

As Passed by the House

132nd General Assembly

Regular Session

2017-2018

Am. 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

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 consistent 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

~~(D)~~—(C) A person is not in violation of division (A) ~~or— 441~~
~~(B)~~—of this section if that person has performed an examination 442
for the purpose of determining the presence of a fetal heartbeat 443
in the fetus of an unborn human individual utilizing standard 444
medical practice, that examination does not reveal a fetal 445
heartbeat or the person has been informed by a physician who has 446
performed the examination for a fetal heartbeat that the 447
examination did not reveal a fetal heartbeat, and the person 448
notes in the pregnant woman's medical records the procedure 449
utilized to detect the presence of a fetal heartbeat. 450

~~(E)~~ ~~Except as provided in division (F) of this section, no— 451~~
~~person shall knowingly and purposefully perform or induce an— 452~~
~~abortion on a pregnant woman before determining in accordance— 453~~

~~with division (A) of this section whether the unborn human individual the pregnant woman is carrying has a detectable heartbeat. The failure of a person to satisfy the requirements of this section prior to performing or inducing an abortion on a pregnant woman may be the basis for either of the following:~~

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

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

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

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

~~(H) A woman on whom an abortion is performed in violation of division (B) of this section or division (B) (3) of section 2317.56 of the Revised Code may file a civil action for the wrongful death of the woman's unborn child and may receive at the mother's election at any time prior to final judgment damages in an amount equal to ten thousand dollars or an amount determined by the trier of fact after consideration of the evidence subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive.~~

Sec. 2919.193. (A) Except as provided in division (B) of

this section, no person shall knowingly and purposefully perform 483
or induce an abortion on a pregnant woman before determining in 484
accordance with division (A) of section 2919.192 of the Revised 485
Code whether the unborn human individual the pregnant woman is 486
carrying has a detectable heartbeat. 487

Whoever violates this division is guilty of performing or 488
inducing an abortion before determining whether there is a 489
detectable fetal heartbeat, a felony of the fifth degree. A 490
violation of this division may also be the basis of either of 491
the following: 492

(1) A civil action for compensatory and exemplary damages; 493

(2) Disciplinary action under section 4731.22 of the 494
Revised Code. 495

(B) Division (A) of this section does not apply to a 496
physician who performs or induces the abortion if the physician 497
believes that a medical emergency, as defined in section 2919.16 498
of the Revised Code, exists that prevents compliance with that 499
division. 500

(C) A physician who performs or induces an abortion on a 501
pregnant woman based on the exception in division (B) of this 502
section shall make written notations in the pregnant woman's 503
medical records of both of the following: 504

(1) The physician's belief that a medical emergency 505
necessitating the abortion existed; 506

(2) The medical condition of the pregnant woman that 507
assertedly prevented compliance with division (A) of this 508
section. 509

For at least seven years from the date the notations are 510

made, the physician shall maintain in the physician's own 511
records a copy of the notations. 512

(D) A person is not in violation of division (A) of this 513
section if the person acts in accordance with division (A) of 514
section 2919.192 of the Revised Code and the method used to 515
determine the presence of a fetal heartbeat does not reveal a 516
fetal heartbeat. 517

Sec. ~~2919.192~~ 2919.194. (A) If a person who intends to 518
perform or induce an abortion on a pregnant woman has 519
determined, under section ~~2919.191~~ 2919.192 of the Revised Code, 520
that the unborn human individual the pregnant woman is carrying 521
has a detectable heartbeat, the person shall not, except as 522
provided in division (B) of this section, perform or induce the 523
abortion until all of the following requirements have been met 524
and at least twenty-four hours have elapsed after the last of 525
the requirements is met: 526

(1) The person intending to perform or induce the abortion 527
shall inform the pregnant woman in writing that the unborn human 528
individual the pregnant woman is carrying has a fetal heartbeat. 529

(2) The person intending to perform or induce the abortion 530
shall inform the pregnant woman, to the best of the person's 531
knowledge, of the statistical probability of bringing the unborn 532
human individual possessing a detectable fetal heartbeat to term 533
based on the gestational age of the unborn human individual the 534
pregnant woman is carrying or, if the director of health has 535
specified statistical probability information pursuant to rules 536
adopted under division (C) of this section, shall provide to the 537
pregnant woman that information. 538

(3) The pregnant woman shall sign a form acknowledging 539

that the pregnant woman has received information from the person 540
intending to perform or induce the abortion that the unborn 541
human individual the pregnant woman is carrying has a fetal 542
heartbeat and that the pregnant woman is aware of the 543
statistical probability of bringing the unborn human individual 544
the pregnant woman is carrying to term. 545

(B) Division (A) of this section does not apply if the 546
person who intends to perform or induce the abortion believes 547
that a medical emergency exists that prevents compliance with 548
that division. 549

(C) The director of health may adopt rules that specify 550
information regarding the statistical probability of bringing an 551
unborn human individual possessing a detectable heartbeat to 552
term based on the gestational age of the unborn human 553
individual. The rules shall be based on available medical 554
evidence and shall be adopted in accordance with section 111.15 555
of the Revised Code. 556

(D) This section does not have the effect of repealing or 557
limiting any other provision of the Revised Code relating to 558
informed consent for an abortion, including the provisions in 559
section 2317.56 of the Revised Code. 560

