

**As Reported by the Senate Health, Human Services and Medicaid
Committee**

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Sub. H. B. No. 258

Representatives Hagan, Hood

**Cosponsors: Representatives Wiggam, Romanchuk, Ginter, Patton, Patmon,
Lanese, Brinkman, Blessing, DeVitis, Roegner, Slaby, Henne, Butler, Antani,
Merrin, Schuring, Retherford, Conditt, Keller, Zeltwanger, Stein, Young, Becker,
Green, Brenner, Hambley, Kick, Householder, Perales, Dean, LaTourette, Schaffer,
Koehler, Huffman, McColley, Riedel, Sprague, Vitale, Pelanda, Goodman,
Johnson, Speaker Rosenberger, Representatives Smith, R., Thompson, Landis,
Faber, Hill, Lipps, Hoops, Lang, McClain, Smith, T., Wilkin**

Senator Hottinger

A BILL

To amend sections 2317.56, 2919.171, 2919.19,	1
2919.191, 2919.192, 2919.193, and 4731.22; to	2
amend, for the purpose of adopting new section	3
numbers as indicated in parentheses, sections	4
2919.191 (2919.192), 2919.192 (2919.194), and	5
2919.193 (2919.198); and to enact new sections	6
2919.191 and 2919.193 and sections 2919.195,	7
2919.196, 2919.197, 2919.199, 2919.1910, and	8
2919.1911 of the Revised Code to generally	9
prohibit an abortion of an unborn human	10
individual with a detectable heartbeat and to	11
create the Joint Legislative Committee on	12
Adoption Promotion and Support.	13

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

Section 1. That sections 2317.56, 2919.171, 2919.19, 14
2919.191, 2919.192, 2919.193, and 4731.22 be amended; sections 15
2919.191 (2919.192), 2919.192 (2919.194), and 2919.193 16
(2919.198) be amended for the purpose of adopting new section 17
numbers as shown in parentheses; and new sections 2919.191 and 18
2919.193 and sections 2919.195, 2919.196, 2919.197, 2919.199, 19
2919.1910, and 2919.1911 of the Revised Code be enacted to read 20
as follows: 21

Sec. 2317.56. (A) As used in this section: 22

(1) "Medical emergency" has the same meaning as in section 23
2919.16 of the Revised Code. 24

(2) "Medical necessity" means a medical condition of a 25
pregnant woman that, in the reasonable judgment of the physician 26
who is attending the woman, so complicates the pregnancy that it 27
necessitates the immediate performance or inducement of an 28
abortion. 29

(3) "Probable gestational age of the embryo or fetus" 30
means the gestational age that, in the judgment of a physician, 31
is, with reasonable probability, the gestational age of the 32
embryo or fetus at the time that the physician informs a 33
pregnant woman pursuant to division (B)(1)(b) of this section. 34

(B) Except when there is a medical emergency or medical 35
necessity, an abortion shall be performed or induced only if all 36
of the following conditions are satisfied: 37

(1) At least twenty-four hours prior to the performance or 38
inducement of the abortion, a physician meets with the pregnant 39
woman in person in an individual, private setting and gives her 40
an adequate opportunity to ask questions about the abortion that 41
will be performed or induced. At this meeting, the physician 42

shall inform the pregnant woman, verbally or, if she is hearing 43
impaired, by other means of communication, of all of the 44
following: 45

(a) The nature and purpose of the particular abortion 46
procedure to be used and the medical risks associated with that 47
procedure; 48

(b) The probable gestational age of the embryo or fetus; 49

(c) The medical risks associated with the pregnant woman 50
carrying the pregnancy to term. 51

The meeting need not occur at the facility where the 52
abortion is to be performed or induced, and the physician 53
involved in the meeting need not be affiliated with that 54
facility or with the physician who is scheduled to perform or 55
induce the abortion. 56

(2) At least twenty-four hours prior to the performance or 57
inducement of the abortion, the physician who is to perform or 58
induce the abortion or the physician's agent does each of the 59
following in person, by telephone, by certified mail, return 60
receipt requested, or by regular mail evidenced by a certificate 61
of mailing: 62

(a) Inform the pregnant woman of the name of the physician 63
who is scheduled to perform or induce the abortion; 64

(b) Give the pregnant woman copies of the published 65
materials described in division (C) of this section; 66

(c) Inform the pregnant woman that the materials given 67
pursuant to division (B)(2)(b) of this section are published by 68
the state and that they describe the embryo or fetus and list 69
agencies that offer alternatives to abortion. The pregnant woman 70

may choose to examine or not to examine the materials. A 71
physician or an agent of a physician may choose to be 72
disassociated from the materials and may choose to comment or 73
not comment on the materials. 74

(3) If it has been determined that the unborn human 75
individual the pregnant woman is carrying has a detectable fetal 76
heartbeat, the physician who is to perform or induce the 77
abortion shall comply with the informed consent requirements in 78
section ~~2919.192~~ 2919.194 of the Revised Code in addition to 79
complying with the informed consent requirements in divisions 80
(B)(1), (2), (4), and (5) of this section. 81

(4) Prior to the performance or inducement of the 82
abortion, the pregnant woman signs a form consenting to the 83
abortion and certifies both of the following on that form: 84

(a) She has received the information and materials 85
described in divisions (B)(1) and (2) of this section, and her 86
questions about the abortion that will be performed or induced 87
have been answered in a satisfactory manner. 88

(b) She consents to the particular abortion voluntarily, 89
knowingly, intelligently, and without coercion by any person, 90
and she is not under the influence of any drug of abuse or 91
alcohol. 92

The form shall contain the name and contact information of 93
the physician who provided to the pregnant woman the information 94
described in division (B)(1) of this section. 95

(5) Prior to the performance or inducement of the 96
abortion, the physician who is scheduled to perform or induce 97
the abortion or the physician's agent receives a copy of the 98
pregnant woman's signed form on which she consents to the 99

abortion and that includes the certification required by 100
division (B) (4) of this section. 101

(C) The department of health shall publish in English and 102
in Spanish, in a typeface large enough to be clearly legible, 103
and in an easily comprehensible format, the following materials 104
on the department's web site: 105

(1) Materials that inform the pregnant woman about family 106
planning information, of publicly funded agencies that are 107
available to assist in family planning, and of public and 108
private agencies and services that are available to assist her 109
through the pregnancy, upon childbirth, and while the child is 110
dependent, including, but not limited to, adoption agencies. The 111
materials shall be geographically indexed; include a 112
comprehensive list of the available agencies, a description of 113
the services offered by the agencies, and the telephone numbers 114
and addresses of the agencies; and inform the pregnant woman 115
about available medical assistance benefits for prenatal care, 116
childbirth, and neonatal care and about the support obligations 117
of the father of a child who is born alive. The department shall 118
ensure that the materials described in division (C) (1) of this 119
section are comprehensive and do not directly or indirectly 120
promote, exclude, or discourage the use of any agency or service 121
described in this division. 122

(2) Materials that inform the pregnant woman of the 123
probable anatomical and physiological characteristics of the 124
zygote, blastocyte, embryo, or fetus at two-week gestational 125
increments for the first sixteen weeks of pregnancy and at four- 126
week gestational increments from the seventeenth week of 127
pregnancy to full term, including any relevant information 128
regarding the time at which the fetus possibly would be viable. 129

The department shall cause these materials to be published only 130
after it consults with the Ohio state medical association and 131
the Ohio section of the American college of obstetricians and 132
gynecologists relative to the probable anatomical and 133
physiological characteristics of a zygote, blastocyte, embryo, 134
or fetus at the various gestational increments. The materials 135
shall use language that is understandable by the average person 136
who is not medically trained, shall be objective and 137
nonjudgmental, and shall include only accurate scientific 138
information about the zygote, blastocyte, embryo, or fetus at 139
the various gestational increments. If the materials use a 140
pictorial, photographic, or other depiction to provide 141
information regarding the zygote, blastocyte, embryo, or fetus, 142
the materials shall include, in a conspicuous manner, a scale or 143
other explanation that is understandable by the average person 144
and that can be used to determine the actual size of the zygote, 145
blastocyte, embryo, or fetus at a particular gestational 146
increment as contrasted with the depicted size of the zygote, 147
blastocyte, embryo, or fetus at that gestational increment. 148

(D) Upon the submission of a request to the department of 149
health by any person, hospital, physician, or medical facility 150
for one copy of the materials published in accordance with 151
division (C) of this section, the department shall make the 152
requested copy of the materials available to the person, 153
hospital, physician, or medical facility that requested the 154
copy. 155

(E) If a medical emergency or medical necessity compels 156
the performance or inducement of an abortion, the physician who 157
will perform or induce the abortion, prior to its performance or 158
inducement if possible, shall inform the pregnant woman of the 159
medical indications supporting the physician's judgment that an 160

immediate abortion is necessary. Any physician who performs or 161
induces an abortion without the prior satisfaction of the 162
conditions specified in division (B) of this section because of 163
a medical emergency or medical necessity shall enter the reasons 164
for the conclusion that a medical emergency or medical necessity 165
exists in the medical record of the pregnant woman. 166

