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Senators Lehner, Hottinger

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

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

mental health. 134

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

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

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

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

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

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

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

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

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

or extraction from the pregnant woman. 194

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Willfully betraying a professional confidence. 366

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(26) Impairment of ability to practice according to 551

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

adopted under that chapter; 640

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

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

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

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

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

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code;	669 670
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	671 672
(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants;	673 674 675
(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;	676 677 678 679
(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;	680 681 682 683
(42) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;	684 685 686 687
(43) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;	688 689 690 691
(44) Failure to comply with the requirements of section 2919.171, <u>2919.202</u> , or <u>2919.203</u> of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 <u>or</u> <u>2919.202</u> of the Revised Code;	692 693 694 695 696

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Investigations of alleged violations of this chapter 785

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The disposition of the case. 889

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

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

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

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

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

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

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

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

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

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

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

The board shall notify the individual subject to the 964

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

investigation the board conducts under this section; 1053

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

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

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

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

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

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