(E) Whoever violates division (A) of this section is 561
guilty of performing or inducing an abortion without informed 562
consent when there is a detectable fetal heartbeat, a 563
misdemeanor of the first degree on a first offense and a felony 564
of the fourth degree on each subsequent offense. 565

Sec. 2919.195. (A) Except as provided in division (B) of 566
this section, no person shall knowingly and purposefully perform 567
or induce an abortion on a pregnant woman with the specific 568

intent of causing or abetting the termination of the life of the 569
unborn human individual the pregnant woman is carrying and whose 570
fetal heartbeat has been detected in accordance with division 571
(A) of section 2919.192 of the Revised Code. 572

Whoever violates this division is guilty of performing or 573
inducing an abortion after the detection of a fetal heartbeat, a 574
felony of the fifth degree. 575

(B) Division (A) of this section does not apply to a 576
physician who performs a medical procedure that, in the 577
physician's reasonable medical judgment, is designed or intended 578
to prevent the death of the pregnant woman or to prevent a 579
serious risk of the substantial and irreversible impairment of a 580
major bodily function of the pregnant woman. 581

A physician who performs a medical procedure as described 582
in this division shall declare, in a written document, that the 583
medical procedure is necessary, to the best of the physician's 584
reasonable medical judgment, to prevent the death of the 585
pregnant woman or to prevent a serious risk of the substantial 586
and irreversible impairment of a major bodily function of the 587
pregnant woman. In the document, the physician shall specify the 588
pregnant woman's medical condition that the medical procedure is 589
asserted to address and the medical rationale for the 590
physician's conclusion that the medical procedure is necessary 591
to prevent the death of the pregnant woman or to prevent a 592
serious risk of the substantial and irreversible impairment of a 593
major bodily function of the pregnant woman. 594

A physician who performs a medical procedure as described 595
in this division shall place the written document required by 596
this division in the pregnant woman's medical records. The 597
physician shall maintain a copy of the document in the 598

physician's own records for at least seven years from the date 599
the document is created. 600

(C) A person is not in violation of division (A) of this 601
section if the person acts in accordance with division (A) of 602
section 2919.192 of the Revised Code and the method used to 603
determine the presence of a fetal heartbeat does not reveal a 604
fetal heartbeat. 605

(D) Division (A) of this section does not have the effect 606
of repealing or limiting any other provision of the Revised Code 607
that restricts or regulates the performance or inducement of an 608
abortion by a particular method or during a particular stage of 609
a pregnancy. 610

Sec. 2919.196. The provisions of this section are wholly 611
independent of the requirements of sections 2919.192 to 2919.195 612
of the Revised Code. 613

(A) A person who performs or induces an abortion on a 614
pregnant woman shall do whichever of the following is 615
applicable: 616

(1) If the reason for the abortion purported is to 617
preserve the health of the pregnant woman, the person shall 618
specify in a written document the medical condition that the 619
abortion is asserted to address and the medical rationale for 620
the person's conclusion that the abortion is necessary to 621
address that condition. 622

(2) If the reason for the abortion is other than to 623
preserve the health of the pregnant woman, the person shall 624
specify in a written document that maternal health is not the 625
purpose of the abortion. 626

(B) The person who specifies the information in the 627

document described in division (A) of this section shall place 628
the document in the pregnant woman's medical records. The person 629
who specifies the information shall maintain a copy of the 630
document in the person's own records for at least seven years 631
from the date the document is created. 632

Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of 633
the Revised Code prohibits the sale, use, prescription, or 634
administration of a drug, device, or chemical that is designed 635
for contraceptive purposes. 636

Sec. 2919.193-2919.198. A pregnant woman on whom an 637
abortion is performed or induced in violation of section 638
2919.191 or 2919.192-2919.193, 2919.194, or 2919.195 of the 639
Revised Code is not guilty of violating any of those sections; 640
is not guilty of attempting to commit, conspiring to commit, or 641
complicity in committing a violation of any of those sections; 642
and is not subject to a civil penalty based on the abortion 643
being performed or induced in violation of any of those 644
sections. 645

Sec. 2919.199. (A) A woman who meets either or both of the 646
following criteria may file a civil action for the wrongful 647
death of her unborn child: 648

(1) A woman on whom an abortion was performed or induced 649
in violation of division (A) of section 2919.193 or division (A) 650
of section 2919.195 of the Revised Code; 651

(2) A woman on whom an abortion was performed or induced 652
who was not given the information described in divisions (A)(1) 653
and (2) of section 2919.194 of the Revised Code or who did not 654
sign a form described in division (A)(3) of section 2919.194 of 655
the Revised code. 656

(B) A woman who prevails in an action filed under division 657
(A) of this section shall receive both of the following from the 658
person who committed the one or more acts described in division 659
(A) (1) or (2) of this section: 660

(1) Damages in an amount equal to ten thousand dollars or 661
an amount determined by the trier of fact after consideration of 662
the evidence at the mother's election at any time prior to final 663
judgment subject to the same defenses and requirements of proof, 664
except any requirement of live birth, as would apply to a suit 665
for the wrongful death of a child who had been born alive; 666

(2) Court costs and reasonable attorney's fees. 667

(C) A determination that division (A) of section 2919.193 668
of the Revised Code, division (A) (1), (2), or (3) of section 669
2919.194 of the Revised Code, or division (A) of section 670
2919.195 of the Revised Code is unconstitutional shall be a 671
defense to an action filed under division (A) of this section 672
alleging that the defendant violated the division that was 673
determined to be unconstitutional. 674