(F) If the conditions specified in division (B) of this 167
section are satisfied, consent to an abortion shall be presumed 168
to be valid and effective. 169

(G) The performance or inducement of an abortion without 170
the prior satisfaction of the conditions specified in division 171
(B) of this section does not constitute, and shall not be 172
construed as constituting, a violation of division (A) of 173
section 2919.12 of the Revised Code. The failure of a physician 174
to satisfy the conditions of division (B) of this section prior 175
to performing or inducing an abortion upon a pregnant woman may 176
be the basis of both of the following: 177

(1) A civil action for compensatory and exemplary damages 178
as described in division (H) of this section; 179

(2) Disciplinary action under section 4731.22 of the 180
Revised Code. 181

(H) (1) Subject to divisions (H) (2) and (3) of this 182
section, any physician who performs or induces an abortion with 183
actual knowledge that the conditions specified in division (B) 184
of this section have not been satisfied or with a heedless 185
indifference as to whether those conditions have been satisfied 186
is liable in compensatory and exemplary damages in a civil 187
action to any person, or the representative of the estate of any 188
person, who sustains injury, death, or loss to person or 189

property as a result of the failure to satisfy those conditions. 190
In the civil action, the court additionally may enter any 191
injunctive or other equitable relief that it considers 192
appropriate. 193

(2) The following shall be affirmative defenses in a civil 194
action authorized by division (H)(1) of this section: 195

(a) The physician performed or induced the abortion under 196
the circumstances described in division (E) of this section. 197

(b) The physician made a good faith effort to satisfy the 198
conditions specified in division (B) of this section. 199

(3) An employer or other principal is not liable in 200
damages in a civil action authorized by division (H)(1) of this 201
section on the basis of the doctrine of respondeat superior 202
unless either of the following applies: 203

(a) The employer or other principal had actual knowledge 204
or, by the exercise of reasonable diligence, should have known 205
that an employee or agent performed or induced an abortion with 206
actual knowledge that the conditions specified in division (B) 207
of this section had not been satisfied or with a heedless 208
indifference as to whether those conditions had been satisfied. 209

(b) The employer or other principal negligently failed to 210
secure the compliance of an employee or agent with division (B) 211
of this section. 212

(4) Notwithstanding division (E) of section 2919.12 of the 213
Revised Code, the civil action authorized by division (H)(1) of 214
this section shall be the exclusive civil remedy for persons, or 215
the representatives of estates of persons, who allegedly sustain 216
injury, death, or loss to person or property as a result of a 217
failure to satisfy the conditions specified in division (B) of 218

this section. 219

(I) The department of job and family services shall 220
prepare and conduct a public information program to inform women 221
of all available governmental programs and agencies that provide 222
services or assistance for family planning, prenatal care, child 223
care, or alternatives to abortion. 224

Sec. 2919.171. (A) (1) A physician who performs or induces 225
or attempts to perform or induce an abortion on a pregnant woman 226
shall submit a report to the department of health in accordance 227
with the forms, rules, and regulations adopted by the department 228
that includes all of the information the physician is required 229
to certify in writing or determine under ~~sections~~ section 230
2919.17 and, section 2919.18, divisions (A) and (C) of section 231
2919.192, division (C) of section 2919.193, division (B) of 232
section 2919.195, or division (A) of section 2919.196 of the 233
Revised Code. 234

(2) If a person other than the physician described in 235
division (A) (1) of this section makes or maintains a record 236
required by sections 2919.192 to 2919.196 of the Revised Code on 237
the physician's behalf or at the physician's direction, that 238
person shall comply with the reporting requirement described in 239
division (A) (1) of this section as if the person were the 240
physician described in that division. 241

(B) By September 30 of each year, the department of health 242
shall issue a public report that provides statistics for the 243
previous calendar year compiled from all of the reports covering 244
that calendar year submitted to the department in accordance 245
with this section for each of the items listed in division (A) 246
of this section. The report shall also provide the statistics 247
for each previous calendar year in which a report was filed with 248

the department pursuant to this section, adjusted to reflect any 249
additional information that a physician provides to the 250
department in a late or corrected report. The department shall 251
ensure that none of the information included in the report could 252
reasonably lead to the identification of any pregnant woman upon 253
whom an abortion is performed. 254

(C) (1) The physician shall submit the report described in 255
division (A) of this section to the department of health within 256
fifteen days after the woman is discharged. If the physician 257
fails to submit the report more than thirty days after that 258
fifteen-day deadline, the physician shall be subject to a late 259
fee of five hundred dollars for each additional thirty-day 260
period or portion of a thirty-day period the report is overdue. 261
A physician who is required to submit to the department of 262
health a report under division (A) of this section and who has 263
not submitted a report or has submitted an incomplete report 264
more than one year following the fifteen-day deadline may, in an 265
action brought by the department of health, be directed by a 266
court of competent jurisdiction to submit a complete report to 267
the department of health within a period of time stated in a 268
court order or be subject to contempt of court. 269

(2) If a physician fails to comply with the requirements 270
of this section, other than filing a late report with the 271
department of health, or fails to submit a complete report to 272
the department of health in accordance with a court order, the 273
physician is subject to division (B) (44) of section 4731.22 of 274
the Revised Code. 275

(3) No person shall falsify any report required under this 276
section. Whoever violates this division is guilty of abortion 277
report falsification, a misdemeanor of the first degree. 278

(D) ~~Within ninety days of October 20, 2011, the~~ The 279
department of health shall adopt rules pursuant to section 280
111.15 of the Revised Code to assist in compliance with this 281
section. 282

Sec. 2919.19. (A) As used in this section and sections 283
2919.191 to ~~2919.193~~ 2919.1910 of the Revised Code: 284

~~(A)~~ (1) "Conception" means fertilization. 285

(2) "Contraceptive" means a drug, device, or chemical that 286
prevents conception. 287

(3) "DNA" means deoxyribonucleic acid. 288

(4) "Fetal heartbeat" means cardiac activity or the steady 289
and repetitive rhythmic contraction of the fetal heart within 290
the gestational sac. 291

~~(B)~~ (5) "Fetus" means the human offspring developing 292
during pregnancy from the moment of conception and includes the 293
embryonic stage of development. 294

~~(C)~~ (6) "Gestational age" means the age of an unborn human 295
individual as calculated from the first day of the last 296
menstrual period of a pregnant woman. 297

~~(D)~~ (7) "Gestational sac" means the structure that 298
comprises the extraembryonic membranes that envelop the fetus 299
and that is typically visible by ultrasound after the fourth 300
week of pregnancy. 301

~~(E)~~ (8) "Intrauterine pregnancy" means a pregnancy in 302
which the fetus is attached to the placenta within the uterus of 303
the pregnant woman. 304

(9) "Medical emergency" has the same meaning as in section 305

2919.16 of the Revised Code. 306

~~(F)~~ (10) "Physician" has the same meaning as in section 307
2305.113 of the Revised Code. 308

~~(G)~~ (11) "Pregnancy" means the human female reproductive 309
condition that begins with fertilization, when the woman is 310
carrying the developing human offspring, and that is calculated 311
from the first day of the last menstrual period of the woman. 312

~~(H)~~ (12) "Serious risk of the substantial and irreversible 313
impairment of a major bodily function" has the same meaning as 314
in section 2919.16 of the Revised Code. 315

~~(I)~~ (13) "Spontaneous miscarriage" means the natural or 316
accidental termination of a pregnancy and the expulsion of the 317
fetus, typically caused by genetic defects in the fetus or 318
physical abnormalities in the pregnant woman. 319

(14) "Standard medical practice" means the degree of 320
skill, care, and diligence that a physician of the same medical 321
specialty would employ in like circumstances. As applied to the 322
method used to determine the presence of a fetal heartbeat for 323
purposes of section ~~2919.191~~ 2919.192 of the Revised Code, 324
"standard medical practice" includes employing the appropriate 325
means of detection depending on the estimated gestational age of 326
the fetus and the condition of the woman and her pregnancy. 327

~~(J)~~ (15) "Unborn human individual" means an individual 328
organism of the species homo sapiens from fertilization until 329
live birth. 330

(B) (1) It is the intent of the general assembly that a 331
court judgment or order suspending enforcement of any provision 332
of this section or sections 2919.171 or 2919.191 to 2919.1910 of 333
the Revised Code is not to be regarded as tantamount to repeal 334

of that provision. 335

(2) After the issuance of a decision by the supreme court 336
of the United States overruling Roe v. Wade, 410 U.S. 113 337
(1973), the issuance of any other court order or judgment 338
restoring, expanding, or clarifying the authority of states to 339
prohibit or regulate abortion entirely or in part, or the 340
effective date of an amendment to the Constitution of the United 341
States restoring, expanding, or clarifying the authority of 342
states to prohibit or regulate abortion entirely or in part, the 343
attorney general may apply to the pertinent state or federal 344
court for either or both of the following: 345

(a) A declaration that any one or more sections specified 346
in division (B)(1) of this section are constitutional; 347

(b) A judgment or order lifting an injunction against the 348
enforcement of any one or more sections specified in division 349
(B)(1) of this section. 350

