division (F) of this section, including failure 647
to comply with a subpoena or order issued by the board or 648
failure to answer truthfully a question presented by the board 649
in an investigative interview, an investigative office 650
conference, at a deposition, or in written interrogatories, 651
except that failure to cooperate with an investigation shall not 652
constitute grounds for discipline under this section if a court 653
of competent jurisdiction has issued an order that either 654
quashes a subpoena or permits the individual to withhold the 655
testimony or evidence in issue; 656

(35) Failure to supervise an oriental medicine 657
practitioner or acupuncturist in accordance with Chapter 4762. 658
of the Revised Code and the board's rules for providing that 659
supervision; 660

(36) Failure to supervise an anesthesiologist assistant in 661
accordance with Chapter 4760. of the Revised Code and the 662
board's rules for supervision of an anesthesiologist assistant; 663

(37) Assisting suicide as defined in section 3795.01 of 664
the Revised Code; 665

(38) Failure to comply with the requirements of section 666
2317.561 of the Revised Code; 667

(39) Failure to supervise a radiologist assistant in 668
accordance with Chapter 4774. of the Revised Code and the 669

board's rules for supervision of radiologist assistants; 670

(40) Performing or inducing an abortion at an office or 671
facility with knowledge that the office or facility fails to 672
post the notice required under section 3701.791 of the Revised 673
Code; 674

(41) Failure to comply with the standards and procedures 675
established in rules under section 4731.054 of the Revised Code 676
for the operation of or the provision of care at a pain 677
management clinic; 678

(42) Failure to comply with the standards and procedures 679
established in rules under section 4731.054 of the Revised Code 680
for providing supervision, direction, and control of individuals 681
at a pain management clinic; 682

(43) Failure to comply with the requirements of section 683
4729.79 of the Revised Code, unless the state board of pharmacy 684
no longer maintains a drug database pursuant to section 4729.75 685
of the Revised Code; 686

(44) Failure to comply with the requirements of section 687
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 688
to submit to the department of health in accordance with a court 689
order a complete report as described in section 2919.171 or 690
2919.202 of the Revised Code; 691

(45) Practicing at a facility that is subject to licensure 692
as a category III terminal distributor of dangerous drugs with a 693
pain management clinic classification unless the person 694
operating the facility has obtained and maintains the license 695
with the classification; 696

(46) Owning a facility that is subject to licensure as a 697
category III terminal distributor of dangerous drugs with a pain 698

management clinic classification unless the facility is licensed 699
with the classification; 700

(47) Failure to comply with the requirement regarding 701
maintaining notes described in division (B) of section 2919.191 702
of the Revised Code or failure to satisfy the requirements of 703
section 2919.191 of the Revised Code prior to performing or 704
inducing an abortion upon a pregnant woman; 705

(48) Failure to comply with the requirements in section 706
3719.061 of the Revised Code before issuing for a minor a 707
prescription for an opioid analgesic, as defined in section 708
3719.01 of the Revised Code. 709

(C) Disciplinary actions taken by the board under 710
divisions (A) and (B) of this section shall be taken pursuant to 711
an adjudication under Chapter 119. of the Revised Code, except 712
that in lieu of an adjudication, the board may enter into a 713
consent agreement with an individual to resolve an allegation of 714
a violation of this chapter or any rule adopted under it. A 715
consent agreement, when ratified by an affirmative vote of not 716
fewer than six members of the board, shall constitute the 717
findings and order of the board with respect to the matter 718
addressed in the agreement. If the board refuses to ratify a 719
consent agreement, the admissions and findings contained in the 720
consent agreement shall be of no force or effect. 721

A telephone conference call may be utilized for 722
ratification of a consent agreement that revokes or suspends an 723
individual's certificate to practice. The telephone conference 724
call shall be considered a special meeting under division (F) of 725
section 121.22 of the Revised Code. 726