(D) If the defendant in an action filed under division (A) 675
of this section prevails and all of the following apply the 676
court shall award reasonable attorney's fees to the defendant in 677
accordance with section 2323.51 of the Revised Code: 678

(1) The court finds that the commencement of the action 679
constitutes frivolous conduct, as defined in section 2323.51 of 680
the Revised Code. 681

(2) The court's finding in division (D) (1) of this section 682
is not based on that court or another court determining that 683
division (A) of section 2919.193 of the Revised Code, division 684
(A) (1), (2), or (3) of section 2919.194 of the Revised Code, or 685

division (A) of section 2919.195 of the Revised Code is 686
unconstitutional. 687

(3) The court finds that the defendant was adversely 688
affected by the frivolous conduct. 689

Sec. 2919.1910. (A) It is the intent of the general 690
assembly that women whose pregnancies are protected under 691
division (A) of section 2919.195 of the Revised Code be informed 692
of available options for adoption. 693

(B) In furtherance of the intent expressed in division (A) 694
of this section, there is hereby created the joint legislative 695
committee on adoption promotion and support. The committee may 696
review or study any matter that it considers relevant to the 697
adoption process in this state, with priority given to the study 698
or review of mechanisms intended to increase awareness of the 699
process, increase its effectiveness, or both. 700

(C) The committee shall consist of three members of the 701
house of representatives appointed by the speaker of the house 702
of representatives and three members of the senate appointed by 703
the president of the senate. Not more than two members appointed 704
by the speaker of the house of representatives and not more than 705
two members appointed by the president of the senate may be of 706
the same political party. 707

Each member of the committee shall hold office during the 708
general assembly in which the member is appointed and until a 709
successor has been appointed, notwithstanding the adjournment 710
sine die of the general assembly in which the member was 711
appointed or the expiration of the member's term as a member of 712
the general assembly. Any vacancies occurring among the members 713
of the committee shall be filled in the manner of the original 714

appointment. 715

(D) The committee has the same powers as other standing or 716
select committees of the general assembly. 717

Sec. 2919.1911. The department of health shall inspect the 718
medical records from any facility that performs abortions to 719
ensure that the physicians or other persons who perform 720
abortions at that facility are in compliance with the reporting 721
requirements under section 2919.171 of the Revised Code. The 722
facility shall make the medical records available for inspection 723
to the department of health but shall not release any personal 724
medical information in the medical records that is prohibited by 725
law. 726

Sec. 4731.22. (A) The state medical board, by an 727
affirmative vote of not fewer than six of its members, may 728
limit, revoke, or suspend a license or certificate to practice 729
or certificate to recommend, refuse to grant a license or 730
certificate, refuse to renew a license or certificate, refuse to 731
reinstate a license or certificate, or reprimand or place on 732
probation the holder of a license or certificate if the 733
individual applying for or holding the license or certificate is 734
found by the board to have committed fraud during the 735
administration of the examination for a license or certificate 736
to practice or to have committed fraud, misrepresentation, or 737
deception in applying for, renewing, or securing any license or 738
certificate to practice or certificate to recommend issued by 739
the board. 740

(B) The board, by an affirmative vote of not fewer than 741
six members, shall, to the extent permitted by law, limit, 742
revoke, or suspend a license or certificate to practice or 743
certificate to recommend, refuse to issue a license or 744

certificate, refuse to renew a license or certificate, refuse to 745
reinstate a license or certificate, or reprimand or place on 746
probation the holder of a license or certificate for one or more 747
of the following reasons: 748

(1) Permitting one's name or one's license or certificate 749
to practice to be used by a person, group, or corporation when 750
the individual concerned is not actually directing the treatment 751
given; 752

(2) Failure to maintain minimal standards applicable to 753
the selection or administration of drugs, or failure to employ 754
acceptable scientific methods in the selection of drugs or other 755
modalities for treatment of disease; 756

(3) Except as provided in section 4731.97 of the Revised 757
Code, selling, giving away, personally furnishing, prescribing, 758
or administering drugs for other than legal and legitimate 759
therapeutic purposes or a plea of guilty to, a judicial finding 760
of guilt of, or a judicial finding of eligibility for 761
intervention in lieu of conviction of, a violation of any 762
federal or state law regulating the possession, distribution, or 763
use of any drug; 764

(4) Willfully betraying a professional confidence. 765

For purposes of this division, "willfully betraying a 766
professional confidence" does not include providing any 767
information, documents, or reports under sections 307.621 to 768
307.629 of the Revised Code to a child fatality review board; 769
does not include providing any information, documents, or 770
reports to the director of health pursuant to guidelines 771
established under section 3701.70 of the Revised Code; does not 772
include written notice to a mental health professional under 773

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

(5) Making a false, fraudulent, deceptive, or misleading 786
statement in the solicitation of or advertising for patients; in 787
relation to the practice of medicine and surgery, osteopathic 788
medicine and surgery, podiatric medicine and surgery, or a 789
limited branch of medicine; or in securing or attempting to 790
secure any license or certificate to practice issued by the 791
board. 792

As used in this division, "false, fraudulent, deceptive, 793
or misleading statement" means a statement that includes a 794
misrepresentation of fact, is likely to mislead or deceive 795
because of a failure to disclose material facts, is intended or 796
is likely to create false or unjustified expectations of 797
favorable results, or includes representations or implications 798
that in reasonable probability will cause an ordinarily prudent 799
person to misunderstand or be deceived. 800