(3) If the attorney general fails to apply for the relief 351
described in division (B)(2) of this section within the thirty- 352
day period after an event described in that division occurs, any 353
county prosecutor may apply to the appropriate state or federal 354
court for such relief. 355

(4) If any provision of this section or sections 2919.171 356
or 2919.191 to 2919.1910 of the Revised Code is held invalid, or 357
if the application of such provision to any person or 358
circumstance is held invalid, the invalidity of that provision 359
does not affect any other provisions or applications of this 360
section and sections 2919.171 and 2919.191 to 2919.1910 of the 361
Revised Code that can be given effect without the invalid 362
provision or application, and to this end the provisions of this 363

section and sections 2919.171 and 2919.191 to 2919.1910 of the 364
Revised Code are severable as provided in section 1.50 of the 365
Revised Code. In particular, it is the intent of the general 366
assembly that any invalidity or potential invalidity of a 367
provision of this section or sections 2919.171 or 2919.191 to 368
2919.1910 of the Revised Code is not to impair the immediate and 369
continuing enforceability of the remaining provisions. It is 370
furthermore the intent of the general assembly that the 371
provisions of this section and sections 2919.171 or 2919.191 to 372
2919.1910 of the Revised Code are not to have the effect of 373
repealing or limiting any other laws of this state, except as 374
specified by this section and sections 2919.171 and 2919.191 to 375
2919.1910 of the Revised Code. 376

Sec. 2919.191. (A) The general assembly hereby declares 377
that it finds, according to contemporary medical research, all 378
of the following: 379

(1) As many as thirty per cent of natural pregnancies end 380
in spontaneous miscarriage. 381

(2) Less than five per cent of all natural pregnancies end 382
in spontaneous miscarriage after detection of fetal cardiac 383
activity. 384

(3) Over ninety per cent of in vitro pregnancies survive 385
the first trimester if cardiac activity is detected in the 386
gestational sac. 387

(4) Nearly ninety per cent of in vitro pregnancies do not 388
survive the first trimester where cardiac activity is not 389
detected in the gestational sac. 390

(5) Fetal heartbeat, therefore, has become a key medical 391
predictor that an unborn human individual will reach live birth. 392

(6) Cardiac activity begins at a biologically identifiable 393
moment in time, normally when the fetal heart is formed in the 394
gestational sac. 395

(7) The state of Ohio has legitimate interests from the 396
outset of the pregnancy in protecting the health of the woman 397
and the life of an unborn human individual who may be born. 398

(8) In order to make an informed choice about whether to 399
continue her pregnancy, the pregnant woman has a legitimate 400
interest in knowing the likelihood of the fetus surviving to 401
full-term birth based upon the presence of cardiac activity. 402

(B) Sections 2919.192 to 2919.195 of the Revised Code 403
apply only to intrauterine pregnancies. 404

Sec. 2919.191-2919.192. (A) A person who intends to 405
perform or induce an abortion on a pregnant woman shall 406
determine whether there is a detectable fetal heartbeat of the 407
unborn human individual the pregnant woman is carrying. The 408
method of determining the presence of a fetal heartbeat shall be 409
consistent with the person's good faith understanding of 410
standard medical practice, provided that if rules have been 411
adopted under division ~~(C)~~ (B) of this section, the method 412
chosen shall be one that is inconsistent with the rules. The 413
person who determines the presence or absence of a fetal 414
heartbeat shall record in the pregnant woman's medical record 415
the estimated gestational age of the unborn human individual, 416
the method used to test for a fetal heartbeat, the date and time 417
of the test, and the results of the test. 418

~~(B) (1) Except when a medical emergency exists that~~ 419
~~prevents compliance with this division, no person shall perform~~ 420
~~or induce an abortion on a pregnant woman prior to determining~~ 421

~~if the unborn human individual the pregnant woman is carrying— 422~~
~~has a detectable fetal heartbeat. Any person who performs or— 423~~
~~induces an abortion on a pregnant woman based on the exception— 424~~
~~in this division shall note in the pregnant woman's medical— 425~~
~~records that a medical emergency necessitating the abortion— 426~~
~~existed and shall also note the medical condition of the— 427~~
~~pregnant woman that prevented compliance with this division. The— 428~~
~~person shall maintain a copy of the notes described in this— 429~~
~~division in the person's own records for at least seven years— 430~~
~~after the notes are entered into the medical records. 431~~

~~(2)~~ The person who performs the examination for the 432
presence of a fetal heartbeat shall give the pregnant woman the 433
option to view or hear the fetal heartbeat. 434

~~(C)~~ (B) The director of health may ~~promulgate~~ adopt rules 435
pursuant to section 111.15 of the Revised Code specifying the 436
appropriate methods of performing an examination for the purpose 437
of determining the presence of a fetal heartbeat of an unborn 438
individual based on standard medical practice. The rules shall 439
require only that an examination shall be performed externally. 440
Nothing in this section shall be construed as requiring a 441
transvaginal ultrasound. 442

~~(D)~~ (C) A person is not in violation of division (A) ~~or~~ 443
~~(B)~~ of this section if that person has performed an examination 444
for the purpose of determining the presence of a fetal heartbeat 445
~~in the fetus of an unborn human individual~~ utilizing standard 446
medical practice, that examination does not reveal a fetal 447
heartbeat or the person has been informed by a physician who has 448
performed the examination for a fetal heartbeat that the 449
examination did not reveal a fetal heartbeat, and the person 450
notes in the pregnant woman's medical records the procedure 451

utilized to detect the presence of a fetal heartbeat. 452

~~(E) Except as provided in division (F) of this section, no 453
person shall knowingly and purposefully perform or induce an 454
abortion on a pregnant woman before determining in accordance 455
with division (A) of this section whether the unborn human 456
individual the pregnant woman is carrying has a detectable 457
heartbeat. The failure of a person to satisfy the requirements 458
of this section prior to performing or inducing an abortion on a 459
pregnant woman may be the basis for either of the following: 460~~

~~(1) A civil action for compensatory and exemplary damages; 461
(2) Disciplinary action under section 4731.22 of the 462
Revised Code. 463~~

~~(F) Division (E) of this section does not apply to a 464
physician who performs or induces the abortion if the physician 465
believes that a medical emergency exists that prevents 466
compliance with that division. 467~~

~~(G) The director of health may determine and specify in 468
rules adopted pursuant to section 111.15 of the Revised Code and 469
based upon available medical evidence the statistical 470
probability of bringing an unborn human individual to term based 471
on the gestational age of an unborn human individual who 472
possesses a detectable fetal heartbeat. 473~~

~~(H) A woman on whom an abortion is performed in violation 474
of division (B) of this section or division (B) (3) of section 475
2317.56 of the Revised Code may file a civil action for the 476
wrongful death of the woman's unborn child and may receive at 477
the mother's election at any time prior to final judgment 478
damages in an amount equal to ten thousand dollars or an amount 479
determined by the trier of fact after consideration of the 480~~

~~evidence subject to the same defenses and requirements of proof,~~ 481
~~except any requirement of live birth, as would apply to a suit~~ 482
~~for the wrongful death of a child who had been born alive.~~ 483

Sec. 2919.193. (A) Except as provided in division (B) of 484
this section, no person shall knowingly and purposefully perform 485
or induce an abortion on a pregnant woman before determining in 486
accordance with division (A) of section 2919.192 of the Revised 487
Code whether the unborn human individual the pregnant woman is 488
carrying has a detectable heartbeat. 489

Whoever violates this division is guilty of performing or 490
inducing an abortion before determining whether there is a 491
detectable fetal heartbeat, a felony of the fifth degree. A 492
violation of this division may also be the basis of either of 493
the following: 494

(1) A civil action for compensatory and exemplary damages; 495

(2) Disciplinary action under section 4731.22 of the 496
Revised Code. 497

(B) Division (A) of this section does not apply to a 498
physician who performs or induces the abortion if the physician 499
believes that a medical emergency, as defined in section 2919.16 500
of the Revised Code, exists that prevents compliance with that 501
division. 502

(C) A physician who performs or induces an abortion on a 503
pregnant woman based on the exception in division (B) of this 504
section shall make written notations in the pregnant woman's 505
medical records of both of the following: 506

(1) The physician's belief that a medical emergency 507
necessitating the abortion existed; 508

(2) The medical condition of the pregnant woman that 509
assertedly prevented compliance with division (A) of this 510
section. 511

For at least seven years from the date the notations are 512
made, the physician shall maintain in the physician's own 513
records a copy of the notations. 514

(D) A person is not in violation of division (A) of this 515
section if the person acts in accordance with division (A) of 516
section 2919.192 of the Revised Code and the method used to 517
determine the presence of a fetal heartbeat does not reveal a 518
fetal heartbeat. 519

Sec. ~~2919.192~~–2919.194. (A) If a person who intends to 520
perform or induce an abortion on a pregnant woman has 521
determined, under section ~~2919.191~~–2919.192 of the Revised Code, 522
that the unborn human individual the pregnant woman is carrying 523
has a detectable heartbeat, the person shall not, except as 524
provided in division (B) of this section, perform or induce the 525
abortion until all of the following requirements have been met 526
and at least twenty-four hours have elapsed after the last of 527
the requirements is met: 528