If the board takes disciplinary action against an 727

individual under division (B) of this section for a second or 728
subsequent plea of guilty to, or judicial finding of guilt of, a 729
violation of section 2919.123 of the Revised Code, the 730
disciplinary action shall consist of a suspension of the 731
individual's certificate to practice for a period of at least 732
one year or, if determined appropriate by the board, a more 733
serious sanction involving the individual's certificate to 734
practice. Any consent agreement entered into under this division 735
with an individual that pertains to a second or subsequent plea 736
of guilty to, or judicial finding of guilt of, a violation of 737
that section shall provide for a suspension of the individual's 738
certificate to practice for a period of at least one year or, if 739
determined appropriate by the board, a more serious sanction 740
involving the individual's certificate to practice. 741

(D) For purposes of divisions (B)(10), (12), and (14) of 742
this section, the commission of the act may be established by a 743
finding by the board, pursuant to an adjudication under Chapter 744
119. of the Revised Code, that the individual committed the act. 745
The board does not have jurisdiction under those divisions if 746
the trial court renders a final judgment in the individual's 747
favor and that judgment is based upon an adjudication on the 748
merits. The board has jurisdiction under those divisions if the 749
trial court issues an order of dismissal upon technical or 750
procedural grounds. 751

(E) The sealing of conviction records by any court shall 752
have no effect upon a prior board order entered under this 753
section or upon the board's jurisdiction to take action under 754
this section if, based upon a plea of guilty, a judicial finding 755
of guilt, or a judicial finding of eligibility for intervention 756
in lieu of conviction, the board issued a notice of opportunity 757
for a hearing prior to the court's order to seal the records. 758

The board shall not be required to seal, destroy, redact, or 759
otherwise modify its records to reflect the court's sealing of 760
conviction records. 761

(F) (1) The board shall investigate evidence that appears 762
to show that a person has violated any provision of this chapter 763
or any rule adopted under it. Any person may report to the board 764
in a signed writing any information that the person may have 765
that appears to show a violation of any provision of this 766
chapter or any rule adopted under it. In the absence of bad 767
faith, any person who reports information of that nature or who 768
testifies before the board in any adjudication conducted under 769
Chapter 119. of the Revised Code shall not be liable in damages 770
in a civil action as a result of the report or testimony. Each 771
complaint or allegation of a violation received by the board 772
shall be assigned a case number and shall be recorded by the 773
board. 774

(2) Investigations of alleged violations of this chapter 775
or any rule adopted under it shall be supervised by the 776
supervising member elected by the board in accordance with 777
section 4731.02 of the Revised Code and by the secretary as 778
provided in section 4731.39 of the Revised Code. The president 779
may designate another member of the board to supervise the 780
investigation in place of the supervising member. No member of 781
the board who supervises the investigation of a case shall 782
participate in further adjudication of the case. 783

(3) In investigating a possible violation of this chapter 784
or any rule adopted under this chapter, or in conducting an 785
inspection under division (E) of section 4731.054 of the Revised 786
Code, the board may question witnesses, conduct interviews, 787
administer oaths, order the taking of depositions, inspect and 788

copy any books, accounts, papers, records, or documents, issue 789
subpoenas, and compel the attendance of witnesses and production 790
of books, accounts, papers, records, documents, and testimony, 791
except that a subpoena for patient record information shall not 792
be issued without consultation with the attorney general's 793
office and approval of the secretary and supervising member of 794
the board. 795

(a) Before issuance of a subpoena for patient record 796
information, the secretary and supervising member shall 797
determine whether there is probable cause to believe that the 798
complaint filed alleges a violation of this chapter or any rule 799
adopted under it and that the records sought are relevant to the 800
alleged violation and material to the investigation. The 801
subpoena may apply only to records that cover a reasonable 802
period of time surrounding the alleged violation. 803

(b) On failure to comply with any subpoena issued by the 804
board and after reasonable notice to the person being 805
subpoenaed, the board may move for an order compelling the 806
production of persons or records pursuant to the Rules of Civil 807
Procedure. 808