(6) A departure from, or the failure to conform to, 801
minimal standards of care of similar practitioners under the 802
same or similar circumstances, whether or not actual injury to a 803

patient is established; 804

(7) Representing, with the purpose of obtaining 805
compensation or other advantage as personal gain or for any 806
other person, that an incurable disease or injury, or other 807
incurable condition, can be permanently cured; 808

(8) The obtaining of, or attempting to obtain, money or 809
anything of value by fraudulent misrepresentations in the course 810
of practice; 811

(9) A plea of guilty to, a judicial finding of guilt of, 812
or a judicial finding of eligibility for intervention in lieu of 813
conviction for, a felony; 814

(10) Commission of an act that constitutes a felony in 815
this state, regardless of the jurisdiction in which the act was 816
committed; 817

(11) A plea of guilty to, a judicial finding of guilt of, 818
or a judicial finding of eligibility for intervention in lieu of 819
conviction for, a misdemeanor committed in the course of 820
practice; 821

(12) Commission of an act in the course of practice that 822
constitutes a misdemeanor in this state, regardless of the 823
jurisdiction in which the act was committed; 824

(13) A plea of guilty to, a judicial finding of guilt of, 825
or a judicial finding of eligibility for intervention in lieu of 826
conviction for, a misdemeanor involving moral turpitude; 827

(14) Commission of an act involving moral turpitude that 828
constitutes a misdemeanor in this state, regardless of the 829
jurisdiction in which the act was committed; 830

(15) Violation of the conditions of limitation placed by 831

the board upon a license or certificate to practice; 832

(16) Failure to pay license renewal fees specified in this 833
chapter; 834

(17) Except as authorized in section 4731.31 of the 835
Revised Code, engaging in the division of fees for referral of 836
patients, or the receiving of a thing of value in return for a 837
specific referral of a patient to utilize a particular service 838
or business; 839

(18) Subject to section 4731.226 of the Revised Code, 840
violation of any provision of a code of ethics of the American 841
medical association, the American osteopathic association, the 842
American podiatric medical association, or any other national 843
professional organizations that the board specifies by rule. The 844
state medical board shall obtain and keep on file current copies 845
of the codes of ethics of the various national professional 846
organizations. The individual whose license or certificate is 847
being suspended or revoked shall not be found to have violated 848
any provision of a code of ethics of an organization not 849
appropriate to the individual's profession. 850

For purposes of this division, a "provision of a code of 851
ethics of a national professional organization" does not include 852
any provision that would preclude the making of a report by a 853
physician of an employee's use of a drug of abuse, or of a 854
condition of an employee other than one involving the use of a 855
drug of abuse, to the employer of the employee as described in 856
division (B) of section 2305.33 of the Revised Code. Nothing in 857
this division affects the immunity from civil liability 858
conferred by that section upon a physician who makes either type 859
of report in accordance with division (B) of that section. As 860
used in this division, "employee," "employer," and "physician" 861

have the same meanings as in section 2305.33 of the Revised 862
Code. 863

(19) Inability to practice according to acceptable and 864
prevailing standards of care by reason of mental illness or 865
physical illness, including, but not limited to, physical 866
deterioration that adversely affects cognitive, motor, or 867
perceptive skills. 868

In enforcing this division, the board, upon a showing of a 869
possible violation, may compel any individual authorized to 870
practice by this chapter or who has submitted an application 871
pursuant to this chapter to submit to a mental examination, 872
physical examination, including an HIV test, or both a mental 873
and a physical examination. The expense of the examination is 874
the responsibility of the individual compelled to be examined. 875
Failure to submit to a mental or physical examination or consent 876
to an HIV test ordered by the board constitutes an admission of 877
the allegations against the individual unless the failure is due 878
to circumstances beyond the individual's control, and a default 879
and final order may be entered without the taking of testimony 880
or presentation of evidence. If the board finds an individual 881
unable to practice because of the reasons set forth in this 882
division, the board shall require the individual to submit to 883
care, counseling, or treatment by physicians approved or 884
designated by the board, as a condition for initial, continued, 885
reinstated, or renewed authority to practice. An individual 886
affected under this division shall be afforded an opportunity to 887
demonstrate to the board the ability to resume practice in 888
compliance with acceptable and prevailing standards under the 889
provisions of the individual's license or certificate. For the 890
purpose of this division, any individual who applies for or 891
receives a license or certificate to practice under this chapter 892

accepts the privilege of practicing in this state and, by so 893
doing, shall be deemed to have given consent to submit to a 894
mental or physical examination when directed to do so in writing 895
by the board, and to have waived all objections to the 896
admissibility of testimony or examination reports that 897
constitute a privileged communication. 898

(20) Except as provided in division (F)(1)(b) of section 899
4731.282 of the Revised Code or when civil penalties are imposed 900
under section 4731.225 of the Revised Code, and subject to 901
section 4731.226 of the Revised Code, violating or attempting to 902
violate, directly or indirectly, or assisting in or abetting the 903
violation of, or conspiring to violate, any provisions of this 904
chapter or any rule promulgated by the board. 905