(1) The person intending to perform or induce the abortion 529
shall inform the pregnant woman in writing that the unborn human 530
individual the pregnant woman is carrying has a fetal heartbeat. 531

(2) The person intending to perform or induce the abortion 532
shall inform the pregnant woman, to the best of the person's 533
knowledge, of the statistical probability of bringing the unborn 534
human individual possessing a detectable fetal heartbeat to term 535
based on the gestational age of the unborn human individual the 536
pregnant woman is carrying or, if the director of health has 537

specified statistical probability information pursuant to rules 538
adopted under division (C) of this section, shall provide to the 539
pregnant woman that information. 540

(3) The pregnant woman shall sign a form acknowledging 541
that the pregnant woman has received information from the person 542
intending to perform or induce the abortion that the unborn 543
human individual the pregnant woman is carrying has a fetal 544
heartbeat and that the pregnant woman is aware of the 545
statistical probability of bringing the unborn human individual 546
the pregnant woman is carrying to term. 547

(B) Division (A) of this section does not apply if the 548
person who intends to perform or induce the abortion believes 549
that a medical emergency exists that prevents compliance with 550
that division. 551

(C) The director of health may adopt rules that specify 552
information regarding the statistical probability of bringing an 553
unborn human individual possessing a detectable heartbeat to 554
term based on the gestational age of the unborn human 555
individual. The rules shall be based on available medical 556
evidence and shall be adopted in accordance with section 111.15 557
of the Revised Code. 558

(D) This section does not have the effect of repealing or 559
limiting any other provision of the Revised Code relating to 560
informed consent for an abortion, including the provisions in 561
section 2317.56 of the Revised Code. 562

(E) Whoever violates division (A) of this section is 563
guilty of performing or inducing an abortion without informed 564
consent when there is a detectable fetal heartbeat, a 565
misdemeanor of the first degree on a first offense and a felony 566

of the fourth degree on each subsequent offense.

Sec. 2919.195. (A) Except as provided in division (B) of this section, no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn human individual the pregnant woman is carrying and whose fetal heartbeat has been detected in accordance with division (A) of section 2919.192 of the Revised Code.

Whoever violates this division is guilty of performing or inducing an abortion after the detection of a fetal heartbeat, a felony of the fifth degree.

(B) Division (A) of this section does not apply to a physician who performs a medical procedure that, in the physician's reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

A physician who performs a medical procedure as described in this division shall declare, in a written document, that the medical procedure is necessary, to the best of the physician's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. In the document, the physician shall specify the pregnant woman's medical condition that the medical procedure is asserted to address and the medical rationale for the physician's conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

A physician who performs a medical procedure as described 597
in this division shall place the written document required by 598
this division in the pregnant woman's medical records. The 599
physician shall maintain a copy of the document in the 600
physician's own records for at least seven years from the date 601
the document is created. 602

(C) A person is not in violation of division (A) of this 603
section if the person acts in accordance with division (A) of 604
section 2919.192 of the Revised Code and the method used to 605
determine the presence of a fetal heartbeat does not reveal a 606
fetal heartbeat. 607

(D) Division (A) of this section does not have the effect 608
of repealing or limiting any other provision of the Revised Code 609
that restricts or regulates the performance or inducement of an 610
abortion by a particular method or during a particular stage of 611
a pregnancy. 612

Sec. 2919.196. The provisions of this section are wholly 613
independent of the requirements of sections 2919.192 to 2919.195 614
of the Revised Code. 615

(A) A person who performs or induces an abortion on a 616
pregnant woman shall do whichever of the following is 617
applicable: 618

(1) If the reason for the abortion purported is to 619
preserve the health of the pregnant woman, the person shall 620
specify in a written document the medical condition that the 621
abortion is asserted to address and the medical rationale for 622
the person's conclusion that the abortion is necessary to 623
address that condition. 624

(2) If the reason for the abortion is other than to 625

preserve the health of the pregnant woman, the person shall 626
specify in a written document that maternal health is not the 627
purpose of the abortion. 628

(B) The person who specifies the information in the 629
document described in division (A) of this section shall place 630
the document in the pregnant woman's medical records. The person 631
who specifies the information shall maintain a copy of the 632
document in the person's own records for at least seven years 633
from the date the document is created. 634

Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of 635
the Revised Code prohibits the sale, use, prescription, or 636
administration of a drug, device, or chemical that is designed 637
for contraceptive purposes. 638

Sec. ~~2919.193~~ 2919.198. A pregnant woman on whom an 639
abortion is performed or induced in violation of section 640
~~2919.191 or 2919.192~~ 2919.193, 2919.194, or 2919.195 of the 641
Revised Code is not guilty of violating any of those sections; 642
is not guilty of attempting to commit, conspiring to commit, or 643
complicity in committing a violation of any of those sections; 644
and is not subject to a civil penalty based on the abortion 645
being performed or induced in violation of any of those 646
sections. 647

Sec. 2919.199. (A) A woman who meets either or both of the 648
following criteria may file a civil action for the wrongful 649
death of her unborn child: 650

(1) A woman on whom an abortion was performed or induced 651
in violation of division (A) of section 2919.193 or division (A) 652
of section 2919.195 of the Revised Code; 653

(2) A woman on whom an abortion was performed or induced 654

who was not given the information described in divisions (A) (1) 655
and (2) of section 2919.194 of the Revised Code or who did not 656
sign a form described in division (A) (3) of section 2919.194 of 657
the Revised code. 658

(B) A woman who prevails in an action filed under division 659
(A) of this section shall receive both of the following from the 660
person who committed the one or more acts described in division 661
(A) (1) or (2) of this section: 662

(1) Damages in an amount equal to ten thousand dollars or 663
an amount determined by the trier of fact after consideration of 664
the evidence at the mother's election at any time prior to final 665
judgment subject to the same defenses and requirements of proof, 666
except any requirement of live birth, as would apply to a suit 667
for the wrongful death of a child who had been born alive; 668

(2) Court costs and reasonable attorney's fees. 669

(C) A determination that division (A) of section 2919.193 670
of the Revised Code, division (A) (1), (2), or (3) of section 671
2919.194 of the Revised Code, or division (A) of section 672
2919.195 of the Revised Code is unconstitutional shall be a 673
defense to an action filed under division (A) of this section 674
alleging that the defendant violated the division that was 675
determined to be unconstitutional. 676

(D) If the defendant in an action filed under division (A) 677
of this section prevails and all of the following apply the 678
court shall award reasonable attorney's fees to the defendant in 679
accordance with section 2323.51 of the Revised Code: 680

(1) The court finds that the commencement of the action 681
constitutes frivolous conduct, as defined in section 2323.51 of 682
the Revised Code. 683

(2) The court's finding in division (D) (1) of this section 684
is not based on that court or another court determining that 685
division (A) of section 2919.193 of the Revised Code, division 686
(A) (1), (2), or (3) of section 2919.194 of the Revised Code, or 687
division (A) of section 2919.195 of the Revised Code is 688
unconstitutional. 689

(3) The court finds that the defendant was adversely 690
affected by the frivolous conduct. 691

Sec. 2919.1910. (A) It is the intent of the general 692
assembly that women whose pregnancies are protected under 693
division (A) of section 2919.195 of the Revised Code be informed 694
of available options for adoption. 695

(B) In furtherance of the intent expressed in division (A) 696
of this section, there is hereby created the joint legislative 697
committee on adoption promotion and support. The committee may 698
review or study any matter that it considers relevant to the 699
adoption process in this state, with priority given to the study 700
or review of mechanisms intended to increase awareness of the 701
process, increase its effectiveness, or both. 702

(C) The committee shall consist of three members of the 703
house of representatives appointed by the speaker of the house 704
of representatives and three members of the senate appointed by 705
the president of the senate. Not more than two members appointed 706
by the speaker of the house of representatives and not more than 707
two members appointed by the president of the senate may be of 708
the same political party. 709

Each member of the committee shall hold office during the 710
general assembly in which the member is appointed and until a 711
successor has been appointed, notwithstanding the adjournment 712

sine die of the general assembly in which the member was 713
appointed or the expiration of the member's term as a member of 714
the general assembly. Any vacancies occurring among the members 715
of the committee shall be filled in the manner of the original 716
appointment. 717

(D) The committee has the same powers as other standing or 718
select committees of the general assembly. 719

Sec. 2919.1911. The department of health shall inspect the 720
medical records from any facility that performs abortions to 721
ensure that the physicians or other persons who perform 722
abortions at that facility are in compliance with the reporting 723
requirements under section 2919.171 of the Revised Code. The 724
facility shall make the medical records available for inspection 725
to the department of health but shall not release any personal 726
medical information in the medical records that is prohibited by 727
law. 728