(c) A subpoena issued by the board may be served by a 809
sheriff, the sheriff's deputy, or a board employee designated by 810
the board. Service of a subpoena issued by the board may be made 811
by delivering a copy of the subpoena to the person named 812
therein, reading it to the person, or leaving it at the person's 813
usual place of residence, usual place of business, or address on 814
file with the board. When serving a subpoena to an applicant for 815
or the holder of a certificate issued under this chapter, 816
service of the subpoena may be made by certified mail, return 817
receipt requested, and the subpoena shall be deemed served on 818

the date delivery is made or the date the person refuses to 819
accept delivery. If the person being served refuses to accept 820
the subpoena or is not located, service may be made to an 821
attorney who notifies the board that the attorney is 822
representing the person. 823

(d) A sheriff's deputy who serves a subpoena shall receive 824
the same fees as a sheriff. Each witness who appears before the 825
board in obedience to a subpoena shall receive the fees and 826
mileage provided for under section 119.094 of the Revised Code. 827

(4) All hearings, investigations, and inspections of the 828
board shall be considered civil actions for the purposes of 829
section 2305.252 of the Revised Code. 830

(5) A report required to be submitted to the board under 831
this chapter, a complaint, or information received by the board 832
pursuant to an investigation or pursuant to an inspection under 833
division (E) of section 4731.054 of the Revised Code is 834
confidential and not subject to discovery in any civil action. 835

The board shall conduct all investigations or inspections 836
and proceedings in a manner that protects the confidentiality of 837
patients and persons who file complaints with the board. The 838
board shall not make public the names or any other identifying 839
information about patients or complainants unless proper consent 840
is given or, in the case of a patient, a waiver of the patient 841
privilege exists under division (B) of section 2317.02 of the 842
Revised Code, except that consent or a waiver of that nature is 843
not required if the board possesses reliable and substantial 844
evidence that no bona fide physician-patient relationship 845
exists. 846

The board may share any information it receives pursuant 847

to an investigation or inspection, including patient records and 848
patient record information, with law enforcement agencies, other 849
licensing boards, and other governmental agencies that are 850
prosecuting, adjudicating, or investigating alleged violations 851
of statutes or administrative rules. An agency or board that 852
receives the information shall comply with the same requirements 853
regarding confidentiality as those with which the state medical 854
board must comply, notwithstanding any conflicting provision of 855
the Revised Code or procedure of the agency or board that 856
applies when it is dealing with other information in its 857
possession. In a judicial proceeding, the information may be 858
admitted into evidence only in accordance with the Rules of 859
Evidence, but the court shall require that appropriate measures 860
are taken to ensure that confidentiality is maintained with 861
respect to any part of the information that contains names or 862
other identifying information about patients or complainants 863
whose confidentiality was protected by the state medical board 864
when the information was in the board's possession. Measures to 865
ensure confidentiality that may be taken by the court include 866
sealing its records or deleting specific information from its 867
records. 868

(6) On a quarterly basis, the board shall prepare a report 869
that documents the disposition of all cases during the preceding 870
three months. The report shall contain the following information 871
for each case with which the board has completed its activities: 872

(a) The case number assigned to the complaint or alleged 873
violation; 874

(b) The type of certificate to practice, if any, held by 875
the individual against whom the complaint is directed; 876

(c) A description of the allegations contained in the 877

complaint; 878

(d) The disposition of the case. 879

The report shall state how many cases are still pending 880
and shall be prepared in a manner that protects the identity of 881
each person involved in each case. The report shall be a public 882
record under section 149.43 of the Revised Code. 883

(G) If the secretary and supervising member determine both 884
of the following, they may recommend that the board suspend an 885
individual's certificate to practice without a prior hearing: 886

(1) That there is clear and convincing evidence that an 887
individual has violated division (B) of this section; 888

(2) That the individual's continued practice presents a 889
danger of immediate and serious harm to the public. 890

Written allegations shall be prepared for consideration by 891
the board. The board, upon review of those allegations and by an 892
affirmative vote of not fewer than six of its members, excluding 893
the secretary and supervising member, may suspend a certificate 894
without a prior hearing. A telephone conference call may be 895
utilized for reviewing the allegations and taking the vote on 896
the summary suspension. 897

