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Sub. S. B. No. 157

Senators Johnson, Huffman, S.

**Cosponsors: Senators Cirino, Brenner, Lang, Hottinger, Antani, Romanchuk,
Hoagland, Wilson, O'Brien, Schaffer, Roegner, Blessing, Gavarone, Hackett,
McColley, Peterson, Reineke**

A BILL

To amend sections 2919.13, 3701.79, 3701.99, 1
3702.3010, and 4731.22; to amend, for the 2
purpose of adopting a new section number as 3
indicated in parentheses, section 3702.305 4
(3702.3011); and to enact new section 3702.305 5
and sections 3701.792 and 4731.90 of the Revised 6
Code to require reports to be made after a child 7
is born alive following an abortion or attempted 8
abortion, to establish certain civil or criminal 9
penalties for failing to preserve the health or 10
life of such a child, and to make changes 11
regarding variances from written transfer 12
agreements. 13

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

Section 1. That sections 2919.13, 3701.79, 3701.99, 14
3702.3010, and 4731.22 be amended; section 3702.305 (3702.3011) 15
be amended for the purpose of adopting a new section number as 16
indicated in parentheses; and new section 3702.305 and sections 17

3701.792 and 4731.90 of the Revised Code be enacted to read as 18
follows: 19

Sec. 2919.13. (A) No person shall purposely take the life 20
of a child born by attempted abortion who is alive when removed 21
from the uterus of the pregnant woman. 22

(B) No person who performs an abortion shall purposely 23
fail to take the measures required by the exercise of medical 24
judgment in light of the attending circumstances to preserve the 25
health or life of a child who is alive when removed from the 26
uterus of the pregnant woman. 27

(C) (1) Whoever violates division (A) of this section is 28
guilty of abortion manslaughter, a felony of the first degree. 29

(2) Whoever violates division (B) of this section and the 30
child dies as a result of the person's failure to take the 31
measures described in that division is guilty of abortion 32
manslaughter, a felony of the first degree. 33

(3) Whoever violates division (B) of this section and the 34
child survives notwithstanding the person's failure to take the 35
measures described in that division is guilty of failure to 36
render medical care to an infant born alive, a felony of the 37
first degree. 38

(D) (1) A woman on whom an abortion is performed or 39
attempted may file a civil action for the wrongful death of the 40
woman's child against a person who violates division (A) of this 41
section. 42

(2) A woman on whom an abortion is performed or attempted 43
may file a civil action for injury, death, or loss to person or 44
property against a person who violates division (B) of this 45
section. 46

(3) A woman who prevails in an action filed under division 47
(D) (1) or (2) of this section shall receive both of the 48
following from the person who committed the act: 49

(a) Compensatory and exemplary damages in an amount 50
determined by the trier of fact; 51

(b) Court costs and reasonable attorney's fees. 52

Sec. 3701.79. (A) As used in this section and in sections 53
3701.791 and 3701.792 of the Revised Code: 54

(1) "Abortion" has the same meaning as in section 2919.11 55
of the Revised Code. 56

(2) "Abortion report" means a form completed pursuant to 57
division (C) of this section. 58

(3) "Ambulatory surgical facility" has the same meaning as 59
in section 3702.30 of the Revised Code. 60

(4) "Department" means the department of health. 61

(5) "Hospital" means any building, structure, institution, 62
or place devoted primarily to the maintenance and operation of 63
facilities for the diagnosis, treatment, and medical or surgical 64
care for three or more unrelated individuals suffering from 65
illness, disease, injury, or deformity, and regularly making 66
available at least clinical laboratory services, diagnostic x- 67
ray services, treatment facilities for surgery or obstetrical 68
care, or other definitive medical treatment. "Hospital" does not 69
include a "home" as defined in section 3721.01 of the Revised 70
Code. 71

(6) "Physician's office" means an office or portion of an 72
office that is used to provide medical or surgical services to 73
the physician's patients. "Physician's office" does not mean an 74

ambulatory surgical facility, a hospital, or a hospital 75
emergency department. 76

(7) "Postabortion care" means care given after the uterus 77
has been evacuated by abortion. 78

(B) The department shall be responsible for collecting and 79
collating abortion data reported to the department as required 80
by this section. 81

(C) The attending physician shall complete an individual 82
abortion report for the abortion of each zygote, blastocyte, 83
embryo, or fetus the physician performs. The report shall be 84
confidential and shall not contain the woman's name. The report 85
shall include, but is not limited to, all of the following, 86
insofar as the patient makes the data available that is not 87
within the physician's knowledge: 88

(1) Patient number; 89

(2) The name and address of the facility in which the 90
abortion was performed, and whether the facility is a hospital, 91
ambulatory surgical facility, physician's office, or other 92
facility; 93

(3) The date of the abortion; 94

(4) If a surgical abortion, the method of final 95
disposition of the fetal remains under Chapter 3726. of the 96
Revised Code; 97

(5) All of the following regarding the woman on whom the 98
abortion was performed: 99

(a) Zip code of residence; 100

(b) Age; 101

(c) Race;	102
(d) Marital status;	103
(e) Number of previous pregnancies;	104
(f) Years of education;	105
(g) Number of living children;	106
(h) Number of zygotes, blastocytes, embryos, or fetuses previously aborted;	107 108
(i) Date of last induced abortion;	109
(j) Date of last live birth;	110
(k) Method of contraception at the time of conception;	111
(l) Date of the first day of the last menstrual period;	112
(m) Medical condition at the time of the abortion;	113
(n) Rh-type;	114
(o) The number of weeks of gestation at the time of the abortion.	115 116
(6) The type of abortion procedure performed;	117
(7) Complications by type;	118
(8) Written acknowledgment by the attending physician that the pregnant woman is not seeking the abortion, in whole or in part, because of any of the following:	119 120 121
(a) A test result indicating Down syndrome in an unborn child;	122 123
(b) A prenatal diagnosis of Down syndrome in an unborn child;	124 125

(c) Any other reason to believe that an unborn child has	126
Down syndrome.	127
(9) Type of procedure performed after the abortion;	128
(10) Type of family planning recommended;	129
(11) Type of additional counseling given;	130
(12) Signature of attending physician.	131
(D) The physician who completed the abortion report under	132
division (C) of this section shall submit the abortion report to	133
the department within fifteen days after the woman is	134
discharged.	135
(E) The appropriate vital records report or certificate	136
shall be made out after the twentieth week of gestation.	137
(F) A copy of the abortion report shall be made part of	138
the medical record of the patient of the facility in which the	139
abortion was performed.	140
(G) Each hospital shall file monthly and annual reports	141
listing the total number of women who have undergone a post-	142
twelve-week-gestation abortion and received postabortion care.	143
The annual report shall be filed following the conclusion of the	144
state's fiscal year. Each report shall be filed within thirty	145
days after the end of the applicable reporting period.	146
(H) Each case in which a physician treats a post abortion	147
complication shall be reported on a postabortion complication	148
form. The report shall be made upon a form prescribed by the	149
department, shall be signed by the attending physician, and	150
shall be confidential.	151
(I) (1) Not later than the first day of October of each	152

year, the department shall issue an annual report of the 153
abortion data reported to the department for the previous 154
calendar year as required by this section. The annual report 155
shall include at least the following information: 156