Sec. 4731.22. (A) The state medical board, by an 729
affirmative vote of not fewer than six of its members, may 730
limit, revoke, or suspend a license or certificate to practice 731
or certificate to recommend, refuse to grant a license or 732
certificate, refuse to renew a license or certificate, refuse to 733
reinstate a license or certificate, or reprimand or place on 734
probation the holder of a license or certificate if the 735
individual applying for or holding the license or certificate is 736
found by the board to have committed fraud during the 737
administration of the examination for a license or certificate 738
to practice or to have committed fraud, misrepresentation, or 739
deception in applying for, renewing, or securing any license or 740
certificate to practice or certificate to recommend issued by 741
the board. 742

(B) The board, by an affirmative vote of not fewer than 743
six members, shall, to the extent permitted by law, limit, 744
revoke, or suspend a license or certificate to practice or 745
certificate to recommend, refuse to issue a license or 746
certificate, refuse to renew a license or certificate, refuse to 747
reinstate a license or certificate, or reprimand or place on 748
probation the holder of a license or certificate for one or more 749
of the following reasons: 750

(1) Permitting one's name or one's license or certificate 751
to practice to be used by a person, group, or corporation when 752
the individual concerned is not actually directing the treatment 753
given; 754

(2) Failure to maintain minimal standards applicable to 755
the selection or administration of drugs, or failure to employ 756
acceptable scientific methods in the selection of drugs or other 757
modalities for treatment of disease; 758

(3) Except as provided in section 4731.97 of the Revised 759
Code, selling, giving away, personally furnishing, prescribing, 760
or administering drugs for other than legal and legitimate 761
therapeutic purposes or a plea of guilty to, a judicial finding 762
of guilt of, or a judicial finding of eligibility for 763
intervention in lieu of conviction of, a violation of any 764
federal or state law regulating the possession, distribution, or 765
use of any drug; 766

(4) Willfully betraying a professional confidence. 767

For purposes of this division, "willfully betraying a 768
professional confidence" does not include providing any 769
information, documents, or reports under sections 307.621 to 770
307.629 of the Revised Code to a child fatality review board; 771

does not include providing any information, documents, or 772
reports to the director of health pursuant to guidelines 773
established under section 3701.70 of the Revised Code; does not 774
include written notice to a mental health professional under 775
section 4731.62 of the Revised Code; and does not include the 776
making of a report of an employee's use of a drug of abuse, or a 777
report of a condition of an employee other than one involving 778
the use of a drug of abuse, to the employer of the employee as 779
described in division (B) of section 2305.33 of the Revised 780
Code. Nothing in this division affects the immunity from civil 781
liability conferred by section 2305.33 or 4731.62 of the Revised 782
Code upon a physician who makes a report in accordance with 783
section 2305.33 or notifies a mental health professional in 784
accordance with section 4731.62 of the Revised Code. As used in 785
this division, "employee," "employer," and "physician" have the 786
same meanings as in section 2305.33 of the Revised Code. 787

(5) Making a false, fraudulent, deceptive, or misleading 788
statement in the solicitation of or advertising for patients; in 789
relation to the practice of medicine and surgery, osteopathic 790
medicine and surgery, podiatric medicine and surgery, or a 791
limited branch of medicine; or in securing or attempting to 792
secure any license or certificate to practice issued by the 793
board. 794

As used in this division, "false, fraudulent, deceptive, 795
or misleading statement" means a statement that includes a 796
misrepresentation of fact, is likely to mislead or deceive 797
because of a failure to disclose material facts, is intended or 798
is likely to create false or unjustified expectations of 799
favorable results, or includes representations or implications 800
that in reasonable probability will cause an ordinarily prudent 801
person to misunderstand or be deceived. 802

(6) A departure from, or the failure to conform to, 803
minimal standards of care of similar practitioners under the 804
same or similar circumstances, whether or not actual injury to a 805
patient is established; 806

(7) Representing, with the purpose of obtaining 807
compensation or other advantage as personal gain or for any 808
other person, that an incurable disease or injury, or other 809
incurable condition, can be permanently cured; 810

(8) The obtaining of, or attempting to obtain, money or 811
anything of value by fraudulent misrepresentations in the course 812
of practice; 813

(9) A plea of guilty to, a judicial finding of guilt of, 814
or a judicial finding of eligibility for intervention in lieu of 815
conviction for, a felony; 816

(10) Commission of an act that constitutes a felony in 817
this state, regardless of the jurisdiction in which the act was 818
committed; 819

(11) A plea of guilty to, a judicial finding of guilt of, 820
or a judicial finding of eligibility for intervention in lieu of 821
conviction for, a misdemeanor committed in the course of 822
practice; 823

(12) Commission of an act in the course of practice that 824
constitutes a misdemeanor in this state, regardless of the 825
jurisdiction in which the act was committed; 826

(13) A plea of guilty to, a judicial finding of guilt of, 827
or a judicial finding of eligibility for intervention in lieu of 828
conviction for, a misdemeanor involving moral turpitude; 829

(14) Commission of an act involving moral turpitude that 830

constitutes a misdemeanor in this state, regardless of the 831
jurisdiction in which the act was committed; 832

(15) Violation of the conditions of limitation placed by 833
the board upon a license or certificate to practice; 834

(16) Failure to pay license renewal fees specified in this 835
chapter; 836

(17) Except as authorized in section 4731.31 of the 837
Revised Code, engaging in the division of fees for referral of 838
patients, or the receiving of a thing of value in return for a 839
specific referral of a patient to utilize a particular service 840
or business; 841

(18) Subject to section 4731.226 of the Revised Code, 842
violation of any provision of a code of ethics of the American 843
medical association, the American osteopathic association, the 844
American podiatric medical association, or any other national 845
professional organizations that the board specifies by rule. The 846
state medical board shall obtain and keep on file current copies 847
of the codes of ethics of the various national professional 848
organizations. The individual whose license or certificate is 849
being suspended or revoked shall not be found to have violated 850
any provision of a code of ethics of an organization not 851
appropriate to the individual's profession. 852

For purposes of this division, a "provision of a code of 853
ethics of a national professional organization" does not include 854
any provision that would preclude the making of a report by a 855
physician of an employee's use of a drug of abuse, or of a 856
condition of an employee other than one involving the use of a 857
drug of abuse, to the employer of the employee as described in 858
division (B) of section 2305.33 of the Revised Code. Nothing in 859

this division affects the immunity from civil liability 860
conferred by that section upon a physician who makes either type 861
of report in accordance with division (B) of that section. As 862
used in this division, "employee," "employer," and "physician" 863
have the same meanings as in section 2305.33 of the Revised 864
Code. 865

(19) Inability to practice according to acceptable and 866
prevailing standards of care by reason of mental illness or 867
physical illness, including, but not limited to, physical 868
deterioration that adversely affects cognitive, motor, or 869
perceptive skills. 870

In enforcing this division, the board, upon a showing of a 871
possible violation, may compel any individual authorized to 872
practice by this chapter or who has submitted an application 873
pursuant to this chapter to submit to a mental examination, 874
physical examination, including an HIV test, or both a mental 875
and a physical examination. The expense of the examination is 876
the responsibility of the individual compelled to be examined. 877
Failure to submit to a mental or physical examination or consent 878
to an HIV test ordered by the board constitutes an admission of 879
the allegations against the individual unless the failure is due 880
to circumstances beyond the individual's control, and a default 881
and final order may be entered without the taking of testimony 882
or presentation of evidence. If the board finds an individual 883
unable to practice because of the reasons set forth in this 884
division, the board shall require the individual to submit to 885
care, counseling, or treatment by physicians approved or 886
designated by the board, as a condition for initial, continued, 887
reinstated, or renewed authority to practice. An individual 888
affected under this division shall be afforded an opportunity to 889
demonstrate to the board the ability to resume practice in 890

compliance with acceptable and prevailing standards under the 891
provisions of the individual's license or certificate. For the 892
purpose of this division, any individual who applies for or 893
receives a license or certificate to practice under this chapter 894
accepts the privilege of practicing in this state and, by so 895
doing, shall be deemed to have given consent to submit to a 896
mental or physical examination when directed to do so in writing 897
by the board, and to have waived all objections to the 898
admissibility of testimony or examination reports that 899
constitute a privileged communication. 900

(20) Except as provided in division (F)(1)(b) of section 901
4731.282 of the Revised Code or when civil penalties are imposed 902
under section 4731.225 of the Revised Code, and subject to 903
section 4731.226 of the Revised Code, violating or attempting to 904
violate, directly or indirectly, or assisting in or abetting the 905
violation of, or conspiring to violate, any provisions of this 906
chapter or any rule promulgated by the board. 907

This division does not apply to a violation or attempted 908
violation of, assisting in or abetting the violation of, or a 909
conspiracy to violate, any provision of this chapter or any rule 910
adopted by the board that would preclude the making of a report 911
by a physician of an employee's use of a drug of abuse, or of a 912
condition of an employee other than one involving the use of a 913
drug of abuse, to the employer of the employee as described in 914
division (B) of section 2305.33 of the Revised Code. Nothing in 915
this division affects the immunity from civil liability 916
conferred by that section upon a physician who makes either type 917
of report in accordance with division (B) of that section. As 918
used in this division, "employee," "employer," and "physician" 919
have the same meanings as in section 2305.33 of the Revised 920
Code. 921