This division does not apply to a violation or attempted 906
violation of, assisting in or abetting the violation of, or a 907
conspiracy to violate, any provision of this chapter or any rule 908
adopted by the board that would preclude the making of a report 909
by a physician of an employee's use of a drug of abuse, or of a 910
condition of an employee other than one involving the use of a 911
drug of abuse, to the employer of the employee as described in 912
division (B) of section 2305.33 of the Revised Code. Nothing in 913
this division affects the immunity from civil liability 914
conferred by that section upon a physician who makes either type 915
of report in accordance with division (B) of that section. As 916
used in this division, "employee," "employer," and "physician" 917
have the same meanings as in section 2305.33 of the Revised 918
Code. 919

(21) The violation of section 3701.79 of the Revised Code 920
or of any abortion rule adopted by the director of health 921
pursuant to section 3701.341 of the Revised Code; 922

(22) Any of the following actions taken by an agency 923
responsible for authorizing, certifying, or regulating an 924
individual to practice a health care occupation or provide 925
health care services in this state or another jurisdiction, for 926
any reason other than the nonpayment of fees: the limitation, 927
revocation, or suspension of an individual's license to 928
practice; acceptance of an individual's license surrender; 929
denial of a license; refusal to renew or reinstate a license; 930
imposition of probation; or issuance of an order of censure or 931
other reprimand; 932

(23) The violation of section 2919.12 of the Revised Code 933
or the performance or inducement of an abortion upon a pregnant 934
woman with actual knowledge that the conditions specified in 935
division (B) of section 2317.56 of the Revised Code have not 936
been satisfied or with a heedless indifference as to whether 937
those conditions have been satisfied, unless an affirmative 938
defense as specified in division (H)(2) of that section would 939
apply in a civil action authorized by division (H)(1) of that 940
section; 941

(24) The revocation, suspension, restriction, reduction, 942
or termination of clinical privileges by the United States 943
department of defense or department of veterans affairs or the 944
termination or suspension of a certificate of registration to 945
prescribe drugs by the drug enforcement administration of the 946
United States department of justice; 947

(25) Termination or suspension from participation in the 948
medicare or medicaid programs by the department of health and 949
human services or other responsible agency for any act or acts 950
that also would constitute a violation of division (B)(2), (3), 951
(6), (8), or (19) of this section; 952

(26) Impairment of ability to practice according to 953
acceptable and prevailing standards of care because of habitual 954
or excessive use or abuse of drugs, alcohol, or other substances 955
that impair ability to practice. 956

For the purposes of this division, any individual 957
authorized to practice by this chapter accepts the privilege of 958
practicing in this state subject to supervision by the board. By 959
filing an application for or holding a license or certificate to 960
practice under this chapter, an individual shall be deemed to 961
have given consent to submit to a mental or physical examination 962
when ordered to do so by the board in writing, and to have 963
waived all objections to the admissibility of testimony or 964
examination reports that constitute privileged communications. 965

If it has reason to believe that any individual authorized 966
to practice by this chapter or any applicant for licensure or 967
certification to practice suffers such impairment, the board may 968
compel the individual to submit to a mental or physical 969
examination, or both. The expense of the examination is the 970
responsibility of the individual compelled to be examined. Any 971
mental or physical examination required under this division 972
shall be undertaken by a treatment provider or physician who is 973
qualified to conduct the examination and who is chosen by the 974
board. 975

Failure to submit to a mental or physical examination 976
ordered by the board constitutes an admission of the allegations 977
against the individual unless the failure is due to 978
circumstances beyond the individual's control, and a default and 979
final order may be entered without the taking of testimony or 980
presentation of evidence. If the board determines that the 981
individual's ability to practice is impaired, the board shall 982

suspend the individual's license or certificate or deny the 983
individual's application and shall require the individual, as a 984
condition for initial, continued, reinstated, or renewed 985
licensure or certification to practice, to submit to treatment. 986

Before being eligible to apply for reinstatement of a 987
license or certificate suspended under this division, the 988
impaired practitioner shall demonstrate to the board the ability 989
to resume practice in compliance with acceptable and prevailing 990
standards of care under the provisions of the practitioner's 991
license or certificate. The demonstration shall include, but 992
shall not be limited to, the following: 993

(a) Certification from a treatment provider approved under 994
section 4731.25 of the Revised Code that the individual has 995
successfully completed any required inpatient treatment; 996

(b) Evidence of continuing full compliance with an 997
aftercare contract or consent agreement; 998

(c) Two written reports indicating that the individual's 999
ability to practice has been assessed and that the individual 1000
has been found capable of practicing according to acceptable and 1001
prevailing standards of care. The reports shall be made by 1002
individuals or providers approved by the board for making the 1003
assessments and shall describe the basis for their 1004
determination. 1005

The board may reinstate a license or certificate suspended 1006
under this division after that demonstration and after the 1007
individual has entered into a written consent agreement. 1008

When the impaired practitioner resumes practice, the board 1009
shall require continued monitoring of the individual. The 1010
monitoring shall include, but not be limited to, compliance with 1011

the written consent agreement entered into before reinstatement 1012
or with conditions imposed by board order after a hearing, and, 1013
upon termination of the consent agreement, submission to the 1014
board for at least two years of annual written progress reports 1015
made under penalty of perjury stating whether the individual has 1016
maintained sobriety. 1017

(27) A second or subsequent violation of section 4731.66 1018
or 4731.69 of the Revised Code; 1019