(a) The total number of zygotes, blastocytes, embryos, or 157
fetuses that were aborted; 158

(b) The number of abortions performed on Ohio and out-of- 159
state residents; 160

(c) The number of abortions performed, sorted by each of 161
the following: 162

(i) The age of the woman on whom the abortion was 163
performed, using the following categories: under fifteen years 164
of age, fifteen to nineteen years of age, twenty to twenty-four 165
years of age, twenty-five to twenty-nine years of age, thirty to 166
thirty-four years of age, thirty-five to thirty-nine years of 167
age, forty to forty-four years of age, forty-five years of age 168
or older; 169

(ii) The race and Hispanic ethnicity of the woman on whom 170
the abortion was performed; 171

(iii) The education level of the woman on whom the 172
abortion was performed, using the following categories or their 173
equivalents: less than ninth grade, ninth through twelfth grade, 174
one or more years of college; 175

(iv) The marital status of the woman on whom the abortion 176
was performed; 177

(v) The number of living children of the woman on whom the 178
abortion was performed, using the following categories: none, 179
one, or two or more; 180

(vi) The number of weeks of gestation of the woman at the 181
time the abortion was performed, using the following categories: 182
less than nine weeks, nine to twelve weeks, thirteen to nineteen 183
weeks, or twenty weeks or more; 184

(vii) The county in which the abortion was performed; 185

(viii) The type of abortion procedure performed; 186

(ix) The number of zygotes, blastocytes, embryos, or 187
fetuses previously aborted by the woman on whom the abortion was 188
performed; 189

(x) The type of facility in which the abortion was 190
performed; 191

(xi) For Ohio residents, the county of residence of the 192
woman on whom the abortion was performed. 193

(2) The report also shall indicate the number and type of 194
the abortion complications reported to the department either on 195
the abortion report required under division (C) of this section 196
or the postabortion complication report required under division 197
(H) of this section. 198

(3) In addition to the annual report required under 199
division (I)(1) of this section, the department shall make 200
available, on request, the number of abortions performed by zip 201
code of residence. 202

(J) The director of health shall implement this section 203
and shall apply to the court of common pleas for temporary or 204
permanent injunctions restraining a violation or threatened 205
violation of its requirements. This action is an additional 206
remedy not dependent on the adequacy of the remedy at law. 207

Sec. 3701.792. (A) The director of health shall develop a 208

child survival form to be submitted to the department of health 209
in accordance with division (B) of this section each time a 210
child is born alive after an abortion or attempted abortion. In 211
developing the form, the director may consult with 212
obstetricians, maternal-fetal specialists, or any other 213
professionals the director considers appropriate. The form shall 214
include areas for all of the following to be provided: 215

(1) The patient number for the woman on whom the abortion 216
was performed or attempted; 217

(2) The name, primary business address, and signature of 218
the attending physician described in section 3701.79 of the 219
Revised Code who performed or attempted to perform the abortion; 220

(3) The name and address of the facility in which the 221
abortion was performed or attempted, and whether the facility is 222
a hospital, ambulatory surgical facility, physician's office, or 223
other facility; 224

(4) The date the abortion was performed or attempted; 225

(5) The type of abortion procedure that was performed or 226
attempted; 227

(6) The gestational age of the child who was born; 228

(7) Complications, by type, for both the woman and child; 229

(8) Any other information the director considers 230
appropriate. 231

(B) The attending physician who performed or attempted an 232
abortion in which a child was born alive after that event shall 233
complete a child survival form developed under division (A) of 234
this section. The physician shall submit the completed form to 235
the department of health not later than fifteen days after the 236

woman is discharged from the facility. 237

A completed child survival form is confidential and not a 238
public record under section 149.43 of the Revised Code. 239

(C) A copy of the child survival form completed under this 240
section shall be made part of the medical record maintained for 241
the woman by the facility in which the abortion was performed or 242
attempted. 243

(D) Each facility in which an abortion was performed or 244
attempted and in which a child was born alive after that event 245
shall submit monthly and annual reports to the department of 246
health listing the total number of women on whom an abortion was 247
performed or attempted at the facility and in which a child was 248
born alive after that event, delineated by the type of abortion 249
procedure that was performed or attempted. The annual report 250
shall be submitted following the conclusion of the state's 251
fiscal year. Each monthly or annual report shall be submitted 252
not later than thirty days after the end of the applicable 253
reporting period. 254

(E) Not later than the first day of October of each year, 255
the department shall issue an annual report of the data 256
submitted to the department for the previous calendar year as 257
required by this section. At a minimum, the annual report shall 258
specify the number of women on whom an abortion was performed or 259
attempted and in which a child was born alive after that event, 260
delineated by the type of abortion procedure that was performed 261
or attempted and the facility in which the abortion was 262
performed or attempted. The report shall not contain any 263
information that would permit the identity of a woman on whom an 264
abortion was performed or attempted or any child to be 265
ascertained. 266

(F) No person shall purposely fail to comply with the 267
child survival form submission requirement described in division 268
(B) of this section or the copy maintenance requirement 269
described in division (C) of this section. 270

(G) No person shall purposely fail to comply with the 271
monthly or annual report submission requirements described in 272
division (D) of this section. 273

(H) A woman on whom an abortion is performed or attempted 274
may file a civil action against a person who violates division 275
(F) or (G) or this section. A woman who prevails in an action 276
filed under this division shall receive both of the following 277
from the person who committed the violation: 278

(1) Damages in the amount of ten thousand dollars; 279

(2) Court costs and reasonable attorney's fees. 280

Sec. 3701.99. (A) Whoever violates division (C) of section 281
3701.23, division (C) of section 3701.232, division (C) of 282
section 3701.24, division (D) (2) of section 3701.262, or 283
sections 3701.46 to 3701.55 of the Revised Code is guilty of a 284
minor misdemeanor on a first offense; on each subsequent 285
offense, the person is guilty of a misdemeanor of the fourth 286
degree. 287

(B) Whoever violates section 3701.82 of the Revised Code 288
is guilty of a misdemeanor of the first degree. 289