The board shall issue a written order of suspension by 898
certified mail or in person in accordance with section 119.07 of 899
the Revised Code. The order shall not be subject to suspension 900
by the court during pendency of any appeal filed under section 901
119.12 of the Revised Code. If the individual subject to the 902
summary suspension requests an adjudicatory hearing by the 903
board, the date set for the hearing shall be within fifteen 904
days, but not earlier than seven days, after the individual 905
requests the hearing, unless otherwise agreed to by both the 906

board and the individual. 907

Any summary suspension imposed under this division shall 908
remain in effect, unless reversed on appeal, until a final 909
adjudicative order issued by the board pursuant to this section 910
and Chapter 119. of the Revised Code becomes effective. The 911
board shall issue its final adjudicative order within seventy- 912
five days after completion of its hearing. A failure to issue 913
the order within seventy-five days shall result in dissolution 914
of the summary suspension order but shall not invalidate any 915
subsequent, final adjudicative order. 916

(H) If the board takes action under division (B) (9), (11), 917
or (13) of this section and the judicial finding of guilt, 918
guilty plea, or judicial finding of eligibility for intervention 919
in lieu of conviction is overturned on appeal, upon exhaustion 920
of the criminal appeal, a petition for reconsideration of the 921
order may be filed with the board along with appropriate court 922
documents. Upon receipt of a petition of that nature and 923
supporting court documents, the board shall reinstate the 924
individual's certificate to practice. The board may then hold an 925
adjudication under Chapter 119. of the Revised Code to determine 926
whether the individual committed the act in question. Notice of 927
an opportunity for a hearing shall be given in accordance with 928
Chapter 119. of the Revised Code. If the board finds, pursuant 929
to an adjudication held under this division, that the individual 930
committed the act or if no hearing is requested, the board may 931
order any of the sanctions identified under division (B) of this 932
section. 933

(I) The certificate to practice issued to an individual 934
under this chapter and the individual's practice in this state 935
are automatically suspended as of the date of the individual's 936

second or subsequent plea of guilty to, or judicial finding of 937
guilt of, a violation of section 2919.123 of the Revised Code, 938
or the date the individual pleads guilty to, is found by a judge 939
or jury to be guilty of, or is subject to a judicial finding of 940
eligibility for intervention in lieu of conviction in this state 941
or treatment or intervention in lieu of conviction in another 942
jurisdiction for any of the following criminal offenses in this 943
state or a substantially equivalent criminal offense in another 944
jurisdiction: aggravated murder, murder, voluntary manslaughter, 945
felonious assault, kidnapping, rape, sexual battery, gross 946
sexual imposition, aggravated arson, aggravated robbery, or 947
aggravated burglary. Continued practice after suspension shall 948
be considered practicing without a certificate. 949

The board shall notify the individual subject to the 950
suspension by certified mail or in person in accordance with 951
section 119.07 of the Revised Code. If an individual whose 952
certificate is automatically suspended under this division fails 953
to make a timely request for an adjudication under Chapter 119. 954
of the Revised Code, the board shall do whichever of the 955
following is applicable: 956

(1) If the automatic suspension under this division is for 957
a second or subsequent plea of guilty to, or judicial finding of 958
guilt of, a violation of section 2919.123 of the Revised Code, 959
the board shall enter an order suspending the individual's 960
certificate to practice for a period of at least one year or, if 961
determined appropriate by the board, imposing a more serious 962
sanction involving the individual's certificate to practice. 963

(2) In all circumstances in which division (I)(1) of this 964
section does not apply, enter a final order permanently revoking 965
the individual's certificate to practice. 966

(J) If the board is required by Chapter 119. of the 967
Revised Code to give notice of an opportunity for a hearing and 968
if the individual subject to the notice does not timely request 969
a hearing in accordance with section 119.07 of the Revised Code, 970
the board is not required to hold a hearing, but may adopt, by 971
an affirmative vote of not fewer than six of its members, a 972
final order that contains the board's findings. In that final 973
order, the board may order any of the sanctions identified under 974
division (A) or (B) of this section. 975