(21) The violation of section 3701.79 of the Revised Code 922
or of any abortion rule adopted by the director of health 923
pursuant to section 3701.341 of the Revised Code; 924

(22) Any of the following actions taken by an agency 925
responsible for authorizing, certifying, or regulating an 926
individual to practice a health care occupation or provide 927
health care services in this state or another jurisdiction, for 928
any reason other than the nonpayment of fees: the limitation, 929
revocation, or suspension of an individual's license to 930
practice; acceptance of an individual's license surrender; 931
denial of a license; refusal to renew or reinstate a license; 932
imposition of probation; or issuance of an order of censure or 933
other reprimand; 934

(23) The violation of section 2919.12 of the Revised Code 935
or the performance or inducement of an abortion upon a pregnant 936
woman with actual knowledge that the conditions specified in 937
division (B) of section 2317.56 of the Revised Code have not 938
been satisfied or with a heedless indifference as to whether 939
those conditions have been satisfied, unless an affirmative 940
defense as specified in division (H)(2) of that section would 941
apply in a civil action authorized by division (H)(1) of that 942
section; 943

(24) The revocation, suspension, restriction, reduction, 944
or termination of clinical privileges by the United States 945
department of defense or department of veterans affairs or the 946
termination or suspension of a certificate of registration to 947
prescribe drugs by the drug enforcement administration of the 948
United States department of justice; 949

(25) Termination or suspension from participation in the 950
medicare or medicaid programs by the department of health and 951

human services or other responsible agency for any act or acts 952
that also would constitute a violation of division (B) (2), (3), 953
(6), (8), or (19) of this section; 954

(26) Impairment of ability to practice according to 955
acceptable and prevailing standards of care because of habitual 956
or excessive use or abuse of drugs, alcohol, or other substances 957
that impair ability to practice. 958

For the purposes of this division, any individual 959
authorized to practice by this chapter accepts the privilege of 960
practicing in this state subject to supervision by the board. By 961
filing an application for or holding a license or certificate to 962
practice under this chapter, an individual shall be deemed to 963
have given consent to submit to a mental or physical examination 964
when ordered to do so by the board in writing, and to have 965
waived all objections to the admissibility of testimony or 966
examination reports that constitute privileged communications. 967

If it has reason to believe that any individual authorized 968
to practice by this chapter or any applicant for licensure or 969
certification to practice suffers such impairment, the board may 970
compel the individual to submit to a mental or physical 971
examination, or both. The expense of the examination is the 972
responsibility of the individual compelled to be examined. Any 973
mental or physical examination required under this division 974
shall be undertaken by a treatment provider or physician who is 975
qualified to conduct the examination and who is chosen by the 976
board. 977

Failure to submit to a mental or physical examination 978
ordered by the board constitutes an admission of the allegations 979
against the individual unless the failure is due to 980
circumstances beyond the individual's control, and a default and 981

final order may be entered without the taking of testimony or 982
presentation of evidence. If the board determines that the 983
individual's ability to practice is impaired, the board shall 984
suspend the individual's license or certificate or deny the 985
individual's application and shall require the individual, as a 986
condition for initial, continued, reinstated, or renewed 987
licensure or certification to practice, to submit to treatment. 988

Before being eligible to apply for reinstatement of a 989
license or certificate suspended under this division, the 990
impaired practitioner shall demonstrate to the board the ability 991
to resume practice in compliance with acceptable and prevailing 992
standards of care under the provisions of the practitioner's 993
license or certificate. The demonstration shall include, but 994
shall not be limited to, the following: 995

(a) Certification from a treatment provider approved under 996
section 4731.25 of the Revised Code that the individual has 997
successfully completed any required inpatient treatment; 998

(b) Evidence of continuing full compliance with an 999
aftercare contract or consent agreement; 1000

(c) Two written reports indicating that the individual's 1001
ability to practice has been assessed and that the individual 1002
has been found capable of practicing according to acceptable and 1003
prevailing standards of care. The reports shall be made by 1004
individuals or providers approved by the board for making the 1005
assessments and shall describe the basis for their 1006
determination. 1007

The board may reinstate a license or certificate suspended 1008
under this division after that demonstration and after the 1009
individual has entered into a written consent agreement. 1010

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

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

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

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

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

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

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

nonemergency professional services, or failure to maintain that 1040
notice in the patient's medical record; 1041

(31) Failure of a physician supervising a physician 1042
assistant to maintain supervision in accordance with the 1043
requirements of Chapter 4730. of the Revised Code and the rules 1044
adopted under that chapter; 1045

(32) Failure of a physician or podiatrist to enter into a 1046
standard care arrangement with a clinical nurse specialist, 1047
certified nurse-midwife, or certified nurse practitioner with 1048
whom the physician or podiatrist is in collaboration pursuant to 1049
section 4731.27 of the Revised Code or failure to fulfill the 1050
responsibilities of collaboration after entering into a standard 1051
care arrangement; 1052

(33) Failure to comply with the terms of a consult 1053
agreement entered into with a pharmacist pursuant to section 1054
4729.39 of the Revised Code; 1055

(34) Failure to cooperate in an investigation conducted by 1056
the board under division (F) of this section, including failure 1057
to comply with a subpoena or order issued by the board or 1058
failure to answer truthfully a question presented by the board 1059
in an investigative interview, an investigative office 1060
conference, at a deposition, or in written interrogatories, 1061
except that failure to cooperate with an investigation shall not 1062
constitute grounds for discipline under this section if a court 1063
of competent jurisdiction has issued an order that either 1064
quashes a subpoena or permits the individual to withhold the 1065
testimony or evidence in issue; 1066

(35) Failure to supervise an oriental medicine 1067
practitioner or acupuncturist in accordance with Chapter 4762. 1068

of the Revised Code and the board's rules for providing that supervision; 1069
1070

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant; 1071
1072
1073

(37) Assisting suicide, as defined in section 3795.01 of the Revised Code; 1074
1075

(38) Failure to comply with the requirements of section 2317.561 of the Revised Code; 1076
1077

(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; 1078
1079
1080

(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; 1081
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(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; 1085
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(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; 1089
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(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; 1093
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(44) Failure to comply with the requirements of section 1097
2919.171, 2919.202, or 2919.203 of the Revised Code or failure 1098
to submit to the department of health in accordance with a court 1099
order a complete report as described in section 2919.171 or 1100
2919.202 of the Revised Code; 1101

(45) Practicing at a facility that is subject to licensure 1102
as a category III terminal distributor of dangerous drugs with a 1103
pain management clinic classification unless the person 1104
operating the facility has obtained and maintains the license 1105
with the classification; 1106

(46) Owning a facility that is subject to licensure as a 1107
category III terminal distributor of dangerous drugs with a pain 1108
management clinic classification unless the facility is licensed 1109
with the classification; 1110

(47) Failure to comply with any of the ~~requirement~~ 1111
requirements regarding making or maintaining ~~notes~~ medical 1112
records or documents described in division ~~(B)~~ (A) of section 1113
2919.191-2919.192, division (C) of section 2919.193, division 1114
(B) of section 2919.195, or division (A) of section 2919.196 of 1115
the Revised Code ~~or failure to satisfy the requirements of~~ 1116
~~section 2919.191 of the Revised Code prior to performing or~~ 1117
~~inducing an abortion upon a pregnant woman;~~ 1118

(48) Failure to comply with the requirements in section 1119
3719.061 of the Revised Code before issuing for a minor a 1120
prescription for an opioid analgesic, as defined in section 1121
3719.01 of the Revised Code; 1122

(49) Failure to comply with the requirements of section 1123
4731.30 of the Revised Code or rules adopted under section 1124
4731.301 of the Revised Code when recommending treatment with 1125

medical marijuana; 1126

(50) Practicing at a facility, clinic, or other location 1127
that is subject to licensure as a category III terminal 1128
distributor of dangerous drugs with an office-based opioid 1129
treatment classification unless the person operating that place 1130
has obtained and maintains the license with the classification; 1131

(51) Owning a facility, clinic, or other location that is 1132
subject to licensure as a category III terminal distributor of 1133
dangerous drugs with an office-based opioid treatment 1134
classification unless that place is licensed with the 1135
classification. 1136

(C) Disciplinary actions taken by the board under 1137
divisions (A) and (B) of this section shall be taken pursuant to 1138
an adjudication under Chapter 119. of the Revised Code, except 1139
that in lieu of an adjudication, the board may enter into a 1140
consent agreement with an individual to resolve an allegation of 1141
a violation of this chapter or any rule adopted under it. A 1142
consent agreement, when ratified by an affirmative vote of not 1143
fewer than six members of the board, shall constitute the 1144
findings and order of the board with respect to the matter 1145
addressed in the agreement. If the board refuses to ratify a 1146
consent agreement, the admissions and findings contained in the 1147
consent agreement shall be of no force or effect. 1148

A telephone conference call may be utilized for 1149
ratification of a consent agreement that revokes or suspends an 1150
individual's license or certificate to practice or certificate 1151
to recommend. The telephone conference call shall be considered 1152
a special meeting under division (F) of section 121.22 of the 1153
Revised Code. 1154