(C) Whoever violates section 3701.352 or 3701.81 of the 290
Revised Code is guilty of a misdemeanor of the second degree. 291

(D) Whoever violates division (F) or (G) of section 292
3701.792 of the Revised Code is guilty of a felony of the third 293
degree. 294

Sec. 3702.305. (A) In addition to the attachments 295
specified in division (B) (3) (a) of section 3702.304 of the 296
Revised Code, a variance application must contain or include as 297
attachments, for each consulting physician described in division 298
(B) (2) of that section, a signed statement in which the 299
physician attests to both of the following: 300

(1) The physician does not teach or provide instruction, 301
directly or indirectly, at a medical school or osteopathic 302
medical school affiliated with a state university or college as 303
defined in section 3345.12 of the Revised Code, any state 304
hospital, or other public institution. 305

(2) The physician is not employed by or compensated 306
pursuant to a contract with, and does not provide instruction or 307
consultation to, a medical school or osteopathic medical school 308
affiliated with a state university or college as defined in 309
section 3345.12 of the Revised Code, any state hospital, or 310
other public institution. 311

(B) No physician shall engage in any of the activities 312
described in division (A) (1) or (2) of this section while 313
serving as a consulting physician for an ambulatory surgical 314
facility that has been granted a variance from the written 315
transfer agreement requirement of section 3702.303 of the 316
Revised Code. 317

(C) If, at any time, the director of health determines 318
that a consulting physician for an ambulatory surgical facility 319
that has been granted a variance from the written transfer 320
agreement requirement of section 3702.303 of the Revised Code 321
has violated the prohibition in division (B) of this section, 322
the director shall rescind the variance. 323

Sec. 3702.3010. A local hospital shall not be further than 324
thirty miles from an ambulatory surgical facility+ 325

~~(A) With~~ with which the local hospital has a written 326
transfer agreement under section 3702.303 of the Revised Code+ 327
~~of.~~ 328

~~(B) Whose consulting physicians under a variance granted~~ 329
~~under section 3702.304 of the Revised Code have admitting~~ 330
~~privileges at the local hospital.~~ 331

Sec. ~~3702.305~~ 3702.3011. The director of health may impose 332
conditions on any variance the director has granted under 333
section 3702.304 of the Revised Code. The director may, at any 334
time, rescind the variance for any reason, including a 335
determination by the director that the facility is failing to 336
meet one or more of the conditions or no longer adequately 337
protects public health and safety. The director's decision to 338
rescind a variance is final. 339

Sec. 4731.22. (A) The state medical board, by an 340
affirmative vote of not fewer than six of its members, may 341
limit, revoke, or suspend a license or certificate to practice 342
or certificate to recommend, refuse to grant a license or 343
certificate, refuse to renew a license or certificate, refuse to 344
reinstate a license or certificate, or reprimand or place on 345
probation the holder of a license or certificate if the 346
individual applying for or holding the license or certificate is 347
found by the board to have committed fraud during the 348
administration of the examination for a license or certificate 349
to practice or to have committed fraud, misrepresentation, or 350
deception in applying for, renewing, or securing any license or 351
certificate to practice or certificate to recommend issued by 352
the board. 353

(B) The board, by an affirmative vote of not fewer than 354
six members, shall, to the extent permitted by law, limit, 355
revoke, or suspend a license or certificate to practice or 356
certificate to recommend, refuse to issue a license or 357
certificate, refuse to renew a license or certificate, refuse to 358
reinstate a license or certificate, or reprimand or place on 359
probation the holder of a license or certificate for one or more 360
of the following reasons: 361

(1) Permitting one's name or one's license or certificate 362
to practice to be used by a person, group, or corporation when 363
the individual concerned is not actually directing the treatment 364
given; 365

(2) Failure to maintain minimal standards applicable to 366
the selection or administration of drugs, or failure to employ 367
acceptable scientific methods in the selection of drugs or other 368
modalities for treatment of disease; 369

(3) Except as provided in section 4731.97 of the Revised 370
Code, selling, giving away, personally furnishing, prescribing, 371
or administering drugs for other than legal and legitimate 372
therapeutic purposes or a plea of guilty to, a judicial finding 373
of guilt of, or a judicial finding of eligibility for 374
intervention in lieu of conviction of, a violation of any 375
federal or state law regulating the possession, distribution, or 376
use of any drug; 377

(4) Willfully betraying a professional confidence. 378

For purposes of this division, "willfully betraying a 379
professional confidence" does not include providing any 380
information, documents, or reports under sections 307.621 to 381
307.629 of the Revised Code to a child fatality review board; 382

does not include providing any information, documents, or 383
reports to the director of health pursuant to guidelines 384
established under section 3701.70 of the Revised Code; does not 385
include written notice to a mental health professional under 386
section 4731.62 of the Revised Code; and does not include the 387
making of a report of an employee's use of a drug of abuse, or a 388
report of a condition of an employee other than one involving 389
the use of a drug of abuse, to the employer of the employee as 390
described in division (B) of section 2305.33 of the Revised 391
Code. Nothing in this division affects the immunity from civil 392
liability conferred by section 2305.33 or 4731.62 of the Revised 393
Code upon a physician who makes a report in accordance with 394
section 2305.33 or notifies a mental health professional in 395
accordance with section 4731.62 of the Revised Code. As used in 396
this division, "employee," "employer," and "physician" have the 397
same meanings as in section 2305.33 of the Revised Code. 398

(5) Making a false, fraudulent, deceptive, or misleading 399
statement in the solicitation of or advertising for patients; in 400
relation to the practice of medicine and surgery, osteopathic 401
medicine and surgery, podiatric medicine and surgery, or a 402
limited branch of medicine; or in securing or attempting to 403
secure any license or certificate to practice issued by the 404
board. 405

As used in this division, "false, fraudulent, deceptive, 406
or misleading statement" means a statement that includes a 407
misrepresentation of fact, is likely to mislead or deceive 408
because of a failure to disclose material facts, is intended or 409
is likely to create false or unjustified expectations of 410
favorable results, or includes representations or implications 411
that in reasonable probability will cause an ordinarily prudent 412
person to misunderstand or be deceived. 413

(6) A departure from, or the failure to conform to, 414
minimal standards of care of similar practitioners under the 415
same or similar circumstances, whether or not actual injury to a 416
patient is established; 417

(7) Representing, with the purpose of obtaining 418
compensation or other advantage as personal gain or for any 419
other person, that an incurable disease or injury, or other 420
incurable condition, can be permanently cured; 421

(8) The obtaining of, or attempting to obtain, money or 422
anything of value by fraudulent misrepresentations in the course 423
of practice; 424