(K) Any action taken by the board under division (B) of 976
this section resulting in a suspension from practice shall be 977
accompanied by a written statement of the conditions under which 978
the individual's certificate to practice may be reinstated. The 979
board shall adopt rules governing conditions to be imposed for 980
reinstatement. Reinstatement of a certificate suspended pursuant 981
to division (B) of this section requires an affirmative vote of 982
not fewer than six members of the board. 983

(L) When the board refuses to grant a certificate to an 984
applicant, revokes an individual's certificate to practice, 985
refuses to register an applicant, or refuses to reinstate an 986
individual's certificate to practice, the board may specify that 987
its action is permanent. An individual subject to a permanent 988
action taken by the board is forever thereafter ineligible to 989
hold a certificate to practice and the board shall not accept an 990
application for reinstatement of the certificate or for issuance 991
of a new certificate. 992

(M) Notwithstanding any other provision of the Revised 993
Code, all of the following apply: 994

(1) The surrender of a certificate issued under this 995
chapter shall not be effective unless or until accepted by the 996

board. A telephone conference call may be utilized for 997
acceptance of the surrender of an individual's certificate to 998
practice. The telephone conference call shall be considered a 999
special meeting under division (F) of section 121.22 of the 1000
Revised Code. Reinstatement of a certificate surrendered to the 1001
board requires an affirmative vote of not fewer than six members 1002
of the board. 1003

(2) An application for a certificate made under the 1004
provisions of this chapter may not be withdrawn without approval 1005
of the board. 1006

(3) Failure by an individual to renew a certificate of 1007
registration in accordance with this chapter shall not remove or 1008
limit the board's jurisdiction to take any disciplinary action 1009
under this section against the individual. 1010

(4) At the request of the board, a certificate holder 1011
shall immediately surrender to the board a certificate that the 1012
board has suspended, revoked, or permanently revoked. 1013

(N) Sanctions shall not be imposed under division (B) (28) 1014
of this section against any person who waives deductibles and 1015
copayments as follows: 1016

(1) In compliance with the health benefit plan that 1017
expressly allows such a practice. Waiver of the deductibles or 1018
copayments shall be made only with the full knowledge and 1019
consent of the plan purchaser, payer, and third-party 1020
administrator. Documentation of the consent shall be made 1021
available to the board upon request. 1022

(2) For professional services rendered to any other person 1023
authorized to practice pursuant to this chapter, to the extent 1024
allowed by this chapter and rules adopted by the board. 1025

(O) Under the board's investigative duties described in 1026
this section and subject to division (F) of this section, the 1027
board shall develop and implement a quality intervention program 1028
designed to improve through remedial education the clinical and 1029
communication skills of individuals authorized under this 1030
chapter to practice medicine and surgery, osteopathic medicine 1031
and surgery, and podiatric medicine and surgery. In developing 1032
and implementing the quality intervention program, the board may 1033
do all of the following: 1034

(1) Offer in appropriate cases as determined by the board 1035
an educational and assessment program pursuant to an 1036
investigation the board conducts under this section; 1037

(2) Select providers of educational and assessment 1038
services, including a quality intervention program panel of case 1039
reviewers; 1040

(3) Make referrals to educational and assessment service 1041
providers and approve individual educational programs 1042
recommended by those providers. The board shall monitor the 1043
progress of each individual undertaking a recommended individual 1044
educational program. 1045

(4) Determine what constitutes successful completion of an 1046
individual educational program and require further monitoring of 1047
the individual who completed the program or other action that 1048
the board determines to be appropriate; 1049

(5) Adopt rules in accordance with Chapter 119. of the 1050
Revised Code to further implement the quality intervention 1051
program. 1052

An individual who participates in an individual 1053
educational program pursuant to this division shall pay the 1054

financial obligations arising from that educational program. 1055

Section 2. That existing sections 2305.11 and 4731.22 of 1056
the Revised Code are hereby repealed. 1057