(28) Except as provided in division (N) of this section: 1020

(a) Waiving the payment of all or any part of a deductible 1021
or copayment that a patient, pursuant to a health insurance or 1022
health care policy, contract, or plan that covers the 1023
individual's services, otherwise would be required to pay if the 1024
waiver is used as an enticement to a patient or group of 1025
patients to receive health care services from that individual; 1026

(b) Advertising that the individual will waive the payment 1027
of all or any part of a deductible or copayment that a patient, 1028
pursuant to a health insurance or health care policy, contract, 1029
or plan that covers the individual's services, otherwise would 1030
be required to pay. 1031

(29) Failure to use universal blood and body fluid 1032
precautions established by rules adopted under section 4731.051 1033
of the Revised Code; 1034

(30) Failure to provide notice to, and receive 1035
acknowledgment of the notice from, a patient when required by 1036
section 4731.143 of the Revised Code prior to providing 1037
nonemergency professional services, or failure to maintain that 1038
notice in the patient's medical record; 1039

(31) Failure of a physician supervising a physician 1040

assistant to maintain supervision in accordance with the 1041
requirements of Chapter 4730. of the Revised Code and the rules 1042
adopted under that chapter; 1043

(32) Failure of a physician or podiatrist to enter into a 1044
standard care arrangement with a clinical nurse specialist, 1045
certified nurse-midwife, or certified nurse practitioner with 1046
whom the physician or podiatrist is in collaboration pursuant to 1047
section 4731.27 of the Revised Code or failure to fulfill the 1048
responsibilities of collaboration after entering into a standard 1049
care arrangement; 1050

(33) Failure to comply with the terms of a consult 1051
agreement entered into with a pharmacist pursuant to section 1052
4729.39 of the Revised Code; 1053

(34) Failure to cooperate in an investigation conducted by 1054
the board under division (F) of this section, including failure 1055
to comply with a subpoena or order issued by the board or 1056
failure to answer truthfully a question presented by the board 1057
in an investigative interview, an investigative office 1058
conference, at a deposition, or in written interrogatories, 1059
except that failure to cooperate with an investigation shall not 1060
constitute grounds for discipline under this section if a court 1061
of competent jurisdiction has issued an order that either 1062
quashes a subpoena or permits the individual to withhold the 1063
testimony or evidence in issue; 1064

(35) Failure to supervise an oriental medicine 1065
practitioner or acupuncturist in accordance with Chapter 4762. 1066
of the Revised Code and the board's rules for providing that 1067
supervision; 1068

(36) Failure to supervise an anesthesiologist assistant in 1069

accordance with Chapter 4760. of the Revised Code and the	1070
board's rules for supervision of an anesthesiologist assistant;	1071
(37) Assisting suicide, as defined in section 3795.01 of	1072
the Revised Code;	1073
(38) Failure to comply with the requirements of section	1074
2317.561 of the Revised Code;	1075
(39) Failure to supervise a radiologist assistant in	1076
accordance with Chapter 4774. of the Revised Code and the	1077
board's rules for supervision of radiologist assistants;	1078
(40) Performing or inducing an abortion at an office or	1079
facility with knowledge that the office or facility fails to	1080
post the notice required under section 3701.791 of the Revised	1081
Code;	1082
(41) Failure to comply with the standards and procedures	1083
established in rules under section 4731.054 of the Revised Code	1084
for the operation of or the provision of care at a pain	1085
management clinic;	1086
(42) Failure to comply with the standards and procedures	1087
established in rules under section 4731.054 of the Revised Code	1088
for providing supervision, direction, and control of individuals	1089
at a pain management clinic;	1090
(43) Failure to comply with the requirements of section	1091
4729.79 or 4731.055 of the Revised Code, unless the state board	1092
of pharmacy no longer maintains a drug database pursuant to	1093
section 4729.75 of the Revised Code;	1094
(44) Failure to comply with the requirements of section	1095
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	1096
to submit to the department of health in accordance with a court	1097

order a complete report as described in section 2919.171 or 1098
2919.202 of the Revised Code; 1099

(45) Practicing at a facility that is subject to licensure 1100
as a category III terminal distributor of dangerous drugs with a 1101
pain management clinic classification unless the person 1102
operating the facility has obtained and maintains the license 1103
with the classification; 1104

(46) Owning a facility that is subject to licensure as a 1105
category III terminal distributor of dangerous drugs with a pain 1106
management clinic classification unless the facility is licensed 1107
with the classification; 1108

(47) Failure to comply with any of the ~~requirement~~ 1109
requirements regarding making or maintaining ~~notes~~ medical 1110
records or documents described in division ~~(B)~~ (A) of section 1111
2919.191-2919.192, division (C) of section 2919.193, division 1112
(B) of section 2919.195, or division (A) of section 2919.196 of 1113
the Revised Code ~~or failure to satisfy the requirements of~~ 1114
~~section 2919.191 of the Revised Code prior to performing or~~ 1115
~~inducing an abortion upon a pregnant woman;~~ 1116

(48) Failure to comply with the requirements in section 1117
3719.061 of the Revised Code before issuing for a minor a 1118
prescription for an opioid analgesic, as defined in section 1119
3719.01 of the Revised Code; 1120

(49) Failure to comply with the requirements of section 1121
4731.30 of the Revised Code or rules adopted under section 1122
4731.301 of the Revised Code when recommending treatment with 1123
medical marijuana; 1124

(50) Practicing at a facility, clinic, or other location 1125
that is subject to licensure as a category III terminal 1126

distributor of dangerous drugs with an office-based opioid 1127
treatment classification unless the person operating that place 1128
has obtained and maintains the license with the classification; 1129