(9) A plea of guilty to, a judicial finding of guilt of, 425
or a judicial finding of eligibility for intervention in lieu of 426
conviction for, a felony; 427

(10) Commission of an act that constitutes a felony in 428
this state, regardless of the jurisdiction in which the act was 429
committed; 430

(11) A plea of guilty to, a judicial finding of guilt of, 431
or a judicial finding of eligibility for intervention in lieu of 432
conviction for, a misdemeanor committed in the course of 433
practice; 434

(12) Commission of an act in the course of practice that 435
constitutes a misdemeanor in this state, regardless of the 436
jurisdiction in which the act was committed; 437

(13) A plea of guilty to, a judicial finding of guilt of, 438
or a judicial finding of eligibility for intervention in lieu of 439
conviction for, a misdemeanor involving moral turpitude; 440

(14) Commission of an act involving moral turpitude that 441

constitutes a misdemeanor in this state, regardless of the 442
jurisdiction in which the act was committed; 443

(15) Violation of the conditions of limitation placed by 444
the board upon a license or certificate to practice; 445

(16) Failure to pay license renewal fees specified in this 446
chapter; 447

(17) Except as authorized in section 4731.31 of the 448
Revised Code, engaging in the division of fees for referral of 449
patients, or the receiving of a thing of value in return for a 450
specific referral of a patient to utilize a particular service 451
or business; 452

(18) Subject to section 4731.226 of the Revised Code, 453
violation of any provision of a code of ethics of the American 454
medical association, the American osteopathic association, the 455
American podiatric medical association, or any other national 456
professional organizations that the board specifies by rule. The 457
state medical board shall obtain and keep on file current copies 458
of the codes of ethics of the various national professional 459
organizations. The individual whose license or certificate is 460
being suspended or revoked shall not be found to have violated 461
any provision of a code of ethics of an organization not 462
appropriate to the individual's profession. 463

For purposes of this division, a "provision of a code of 464
ethics of a national professional organization" does not include 465
any provision that would preclude the making of a report by a 466
physician of an employee's use of a drug of abuse, or of a 467
condition of an employee other than one involving the use of a 468
drug of abuse, to the employer of the employee as described in 469
division (B) of section 2305.33 of the Revised Code. Nothing in 470

this division affects the immunity from civil liability 471
conferred by that section upon a physician who makes either type 472
of report in accordance with division (B) of that section. As 473
used in this division, "employee," "employer," and "physician" 474
have the same meanings as in section 2305.33 of the Revised 475
Code. 476

(19) Inability to practice according to acceptable and 477
prevailing standards of care by reason of mental illness or 478
physical illness, including, but not limited to, physical 479
deterioration that adversely affects cognitive, motor, or 480
perceptive skills. 481

In enforcing this division, the board, upon a showing of a 482
possible violation, may compel any individual authorized to 483
practice by this chapter or who has submitted an application 484
pursuant to this chapter to submit to a mental examination, 485
physical examination, including an HIV test, or both a mental 486
and a physical examination. The expense of the examination is 487
the responsibility of the individual compelled to be examined. 488
Failure to submit to a mental or physical examination or consent 489
to an HIV test ordered by the board constitutes an admission of 490
the allegations against the individual unless the failure is due 491
to circumstances beyond the individual's control, and a default 492
and final order may be entered without the taking of testimony 493
or presentation of evidence. If the board finds an individual 494
unable to practice because of the reasons set forth in this 495
division, the board shall require the individual to submit to 496
care, counseling, or treatment by physicians approved or 497
designated by the board, as a condition for initial, continued, 498
reinstated, or renewed authority to practice. An individual 499
affected under this division shall be afforded an opportunity to 500
demonstrate to the board the ability to resume practice in 501

compliance with acceptable and prevailing standards under the 502
provisions of the individual's license or certificate. For the 503
purpose of this division, any individual who applies for or 504
receives a license or certificate to practice under this chapter 505
accepts the privilege of practicing in this state and, by so 506
doing, shall be deemed to have given consent to submit to a 507
mental or physical examination when directed to do so in writing 508
by the board, and to have waived all objections to the 509
admissibility of testimony or examination reports that 510
constitute a privileged communication. 511

(20) Except as provided in division (F)(1)(b) of section 512
4731.282 of the Revised Code or when civil penalties are imposed 513
under section 4731.225 of the Revised Code, and subject to 514
section 4731.226 of the Revised Code, violating or attempting to 515
violate, directly or indirectly, or assisting in or abetting the 516
violation of, or conspiring to violate, any provisions of this 517
chapter or any rule promulgated by the board. 518

This division does not apply to a violation or attempted 519
violation of, assisting in or abetting the violation of, or a 520
conspiracy to violate, any provision of this chapter or any rule 521
adopted by the board that would preclude the making of a report 522
by a physician of an employee's use of a drug of abuse, or of a 523
condition of an employee other than one involving the use of a 524
drug of abuse, to the employer of the employee as described in 525
division (B) of section 2305.33 of the Revised Code. Nothing in 526
this division affects the immunity from civil liability 527
conferred by that section upon a physician who makes either type 528
of report in accordance with division (B) of that section. As 529
used in this division, "employee," "employer," and "physician" 530
have the same meanings as in section 2305.33 of the Revised 531
Code. 532

(21) The violation of section 3701.79 of the Revised Code 533
or of any abortion rule adopted by the director of health 534
pursuant to section 3701.341 of the Revised Code; 535

(22) Any of the following actions taken by an agency 536
responsible for authorizing, certifying, or regulating an 537
individual to practice a health care occupation or provide 538
health care services in this state or another jurisdiction, for 539
any reason other than the nonpayment of fees: the limitation, 540
revocation, or suspension of an individual's license to 541
practice; acceptance of an individual's license surrender; 542
denial of a license; refusal to renew or reinstate a license; 543
imposition of probation; or issuance of an order of censure or 544
other reprimand; 545

(23) The violation of section 2919.12 of the Revised Code 546
or the performance or inducement of an abortion upon a pregnant 547
woman with actual knowledge that the conditions specified in 548
division (B) of section 2317.56 of the Revised Code have not 549
been satisfied or with a heedless indifference as to whether 550
those conditions have been satisfied, unless an affirmative 551
defense as specified in division (H)(2) of that section would 552
apply in a civil action authorized by division (H)(1) of that 553
section; 554

(24) The revocation, suspension, restriction, reduction, 555
or termination of clinical privileges by the United States 556
department of defense or department of veterans affairs or the 557
termination or suspension of a certificate of registration to 558
prescribe drugs by the drug enforcement administration of the 559
United States department of justice; 560