If the board takes disciplinary action against an 1155
individual under division (B) of this section for a second or 1156
subsequent plea of guilty to, or judicial finding of guilt of, a 1157
violation of section 2919.123 of the Revised Code, the 1158
disciplinary action shall consist of a suspension of the 1159
individual's license or certificate to practice for a period of 1160
at least one year or, if determined appropriate by the board, a 1161
more serious sanction involving the individual's license or 1162
certificate to practice. Any consent agreement entered into 1163
under this division with an individual that pertains to a second 1164
or subsequent plea of guilty to, or judicial finding of guilt 1165
of, a violation of that section shall provide for a suspension 1166
of the individual's license or certificate to practice for a 1167
period of at least one year or, if determined appropriate by the 1168
board, a more serious sanction involving the individual's 1169
license or certificate to practice. 1170

(D) For purposes of divisions (B)(10), (12), and (14) of 1171
this section, the commission of the act may be established by a 1172
finding by the board, pursuant to an adjudication under Chapter 1173
119. of the Revised Code, that the individual committed the act. 1174
The board does not have jurisdiction under those divisions if 1175
the trial court renders a final judgment in the individual's 1176
favor and that judgment is based upon an adjudication on the 1177
merits. The board has jurisdiction under those divisions if the 1178
trial court issues an order of dismissal upon technical or 1179
procedural grounds. 1180

(E) The sealing of conviction records by any court shall 1181
have no effect upon a prior board order entered under this 1182
section or upon the board's jurisdiction to take action under 1183
this section if, based upon a plea of guilty, a judicial finding 1184
of guilt, or a judicial finding of eligibility for intervention 1185

in lieu of conviction, the board issued a notice of opportunity 1186
for a hearing prior to the court's order to seal the records. 1187
The board shall not be required to seal, destroy, redact, or 1188
otherwise modify its records to reflect the court's sealing of 1189
conviction records. 1190

(F) (1) The board shall investigate evidence that appears 1191
to show that a person has violated any provision of this chapter 1192
or any rule adopted under it. Any person may report to the board 1193
in a signed writing any information that the person may have 1194
that appears to show a violation of any provision of this 1195
chapter or any rule adopted under it. In the absence of bad 1196
faith, any person who reports information of that nature or who 1197
testifies before the board in any adjudication conducted under 1198
Chapter 119. of the Revised Code shall not be liable in damages 1199
in a civil action as a result of the report or testimony. Each 1200
complaint or allegation of a violation received by the board 1201
shall be assigned a case number and shall be recorded by the 1202
board. 1203

(2) Investigations of alleged violations of this chapter 1204
or any rule adopted under it shall be supervised by the 1205
supervising member elected by the board in accordance with 1206
section 4731.02 of the Revised Code and by the secretary as 1207
provided in section 4731.39 of the Revised Code. The president 1208
may designate another member of the board to supervise the 1209
investigation in place of the supervising member. No member of 1210
the board who supervises the investigation of a case shall 1211
participate in further adjudication of the case. 1212

(3) In investigating a possible violation of this chapter 1213
or any rule adopted under this chapter, or in conducting an 1214
inspection under division (E) of section 4731.054 of the Revised 1215

Code, the board may question witnesses, conduct interviews, 1216
administer oaths, order the taking of depositions, inspect and 1217
copy any books, accounts, papers, records, or documents, issue 1218
subpoenas, and compel the attendance of witnesses and production 1219
of books, accounts, papers, records, documents, and testimony, 1220
except that a subpoena for patient record information shall not 1221
be issued without consultation with the attorney general's 1222
office and approval of the secretary and supervising member of 1223
the board. 1224

(a) Before issuance of a subpoena for patient record 1225
information, the secretary and supervising member shall 1226
determine whether there is probable cause to believe that the 1227
complaint filed alleges a violation of this chapter or any rule 1228
adopted under it and that the records sought are relevant to the 1229
alleged violation and material to the investigation. The 1230
subpoena may apply only to records that cover a reasonable 1231
period of time surrounding the alleged violation. 1232

(b) On failure to comply with any subpoena issued by the 1233
board and after reasonable notice to the person being 1234
subpoenaed, the board may move for an order compelling the 1235
production of persons or records pursuant to the Rules of Civil 1236
Procedure. 1237

(c) A subpoena issued by the board may be served by a 1238
sheriff, the sheriff's deputy, or a board employee designated by 1239
the board. Service of a subpoena issued by the board may be made 1240
by delivering a copy of the subpoena to the person named 1241
therein, reading it to the person, or leaving it at the person's 1242
usual place of residence, usual place of business, or address on 1243
file with the board. When serving a subpoena to an applicant for 1244
or the holder of a license or certificate issued under this 1245

chapter, service of the subpoena may be made by certified mail, 1246
return receipt requested, and the subpoena shall be deemed 1247
served on the date delivery is made or the date the person 1248
refuses to accept delivery. If the person being served refuses 1249
to accept the subpoena or is not located, service may be made to 1250
an attorney who notifies the board that the attorney is 1251
representing the person. 1252

(d) A sheriff's deputy who serves a subpoena shall receive 1253
the same fees as a sheriff. Each witness who appears before the 1254
board in obedience to a subpoena shall receive the fees and 1255
mileage provided for under section 119.094 of the Revised Code. 1256

(4) All hearings, investigations, and inspections of the 1257
board shall be considered civil actions for the purposes of 1258
section 2305.252 of the Revised Code. 1259

(5) A report required to be submitted to the board under 1260
this chapter, a complaint, or information received by the board 1261
pursuant to an investigation or pursuant to an inspection under 1262
division (E) of section 4731.054 of the Revised Code is 1263
confidential and not subject to discovery in any civil action. 1264

The board shall conduct all investigations or inspections 1265
and proceedings in a manner that protects the confidentiality of 1266
patients and persons who file complaints with the board. The 1267
board shall not make public the names or any other identifying 1268
information about patients or complainants unless proper consent 1269
is given or, in the case of a patient, a waiver of the patient 1270
privilege exists under division (B) of section 2317.02 of the 1271
Revised Code, except that consent or a waiver of that nature is 1272
not required if the board possesses reliable and substantial 1273
evidence that no bona fide physician-patient relationship 1274
exists. 1275

The board may share any information it receives pursuant 1276
to an investigation or inspection, including patient records and 1277
patient record information, with law enforcement agencies, other 1278
licensing boards, and other governmental agencies that are 1279
prosecuting, adjudicating, or investigating alleged violations 1280
of statutes or administrative rules. An agency or board that 1281
receives the information shall comply with the same requirements 1282
regarding confidentiality as those with which the state medical 1283
board must comply, notwithstanding any conflicting provision of 1284
the Revised Code or procedure of the agency or board that 1285
applies when it is dealing with other information in its 1286
possession. In a judicial proceeding, the information may be 1287
admitted into evidence only in accordance with the Rules of 1288
Evidence, but the court shall require that appropriate measures 1289
are taken to ensure that confidentiality is maintained with 1290
respect to any part of the information that contains names or 1291
other identifying information about patients or complainants 1292
whose confidentiality was protected by the state medical board 1293
when the information was in the board's possession. Measures to 1294
ensure confidentiality that may be taken by the court include 1295
sealing its records or deleting specific information from its 1296
records. 1297

(6) On a quarterly basis, the board shall prepare a report 1298
that documents the disposition of all cases during the preceding 1299
three months. The report shall contain the following information 1300
for each case with which the board has completed its activities: 1301

(a) The case number assigned to the complaint or alleged 1302
violation; 1303

(b) The type of license or certificate to practice, if 1304
any, held by the individual against whom the complaint is 1305

directed; 1306

(c) A description of the allegations contained in the 1307
complaint; 1308

(d) The disposition of the case. 1309

The report shall state how many cases are still pending 1310
and shall be prepared in a manner that protects the identity of 1311
each person involved in each case. The report shall be a public 1312
record under section 149.43 of the Revised Code. 1313

(G) (1) If the secretary and supervising member determine 1314
both of the following, they may recommend that the board suspend 1315
an individual's license or certificate to practice or 1316
certificate to recommend without a prior hearing: 1317

~~(1)~~ (a) That there is clear and convincing evidence that 1318
an individual has violated division (B) of this section; 1319

~~(2)~~ (b) That the individual's continued practice presents 1320
a danger of immediate and serious harm to the public. 1321

(2) If the secretary and supervising member determine both 1322
of the following, they shall recommend that the board suspend an 1323
individual's license or certificate to practice or certificate 1324
to recommend without a prior hearing: 1325

(a) That there is clear and convincing evidence that an 1326
individual has violated division (A) of section 2919.195 of the 1327
Revised Code; 1328

(b) That the individual's continued practice presents a 1329
danger of immediate and serious harm to the public. 1330

Written allegations shall be prepared for consideration by 1331
the board. The board, upon review of those allegations and by an 1332

affirmative vote of not fewer than six of its members, excluding 1333
the secretary and supervising member, may suspend a license or 1334
certificate without a prior hearing. A telephone conference call 1335
may be utilized for reviewing the allegations and taking the 1336
vote on the summary suspension. 1337