(51) Owning a facility, clinic, or other location that is 1130
subject to licensure as a category III terminal distributor of 1131
dangerous drugs with an office-based opioid treatment 1132
classification unless that place is licensed with the 1133
classification. 1134

(C) Disciplinary actions taken by the board under 1135
divisions (A) and (B) of this section shall be taken pursuant to 1136
an adjudication under Chapter 119. of the Revised Code, except 1137
that in lieu of an adjudication, the board may enter into a 1138
consent agreement with an individual to resolve an allegation of 1139
a violation of this chapter or any rule adopted under it. A 1140
consent agreement, when ratified by an affirmative vote of not 1141
fewer than six members of the board, shall constitute the 1142
findings and order of the board with respect to the matter 1143
addressed in the agreement. If the board refuses to ratify a 1144
consent agreement, the admissions and findings contained in the 1145
consent agreement shall be of no force or effect. 1146

A telephone conference call may be utilized for 1147
ratification of a consent agreement that revokes or suspends an 1148
individual's license or certificate to practice or certificate 1149
to recommend. The telephone conference call shall be considered 1150
a special meeting under division (F) of section 121.22 of the 1151
Revised Code. 1152

If the board takes disciplinary action against an 1153
individual under division (B) of this section for a second or 1154
subsequent plea of guilty to, or judicial finding of guilt of, a 1155
violation of section 2919.123 of the Revised Code, the 1156

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

(D) For purposes of divisions (B)(10), (12), and (14) of 1169
this section, the commission of the act may be established by a 1170
finding by the board, pursuant to an adjudication under Chapter 1171
119. of the Revised Code, that the individual committed the act. 1172
The board does not have jurisdiction under those divisions if 1173
the trial court renders a final judgment in the individual's 1174
favor and that judgment is based upon an adjudication on the 1175
merits. The board has jurisdiction under those divisions if the 1176
trial court issues an order of dismissal upon technical or 1177
procedural grounds. 1178

(E) The sealing of conviction records by any court shall 1179
have no effect upon a prior board order entered under this 1180
section or upon the board's jurisdiction to take action under 1181
this section if, based upon a plea of guilty, a judicial finding 1182
of guilt, or a judicial finding of eligibility for intervention 1183
in lieu of conviction, the board issued a notice of opportunity 1184
for a hearing prior to the court's order to seal the records. 1185
The board shall not be required to seal, destroy, redact, or 1186
otherwise modify its records to reflect the court's sealing of 1187

conviction records. 1188

(F) (1) The board shall investigate evidence that appears 1189
to show that a person has violated any provision of this chapter 1190
or any rule adopted under it. Any person may report to the board 1191
in a signed writing any information that the person may have 1192
that appears to show a violation of any provision of this 1193
chapter or any rule adopted under it. In the absence of bad 1194
faith, any person who reports information of that nature or who 1195
testifies before the board in any adjudication conducted under 1196
Chapter 119. of the Revised Code shall not be liable in damages 1197
in a civil action as a result of the report or testimony. Each 1198
complaint or allegation of a violation received by the board 1199
shall be assigned a case number and shall be recorded by the 1200
board. 1201

(2) Investigations of alleged violations of this chapter 1202
or any rule adopted under it shall be supervised by the 1203
supervising member elected by the board in accordance with 1204
section 4731.02 of the Revised Code and by the secretary as 1205
provided in section 4731.39 of the Revised Code. The president 1206
may designate another member of the board to supervise the 1207
investigation in place of the supervising member. No member of 1208
the board who supervises the investigation of a case shall 1209
participate in further adjudication of the case. 1210

(3) In investigating a possible violation of this chapter 1211
or any rule adopted under this chapter, or in conducting an 1212
inspection under division (E) of section 4731.054 of the Revised 1213
Code, the board may question witnesses, conduct interviews, 1214
administer oaths, order the taking of depositions, inspect and 1215
copy any books, accounts, papers, records, or documents, issue 1216
subpoenas, and compel the attendance of witnesses and production 1217

of books, accounts, papers, records, documents, and testimony, 1218
except that a subpoena for patient record information shall not 1219
be issued without consultation with the attorney general's 1220
office and approval of the secretary and supervising member of 1221
the board. 1222

(a) Before issuance of a subpoena for patient record 1223
information, the secretary and supervising member shall 1224
determine whether there is probable cause to believe that the 1225
complaint filed alleges a violation of this chapter or any rule 1226
adopted under it and that the records sought are relevant to the 1227
alleged violation and material to the investigation. The 1228
subpoena may apply only to records that cover a reasonable 1229
period of time surrounding the alleged violation. 1230

(b) On failure to comply with any subpoena issued by the 1231
board and after reasonable notice to the person being 1232
subpoenaed, the board may move for an order compelling the 1233
production of persons or records pursuant to the Rules of Civil 1234
Procedure. 1235

(c) A subpoena issued by the board may be served by a 1236
sheriff, the sheriff's deputy, or a board employee designated by 1237
the board. Service of a subpoena issued by the board may be made 1238
by delivering a copy of the subpoena to the person named 1239
therein, reading it to the person, or leaving it at the person's 1240
usual place of residence, usual place of business, or address on 1241
file with the board. When serving a subpoena to an applicant for 1242
or the holder of a license or certificate issued under this 1243
chapter, service of the subpoena may be made by certified mail, 1244
return receipt requested, and the subpoena shall be deemed 1245
served on the date delivery is made or the date the person 1246
refuses to accept delivery. If the person being served refuses 1247

to accept the subpoena or is not located, service may be made to 1248
an attorney who notifies the board that the attorney is 1249
representing the person. 1250