(25) Termination or suspension from participation in the 561
medicare or medicaid programs by the department of health and 562

human services or other responsible agency; 563

(26) Impairment of ability to practice according to 564
acceptable and prevailing standards of care because of habitual 565
or excessive use or abuse of drugs, alcohol, or other substances 566
that impair ability to practice. 567

For the purposes of this division, any individual 568
authorized to practice by this chapter accepts the privilege of 569
practicing in this state subject to supervision by the board. By 570
filing an application for or holding a license or certificate to 571
practice under this chapter, an individual shall be deemed to 572
have given consent to submit to a mental or physical examination 573
when ordered to do so by the board in writing, and to have 574
waived all objections to the admissibility of testimony or 575
examination reports that constitute privileged communications. 576

If it has reason to believe that any individual authorized 577
to practice by this chapter or any applicant for licensure or 578
certification to practice suffers such impairment, the board may 579
compel the individual to submit to a mental or physical 580
examination, or both. The expense of the examination is the 581
responsibility of the individual compelled to be examined. Any 582
mental or physical examination required under this division 583
shall be undertaken by a treatment provider or physician who is 584
qualified to conduct the examination and who is chosen by the 585
board. 586

Failure to submit to a mental or physical examination 587
ordered by the board constitutes an admission of the allegations 588
against the individual unless the failure is due to 589
circumstances beyond the individual's control, and a default and 590
final order may be entered without the taking of testimony or 591
presentation of evidence. If the board determines that the 592

individual's ability to practice is impaired, the board shall 593
suspend the individual's license or certificate or deny the 594
individual's application and shall require the individual, as a 595
condition for initial, continued, reinstated, or renewed 596
licensure or certification to practice, to submit to treatment. 597

Before being eligible to apply for reinstatement of a 598
license or certificate suspended under this division, the 599
impaired practitioner shall demonstrate to the board the ability 600
to resume practice in compliance with acceptable and prevailing 601
standards of care under the provisions of the practitioner's 602
license or certificate. The demonstration shall include, but 603
shall not be limited to, the following: 604

(a) Certification from a treatment provider approved under 605
section 4731.25 of the Revised Code that the individual has 606
successfully completed any required inpatient treatment; 607

(b) Evidence of continuing full compliance with an 608
aftercare contract or consent agreement; 609

(c) Two written reports indicating that the individual's 610
ability to practice has been assessed and that the individual 611
has been found capable of practicing according to acceptable and 612
prevailing standards of care. The reports shall be made by 613
individuals or providers approved by the board for making the 614
assessments and shall describe the basis for their 615
determination. 616

The board may reinstate a license or certificate suspended 617
under this division after that demonstration and after the 618
individual has entered into a written consent agreement. 619

When the impaired practitioner resumes practice, the board 620
shall require continued monitoring of the individual. The 621

monitoring shall include, but not be limited to, compliance with 622
the written consent agreement entered into before reinstatement 623
or with conditions imposed by board order after a hearing, and, 624
upon termination of the consent agreement, submission to the 625
board for at least two years of annual written progress reports 626
made under penalty of perjury stating whether the individual has 627
maintained sobriety. 628

(27) A second or subsequent violation of section 4731.66 629
or 4731.69 of the Revised Code; 630

(28) Except as provided in division (N) of this section: 631

(a) Waiving the payment of all or any part of a deductible 632
or copayment that a patient, pursuant to a health insurance or 633
health care policy, contract, or plan that covers the 634
individual's services, otherwise would be required to pay if the 635
waiver is used as an enticement to a patient or group of 636
patients to receive health care services from that individual; 637

(b) Advertising that the individual will waive the payment 638
of all or any part of a deductible or copayment that a patient, 639
pursuant to a health insurance or health care policy, contract, 640
or plan that covers the individual's services, otherwise would 641
be required to pay. 642

(29) Failure to use universal blood and body fluid 643
precautions established by rules adopted under section 4731.051 644
of the Revised Code; 645

(30) Failure to provide notice to, and receive 646
acknowledgment of the notice from, a patient when required by 647
section 4731.143 of the Revised Code prior to providing 648
nonemergency professional services, or failure to maintain that 649
notice in the patient's medical record; 650

(31) Failure of a physician supervising a physician 651
assistant to maintain supervision in accordance with the 652
requirements of Chapter 4730. of the Revised Code and the rules 653
adopted under that chapter; 654

(32) Failure of a physician or podiatrist to enter into a 655
standard care arrangement with a clinical nurse specialist, 656
certified nurse-midwife, or certified nurse practitioner with 657
whom the physician or podiatrist is in collaboration pursuant to 658
section 4731.27 of the Revised Code or failure to fulfill the 659
responsibilities of collaboration after entering into a standard 660
care arrangement; 661

(33) Failure to comply with the terms of a consult 662
agreement entered into with a pharmacist pursuant to section 663
4729.39 of the Revised Code; 664

(34) Failure to cooperate in an investigation conducted by 665
the board under division (F) of this section, including failure 666
to comply with a subpoena or order issued by the board or 667
failure to answer truthfully a question presented by the board 668
in an investigative interview, an investigative office 669
conference, at a deposition, or in written interrogatories, 670
except that failure to cooperate with an investigation shall not 671
constitute grounds for discipline under this section if a court 672
of competent jurisdiction has issued an order that either 673
quashes a subpoena or permits the individual to withhold the 674
testimony or evidence in issue; 675

(35) Failure to supervise an oriental medicine 676
practitioner or acupuncturist in accordance with Chapter 4762. 677
of the Revised Code and the board's rules for providing that 678
supervision; 679

(36) Failure to supervise an anesthesiologist assistant in	680
accordance with Chapter 4760. of the Revised Code and the	681
board's rules for supervision of an anesthesiologist assistant;	682
(37) Assisting suicide, as defined in section 3795.01 of	683
the Revised Code;	684
(38) Failure to comply with the requirements of section	685
2317.561 of the Revised Code;	686
(39) Failure to supervise a radiologist assistant in	687
accordance with Chapter 4774. of the Revised Code and the	688
board's rules for supervision of radiologist assistants;	689
(40) Performing or inducing an abortion at an office or	690
facility with knowledge that the office or facility fails to	691
post the notice required under section 3701.791 of the Revised	692
Code;	693
(41) Failure to comply with the standards and procedures	694
established in rules under section 4731.054 of the Revised Code	695
for the operation of or the provision of care at a pain	696
management clinic;	697
(42) Failure to comply with the standards and procedures	698
established in rules under section 4731.054 of the Revised Code	699
for providing supervision, direction, and control of individuals	700
at a pain management clinic;	701
(43) Failure to comply with the requirements of section	702
4729.79 or 4731.055 of the Revised Code, unless the state board	703
of pharmacy no longer maintains a drug database pursuant to	704
section 4729.75 of the Revised Code;	705
(44) Failure to comply with the requirements of section	706
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	707

to submit to the department of health in accordance with a court 708
order a complete report as described in section 2919.171 or 709
2919.202 of the Revised Code; 710