The board shall issue a written order of suspension by 1338
certified mail or in person in accordance with section 119.07 of 1339
the Revised Code. The order shall not be subject to suspension 1340
by the court during pendency of any appeal filed under section 1341
119.12 of the Revised Code. If the individual subject to the 1342
summary suspension requests an adjudicatory hearing by the 1343
board, the date set for the hearing shall be within fifteen 1344
days, but not earlier than seven days, after the individual 1345
requests the hearing, unless otherwise agreed to by both the 1346
board and the individual. 1347

Any summary suspension imposed under this division shall 1348
remain in effect, unless reversed on appeal, until a final 1349
adjudicative order issued by the board pursuant to this section 1350
and Chapter 119. of the Revised Code becomes effective. The 1351
board shall issue its final adjudicative order within seventy- 1352
five days after completion of its hearing. A failure to issue 1353
the order within seventy-five days shall result in dissolution 1354
of the summary suspension order but shall not invalidate any 1355
subsequent, final adjudicative order. 1356

(H) If the board takes action under division (B) (9), (11), 1357
or (13) of this section and the judicial finding of guilt, 1358
guilty plea, or judicial finding of eligibility for intervention 1359
in lieu of conviction is overturned on appeal, upon exhaustion 1360
of the criminal appeal, a petition for reconsideration of the 1361
order may be filed with the board along with appropriate court 1362

documents. Upon receipt of a petition of that nature and 1363
supporting court documents, the board shall reinstate the 1364
individual's license or certificate to practice. The board may 1365
then hold an adjudication under Chapter 119. of the Revised Code 1366
to determine whether the individual committed the act in 1367
question. Notice of an opportunity for a hearing shall be given 1368
in accordance with Chapter 119. of the Revised Code. If the 1369
board finds, pursuant to an adjudication held under this 1370
division, that the individual committed the act or if no hearing 1371
is requested, the board may order any of the sanctions 1372
identified under division (B) of this section. 1373

(I) The license or certificate to practice issued to an 1374
individual under this chapter and the individual's practice in 1375
this state are automatically suspended as of the date of the 1376
individual's second or subsequent plea of guilty to, or judicial 1377
finding of guilt of, a violation of section 2919.123 of the 1378
Revised Code. In addition, the license or certificate to 1379
practice or certificate to recommend issued to an individual 1380
under this chapter and the individual's practice in this state 1381
are automatically suspended as of the date the individual pleads 1382
guilty to, is found by a judge or jury to be guilty of, or is 1383
subject to a judicial finding of eligibility for intervention in 1384
lieu of conviction in this state or treatment or intervention in 1385
lieu of conviction in another jurisdiction for any of the 1386
following criminal offenses in this state or a substantially 1387
equivalent criminal offense in another jurisdiction: aggravated 1388
murder, murder, voluntary manslaughter, felonious assault, 1389
kidnapping, rape, sexual battery, gross sexual imposition, 1390
aggravated arson, aggravated robbery, or aggravated burglary. 1391
Continued practice after suspension shall be considered 1392
practicing without a license or certificate. 1393

The board shall notify the individual subject to the 1394
suspension by certified mail or in person in accordance with 1395
section 119.07 of the Revised Code. If an individual whose 1396
license or certificate is automatically suspended under this 1397
division fails to make a timely request for an adjudication 1398
under Chapter 119. of the Revised Code, the board shall do 1399
whichever of the following is applicable: 1400

(1) If the automatic suspension under this division is for 1401
a second or subsequent plea of guilty to, or judicial finding of 1402
guilt of, a violation of section 2919.123 of the Revised Code, 1403
the board shall enter an order suspending the individual's 1404
license or certificate to practice for a period of at least one 1405
year or, if determined appropriate by the board, imposing a more 1406
serious sanction involving the individual's license or 1407
certificate to practice. 1408

(2) In all circumstances in which division (I)(1) of this 1409
section does not apply, enter a final order permanently revoking 1410
the individual's license or certificate to practice. 1411

(J) If the board is required by Chapter 119. of the 1412
Revised Code to give notice of an opportunity for a hearing and 1413
if the individual subject to the notice does not timely request 1414
a hearing in accordance with section 119.07 of the Revised Code, 1415
the board is not required to hold a hearing, but may adopt, by 1416
an affirmative vote of not fewer than six of its members, a 1417
final order that contains the board's findings. In that final 1418
order, the board may order any of the sanctions identified under 1419
division (A) or (B) of this section. 1420

(K) Any action taken by the board under division (B) of 1421
this section resulting in a suspension from practice shall be 1422
accompanied by a written statement of the conditions under which 1423

the individual's license or certificate to practice may be 1424
reinstated. The board shall adopt rules governing conditions to 1425
be imposed for reinstatement. Reinstatement of a license or 1426
certificate suspended pursuant to division (B) of this section 1427
requires an affirmative vote of not fewer than six members of 1428
the board. 1429

(L) When the board refuses to grant or issue a license or 1430
certificate to practice to an applicant, revokes an individual's 1431
license or certificate to practice, refuses to renew an 1432
individual's license or certificate to practice, or refuses to 1433
reinstate an individual's license or certificate to practice, 1434
the board may specify that its action is permanent. An 1435
individual subject to a permanent action taken by the board is 1436
forever thereafter ineligible to hold a license or certificate 1437
to practice and the board shall not accept an application for 1438
reinstatement of the license or certificate or for issuance of a 1439
new license or certificate. 1440

(M) Notwithstanding any other provision of the Revised 1441
Code, all of the following apply: 1442

(1) The surrender of a license or certificate issued under 1443
this chapter shall not be effective unless or until accepted by 1444
the board. A telephone conference call may be utilized for 1445
acceptance of the surrender of an individual's license or 1446
certificate to practice. The telephone conference call shall be 1447
considered a special meeting under division (F) of section 1448
121.22 of the Revised Code. Reinstatement of a license or 1449
certificate surrendered to the board requires an affirmative 1450
vote of not fewer than six members of the board. 1451

(2) An application for a license or certificate made under 1452
the provisions of this chapter may not be withdrawn without 1453

approval of the board. 1454

(3) Failure by an individual to renew a license or 1455
certificate to practice in accordance with this chapter or a 1456
certificate to recommend in accordance with rules adopted under 1457
section 4731.301 of the Revised Code shall not remove or limit 1458
the board's jurisdiction to take any disciplinary action under 1459
this section against the individual. 1460

(4) At the request of the board, a license or certificate 1461
holder shall immediately surrender to the board a license or 1462
certificate that the board has suspended, revoked, or 1463
permanently revoked. 1464

(N) Sanctions shall not be imposed under division (B) (28) 1465
of this section against any person who waives deductibles and 1466
copayments as follows: 1467

(1) In compliance with the health benefit plan that 1468
expressly allows such a practice. Waiver of the deductibles or 1469
copayments shall be made only with the full knowledge and 1470
consent of the plan purchaser, payer, and third-party 1471
administrator. Documentation of the consent shall be made 1472
available to the board upon request. 1473

(2) For professional services rendered to any other person 1474
authorized to practice pursuant to this chapter, to the extent 1475
allowed by this chapter and rules adopted by the board. 1476

(O) Under the board's investigative duties described in 1477
this section and subject to division (F) of this section, the 1478
board shall develop and implement a quality intervention program 1479
designed to improve through remedial education the clinical and 1480
communication skills of individuals authorized under this 1481
chapter to practice medicine and surgery, osteopathic medicine 1482

and surgery, and podiatric medicine and surgery. In developing 1483
and implementing the quality intervention program, the board may 1484
do all of the following: 1485

(1) Offer in appropriate cases as determined by the board 1486
an educational and assessment program pursuant to an 1487
investigation the board conducts under this section; 1488

(2) Select providers of educational and assessment 1489
services, including a quality intervention program panel of case 1490
reviewers; 1491

(3) Make referrals to educational and assessment service 1492
providers and approve individual educational programs 1493
recommended by those providers. The board shall monitor the 1494
progress of each individual undertaking a recommended individual 1495
educational program. 1496

(4) Determine what constitutes successful completion of an 1497
individual educational program and require further monitoring of 1498
the individual who completed the program or other action that 1499
the board determines to be appropriate; 1500

(5) Adopt rules in accordance with Chapter 119. of the 1501
Revised Code to further implement the quality intervention 1502
program. 1503

An individual who participates in an individual 1504
educational program pursuant to this division shall pay the 1505
financial obligations arising from that educational program. 1506

Section 2. That existing sections 2317.56, 2919.171, 1507
2919.19, 2919.191, 2919.192, 2919.193, and 4731.22 of the 1508
Revised Code are hereby repealed. 1509

Section 3. If any provisions of a section as amended or 1510

enacted by this act, or the application thereof to any person or	1511
circumstance is held invalid, the invalidity does not affect	1512
other provisions or applications of the section or related	1513
sections which can be given effect without the invalid provision	1514
or application, and to this end the provisions are severable.	1515