(45) Practicing at a facility that is subject to licensure 711
as a category III terminal distributor of dangerous drugs with a 712
pain management clinic classification unless the person 713
operating the facility has obtained and maintains the license 714
with the classification; 715

(46) Owning a facility that is subject to licensure as a 716
category III terminal distributor of dangerous drugs with a pain 717
management clinic classification unless the facility is licensed 718
with the classification; 719

(47) Failure to comply with any of the requirements 720
regarding making or maintaining medical records or documents 721
described in division (A) of section 2919.192, division (C) of 722
section 2919.193, division (B) of section 2919.195, or division 723
(A) of section 2919.196 of the Revised Code; 724

(48) Failure to comply with the requirements in section 725
3719.061 of the Revised Code before issuing for a minor a 726
prescription for an opioid analgesic, as defined in section 727
3719.01 of the Revised Code; 728

(49) Failure to comply with the requirements of section 729
4731.30 of the Revised Code or rules adopted under section 730
4731.301 of the Revised Code when recommending treatment with 731
medical marijuana; 732

(50) Practicing at a facility, clinic, or other location 733
that is subject to licensure as a category III terminal 734
distributor of dangerous drugs with an office-based opioid 735
treatment classification unless the person operating that place 736

has obtained and maintains the license with the classification; 737

(51) Owning a facility, clinic, or other location that is 738
subject to licensure as a category III terminal distributor of 739
dangerous drugs with an office-based opioid treatment 740
classification unless that place is licensed with the 741
classification; 742

(52) A pattern of continuous or repeated violations of 743
division (E) (2) or (3) of section 3963.02 of the Revised Code; 744

(53) Failure to take the steps specified in section 745
4731.90 of the Revised Code following an abortion or attempted 746
abortion in an ambulatory surgical facility or other location 747
that is not a hospital when a child is born alive. 748

(C) Disciplinary actions taken by the board under 749
divisions (A) and (B) of this section shall be taken pursuant to 750
an adjudication under Chapter 119. of the Revised Code, except 751
that in lieu of an adjudication, the board may enter into a 752
consent agreement with an individual to resolve an allegation of 753
a violation of this chapter or any rule adopted under it. A 754
consent agreement, when ratified by an affirmative vote of not 755
fewer than six members of the board, shall constitute the 756
findings and order of the board with respect to the matter 757
addressed in the agreement. If the board refuses to ratify a 758
consent agreement, the admissions and findings contained in the 759
consent agreement shall be of no force or effect. 760

A telephone conference call may be utilized for 761
ratification of a consent agreement that revokes or suspends an 762
individual's license or certificate to practice or certificate 763
to recommend. The telephone conference call shall be considered 764
a special meeting under division (F) of section 121.22 of the 765

Revised Code. 766

If the board takes disciplinary action against an 767
individual under division (B) of this section for a second or 768
subsequent plea of guilty to, or judicial finding of guilt of, a 769
violation of section 2919.123 of the Revised Code, the 770
disciplinary action shall consist of a suspension of the 771
individual's license or certificate to practice for a period of 772
at least one year or, if determined appropriate by the board, a 773
more serious sanction involving the individual's license or 774
certificate to practice. Any consent agreement entered into 775
under this division with an individual that pertains to a second 776
or subsequent plea of guilty to, or judicial finding of guilt 777
of, a violation of that section shall provide for a suspension 778
of the individual's license or certificate to practice for a 779
period of at least one year or, if determined appropriate by the 780
board, a more serious sanction involving the individual's 781
license or certificate to practice. 782

(D) For purposes of divisions (B) (10), (12), and (14) of 783
this section, the commission of the act may be established by a 784
finding by the board, pursuant to an adjudication under Chapter 785
119. of the Revised Code, that the individual committed the act. 786
The board does not have jurisdiction under those divisions if 787
the trial court renders a final judgment in the individual's 788
favor and that judgment is based upon an adjudication on the 789
merits. The board has jurisdiction under those divisions if the 790
trial court issues an order of dismissal upon technical or 791
procedural grounds. 792

(E) The sealing of conviction records by any court shall 793
have no effect upon a prior board order entered under this 794
section or upon the board's jurisdiction to take action under 795

this section if, based upon a plea of guilty, a judicial finding 796
of guilt, or a judicial finding of eligibility for intervention 797
in lieu of conviction, the board issued a notice of opportunity 798
for a hearing prior to the court's order to seal the records. 799
The board shall not be required to seal, destroy, redact, or 800
otherwise modify its records to reflect the court's sealing of 801
conviction records. 802

(F) (1) The board shall investigate evidence that appears 803
to show that a person has violated any provision of this chapter 804
or any rule adopted under it. Any person may report to the board 805
in a signed writing any information that the person may have 806
that appears to show a violation of any provision of this 807
chapter or any rule adopted under it. In the absence of bad 808
faith, any person who reports information of that nature or who 809
testifies before the board in any adjudication conducted under 810
Chapter 119. of the Revised Code shall not be liable in damages 811
in a civil action as a result of the report or testimony. Each 812
complaint or allegation of a violation received by the board 813
shall be assigned a case number and shall be recorded by the 814
board. 815

(2) Investigations of alleged violations of this chapter 816
or any rule adopted under it shall be supervised by the 817
supervising member elected by the board in accordance with 818
section 4731.02 of the Revised Code and by the secretary as 819
provided in section 4731.39 of the Revised Code. The president 820
may designate another member of the board to supervise the 821
investigation in place of the supervising member. No member of 822
the board who supervises the investigation of a case shall 823
participate in further adjudication of the case. 824

(3) In investigating a possible violation of this chapter 825

or any rule adopted under this chapter, or in conducting an 826
inspection under division (E) of section 4731.054 of the Revised 827
Code, the board may question witnesses, conduct interviews, 828
administer oaths, order the taking of depositions, inspect and 829
copy any books, accounts, papers, records, or documents, issue 830
subpoenas, and compel the attendance of witnesses and production 831
of books, accounts, papers, records, documents, and testimony, 832
except that a subpoena for patient record information shall not 833
be issued without consultation with the attorney general's 834
office and approval of the secretary and supervising member of 835
the board. 836

(a) Before issuance of a subpoena for patient record 837
information, the secretary and supervising member shall 838
determine whether there is probable cause to believe that the 839
complaint filed alleges a violation of this chapter or any rule 840
adopted under it and that the records sought are relevant to the 841
alleged violation and material to the investigation. The 842
subpoena may apply only to records that cover a reasonable 843
period of time surrounding the alleged violation. 844

(b) On failure to comply with any subpoena issued by the 845
board and after reasonable notice to the person being 846
subpoenaed, the board may move for an order compelling the 847
production of persons or records pursuant to the Rules of Civil 848
Procedure. 849

(c) A subpoena issued by the board may be served by a 850
sheriff, the sheriff's deputy, or a board employee or agent 851
designated by the board. Service of a subpoena issued by the 852
board may be made by delivering a copy of the subpoena to the 853
person named therein, reading it to the person, or leaving it at 854
the person's usual place of residence, usual place of business, 855

or address on file with the board. When serving a subpoena to an 856
applicant for or the holder of a license or certificate issued 857
under this chapter, service of the subpoena may be made by 858
certified mail, return receipt requested, and the subpoena shall 859
be deemed served on the date delivery is made or the date the 860
person refuses to accept delivery. If the person being served 861
refuses to accept the subpoena or is not located, service may be 862
made to an attorney who notifies the board that the attorney is 863
representing the person. 864

(d) A sheriff's deputy who serves a subpoena shall receive 865
the same fees as a sheriff. Each witness who appears before the 866
board in obedience to a subpoena shall receive the fees and 867
mileage provided for under section 119.094 of the Revised Code. 868

(4) All hearings, investigations, and inspections of the 869
board shall be considered civil actions for the purposes of 870
section 2305.252 of the Revised Code. 871

(5) A report required to be submitted to the board under 872
this chapter, a complaint, or information received by the board 873
pursuant to an investigation or pursuant to an inspection under 874
division (E) of section 4731.054 of the Revised Code is 875
confidential and not subject to discovery in any civil action. 876

The board shall conduct all investigations or inspections 877
and proceedings in a manner that protects the confidentiality of 878
patients and persons who file complaints with the board. The 879
board shall not make public the names or any other identifying 880
information about patients or complainants unless proper consent 881
is given or, in the case of a patient, a waiver of the patient 882
privilege exists under division (B) of section 2317.02 of the 883
Revised Code, except that consent or a waiver of that nature is 884
not required if the board possesses reliable and substantial 885

evidence that no bona fide physician-patient relationship 886
exists. 887

The board may share any information it receives pursuant 888
to an investigation or inspection, including patient records and 889
patient record information, with law enforcement agencies, other 890
licensing boards, and other governmental agencies that are 891
prosecuting, adjudicating, or investigating alleged violations 892
of statutes or administrative rules. An agency or board that 893
receives the information shall comply with the same requirements 894
regarding confidentiality as those with which the state medical 895
board must comply, notwithstanding any conflicting provision of 896
the Revised Code or procedure of the agency or board that 897
applies when it is dealing with other information in its 898
possession. In a judicial proceeding, the information may be 899
admitted into evidence only in accordance with the Rules of 900
Evidence, but the court shall require that appropriate measures 901
are taken to ensure that confidentiality is maintained with 902
respect to any part of the information that contains names or 903
other identifying information about patients or complainants 904
whose confidentiality was protected by the state medical board 905
when the information was in the board's possession. Measures to 906
ensure confidentiality that may be taken by the court include 907
sealing its records or deleting specific information from its 908
records. 909

(6) On a quarterly basis, the board shall prepare a report 910
that documents the disposition of all cases during the preceding 911
three months. The report shall contain the following information 912
for each case with which the board has completed its activities: 913

(a) The case number assigned to the complaint or alleged 914
violation; 915

(b) The type of license or certificate to practice, if 916
any, held by the individual against whom the complaint is 917
directed; 918

(c) A description of the allegations contained in the 919
complaint; 920

(d) The disposition of the case. 921

The report shall state how many cases are still pending 922
and shall be prepared in a manner that protects the identity of 923
each person involved in each case. The report shall be a public 924
record under section 149.43 of the Revised Code. 925

(G) If the secretary and supervising member determine both 926
of the following, they may recommend that the board suspend an 927
individual's license or certificate to practice or certificate 928
to recommend without a prior hearing: 929

(1) That there is clear and convincing evidence that an 930
individual has violated division (B) of this section; 931

(2) That the individual's continued practice presents a 932
danger of immediate and serious harm to the public. 933

Written allegations shall be prepared for consideration by 934
the board. The board, upon review of those allegations and by an 935
affirmative vote of not fewer than six of its members, excluding 936
the secretary and supervising member, may suspend a license or 937
certificate without a prior hearing. A telephone conference call 938
may be utilized for reviewing the allegations and taking the 939
vote on the summary suspension. 940

The board shall issue a written order of suspension by 941
certified mail or in person in accordance with section 119.07 of 942
the Revised Code. The order shall not be subject to suspension 943

by the court during pendency of any appeal filed under section 944
119.12 of the Revised Code. If the individual subject to the 945
summary suspension requests an adjudicatory hearing by the 946
board, the date set for the hearing shall be within fifteen 947
days, but not earlier than seven days, after the individual 948
requests the hearing, unless otherwise agreed to by both the 949
board and the individual. 950

Any summary suspension imposed under this division shall 951
remain in effect, unless reversed on appeal, until a final 952
adjudicative order issued by the board pursuant to this section 953
and Chapter 119. of the Revised Code becomes effective. The 954
board shall issue its final adjudicative order within seventy- 955
five days after completion of its hearing. A failure to issue 956
the order within seventy-five days shall result in dissolution 957
of the summary suspension order but shall not invalidate any 958
subsequent, final adjudicative order. 959

(H) If the board takes action under division (B) (9), (11), 960
or (13) of this section and the judicial finding of guilt, 961
guilty plea, or judicial finding of eligibility for intervention 962
in lieu of conviction is overturned on appeal, upon exhaustion 963
of the criminal appeal, a petition for reconsideration of the 964
order may be filed with the board along with appropriate court 965
documents. Upon receipt of a petition of that nature and 966
supporting court documents, the board shall reinstate the 967
individual's license or certificate to practice. The board may 968
then hold an adjudication under Chapter 119. of the Revised Code 969
to determine whether the individual committed the act in 970
question. Notice of an opportunity for a hearing shall be given 971
in accordance with Chapter 119. of the Revised Code. If the 972
board finds, pursuant to an adjudication held under this 973
division, that the individual committed the act or if no hearing 974

is requested, the board may order any of the sanctions 975
identified under division (B) of this section. 976

(I) The license or certificate to practice issued to an 977
individual under this chapter and the individual's practice in 978
this state are automatically suspended as of the date of the 979
individual's second or subsequent plea of guilty to, or judicial 980
finding of guilt of, a violation of section 2919.123 of the 981
Revised Code. In addition, the license or certificate to 982
practice or certificate to recommend issued to an individual 983
under this chapter and the individual's practice in this state 984
are automatically suspended as of the date the individual pleads 985
guilty to, is found by a judge or jury to be guilty of, or is 986
subject to a judicial finding of eligibility for intervention in 987
lieu of conviction in this state or treatment or intervention in 988
lieu of conviction in another jurisdiction for any of the 989
following criminal offenses in this state or a substantially 990
equivalent criminal offense in another jurisdiction: aggravated 991
murder, murder, voluntary manslaughter, felonious assault, 992
kidnapping, rape, sexual battery, gross sexual imposition, 993
aggravated arson, aggravated robbery, or aggravated burglary. 994
Continued practice after suspension shall be considered 995
practicing without a license or certificate. 996

The board shall notify the individual subject to the 997
suspension by certified mail or in person in accordance with 998
section 119.07 of the Revised Code. If an individual whose 999
license or certificate is automatically suspended under this 1000
division fails to make a timely request for an adjudication 1001
under Chapter 119. of the Revised Code, the board shall do 1002
whichever of the following is applicable: 1003

(1) If the automatic suspension under this division is for 1004

a second or subsequent plea of guilty to, or judicial finding of 1005
guilt of, a violation of section 2919.123 of the Revised Code, 1006
the board shall enter an order suspending the individual's 1007
license or certificate to practice for a period of at least one 1008
year or, if determined appropriate by the board, imposing a more 1009
serious sanction involving the individual's license or 1010
certificate to practice. 1011

(2) In all circumstances in which division (I)(1) of this 1012
section does not apply, enter a final order permanently revoking 1013
the individual's license or certificate to practice. 1014

(J) If the board is required by Chapter 119. of the 1015
Revised Code to give notice of an opportunity for a hearing and 1016
if the individual subject to the notice does not timely request 1017
a hearing in accordance with section 119.07 of the Revised Code, 1018
the board is not required to hold a hearing, but may adopt, by 1019
an affirmative vote of not fewer than six of its members, a 1020
final order that contains the board's findings. In that final 1021
order, the board may order any of the sanctions identified under 1022
division (A) or (B) of this section. 1023

(K) Any action taken by the board under division (B) of 1024
this section resulting in a suspension from practice shall be 1025
accompanied by a written statement of the conditions under which 1026
the individual's license or certificate to practice may be 1027
reinstated. The board shall adopt rules governing conditions to 1028
be imposed for reinstatement. Reinstatement of a license or 1029
certificate suspended pursuant to division (B) of this section 1030
requires an affirmative vote of not fewer than six members of 1031
the board. 1032

(L) When the board refuses to grant or issue a license or 1033
certificate to practice to an applicant, revokes an individual's 1034

license or certificate to practice, refuses to renew an 1035
individual's license or certificate to practice, or refuses to 1036
reinstate an individual's license or certificate to practice, 1037
the board may specify that its action is permanent. An 1038
individual subject to a permanent action taken by the board is 1039
forever thereafter ineligible to hold a license or certificate 1040
to practice and the board shall not accept an application for 1041
reinstatement of the license or certificate or for issuance of a 1042
new license or certificate. 1043

(M) Notwithstanding any other provision of the Revised 1044
Code, all of the following apply: 1045

(1) The surrender of a license or certificate issued under 1046
this chapter shall not be effective unless or until accepted by 1047
the board. A telephone conference call may be utilized for 1048
acceptance of the surrender of an individual's license or 1049
certificate to practice. The telephone conference call shall be 1050
considered a special meeting under division (F) of section 1051
121.22 of the Revised Code. Reinstatement of a license or 1052
certificate surrendered to the board requires an affirmative 1053
vote of not fewer than six members of the board. 1054

(2) An application for a license or certificate made under 1055
the provisions of this chapter may not be withdrawn without 1056
approval of the board. 1057

(3) Failure by an individual to renew a license or 1058
certificate to practice in accordance with this chapter or a 1059
certificate to recommend in accordance with rules adopted under 1060
section 4731.301 of the Revised Code shall not remove or limit 1061
the board's jurisdiction to take any disciplinary action under 1062
this section against the individual. 1063

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

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

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

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

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

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

(2) Select providers of educational and assessment

services, including a quality intervention program panel of case 1093
reviewers; 1094

(3) Make referrals to educational and assessment service 1095
providers and approve individual educational programs 1096
recommended by those providers. The board shall monitor the 1097
progress of each individual undertaking a recommended individual 1098
educational program. 1099

(4) Determine what constitutes successful completion of an 1100
individual educational program and require further monitoring of 1101
the individual who completed the program or other action that 1102
the board determines to be appropriate; 1103

(5) Adopt rules in accordance with Chapter 119. of the 1104
Revised Code to further implement the quality intervention 1105
program. 1106

An individual who participates in an individual 1107
educational program pursuant to this division shall pay the 1108
financial obligations arising from that educational program. 1109

Sec. 4731.90. (A) As used in this section: 1110

(1) "Ambulatory surgical facility" has the same meaning as 1111
in section 3702.30 of the Revised Code. 1112

(2) "Hospital" means a hospital registered with the 1113
department of health under section 3701.07 of the Revised Code. 1114

(B) A physician who performs or attempts an abortion in an 1115
ambulatory surgical facility or other location that is not a 1116
hospital and in which a child is born alive shall immediately 1117
take the following steps upon the child's birth: 1118

(1) Provide post-birth care to the newborn in accordance 1119
with prevailing and acceptable standards of care; 1120

(2) Call for assistance from an emergency medical services 1121
provider; 1122

(3) Arrange for the transfer of the newborn to a hospital. 1123

Section 2. That existing sections 2919.13, 3701.79, 1124
3701.99, 3702.305, 3702.3010, and 4731.22 of the Revised Code 1125
are hereby repealed. 1126

Section 3. Each ambulatory surgical facility that has been 1127
granted a variance from the written transfer agreement 1128
requirement of section 3702.303 of the Revised Code shall, 1129
within ninety days of the effective date of section 3702.305 of 1130
the Revised Code as enacted by this act, submit to the Director 1131
of Health, in the form and manner specified by the Director, a 1132
signed statement in which the physician attests to compliance 1133
with the limitations established by section 3702.305 of the 1134
Revised Code, as enacted by this act. If the Director determines 1135
that a facility has failed to demonstrate compliance, the 1136
Director shall rescind the variance. 1137