(d) A sheriff's deputy who serves a subpoena shall receive 1251
the same fees as a sheriff. Each witness who appears before the 1252
board in obedience to a subpoena shall receive the fees and 1253
mileage provided for under section 119.094 of the Revised Code. 1254

(4) All hearings, investigations, and inspections of the 1255
board shall be considered civil actions for the purposes of 1256
section 2305.252 of the Revised Code. 1257

(5) A report required to be submitted to the board under 1258
this chapter, a complaint, or information received by the board 1259
pursuant to an investigation or pursuant to an inspection under 1260
division (E) of section 4731.054 of the Revised Code is 1261
confidential and not subject to discovery in any civil action. 1262

The board shall conduct all investigations or inspections 1263
and proceedings in a manner that protects the confidentiality of 1264
patients and persons who file complaints with the board. The 1265
board shall not make public the names or any other identifying 1266
information about patients or complainants unless proper consent 1267
is given or, in the case of a patient, a waiver of the patient 1268
privilege exists under division (B) of section 2317.02 of the 1269
Revised Code, except that consent or a waiver of that nature is 1270
not required if the board possesses reliable and substantial 1271
evidence that no bona fide physician-patient relationship 1272
exists. 1273

The board may share any information it receives pursuant 1274
to an investigation or inspection, including patient records and 1275
patient record information, with law enforcement agencies, other 1276

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

(6) On a quarterly basis, the board shall prepare a report 1296
that documents the disposition of all cases during the preceding 1297
three months. The report shall contain the following information 1298
for each case with which the board has completed its activities: 1299

(a) The case number assigned to the complaint or alleged 1300
violation; 1301

(b) The type of license or certificate to practice, if 1302
any, held by the individual against whom the complaint is 1303
directed; 1304

(c) A description of the allegations contained in the 1305
complaint; 1306

(d) The disposition of the case. 1307

The report shall state how many cases are still pending 1308
and shall be prepared in a manner that protects the identity of 1309
each person involved in each case. The report shall be a public 1310
record under section 149.43 of the Revised Code. 1311

(G) If the secretary and supervising member determine both 1312
of the following, they may recommend that the board suspend an 1313
individual's license or certificate to practice or certificate 1314
to recommend without a prior hearing: 1315

(1) That there is clear and convincing evidence that an 1316
individual has violated division (B) of this section; 1317

(2) That the individual's continued practice presents a 1318
danger of immediate and serious harm to the public. 1319

Written allegations shall be prepared for consideration by 1320
the board. The board, upon review of those allegations and by an 1321
affirmative vote of not fewer than six of its members, excluding 1322
the secretary and supervising member, may suspend a license or 1323
certificate without a prior hearing. A telephone conference call 1324
may be utilized for reviewing the allegations and taking the 1325
vote on the summary suspension. 1326

The board shall issue a written order of suspension by 1327
certified mail or in person in accordance with section 119.07 of 1328
the Revised Code. The order shall not be subject to suspension 1329
by the court during pendency of any appeal filed under section 1330
119.12 of the Revised Code. If the individual subject to the 1331
summary suspension requests an adjudicatory hearing by the 1332
board, the date set for the hearing shall be within fifteen 1333
days, but not earlier than seven days, after the individual 1334
requests the hearing, unless otherwise agreed to by both the 1335

board and the individual. 1336

Any summary suspension imposed under this division shall 1337
remain in effect, unless reversed on appeal, until a final 1338
adjudicative order issued by the board pursuant to this section 1339
and Chapter 119. of the Revised Code becomes effective. The 1340
board shall issue its final adjudicative order within seventy- 1341
five days after completion of its hearing. A failure to issue 1342
the order within seventy-five days shall result in dissolution 1343
of the summary suspension order but shall not invalidate any 1344
subsequent, final adjudicative order. 1345

(H) If the board takes action under division (B) (9), (11), 1346
or (13) of this section and the judicial finding of guilt, 1347
guilty plea, or judicial finding of eligibility for intervention 1348
in lieu of conviction is overturned on appeal, upon exhaustion 1349
of the criminal appeal, a petition for reconsideration of the 1350
order may be filed with the board along with appropriate court 1351
documents. Upon receipt of a petition of that nature and 1352
supporting court documents, the board shall reinstate the 1353
individual's license or certificate to practice. The board may 1354
then hold an adjudication under Chapter 119. of the Revised Code 1355
to determine whether the individual committed the act in 1356
question. Notice of an opportunity for a hearing shall be given 1357
in accordance with Chapter 119. of the Revised Code. If the 1358
board finds, pursuant to an adjudication held under this 1359
division, that the individual committed the act or if no hearing 1360
is requested, the board may order any of the sanctions 1361
identified under division (B) of this section. 1362

(I) The license or certificate to practice issued to an 1363
individual under this chapter and the individual's practice in 1364
this state are automatically suspended as of the date of the 1365

individual's second or subsequent plea of guilty to, or judicial 1366
finding of guilt of, a violation of section 2919.123 of the 1367
Revised Code. In addition, the license or certificate to 1368
practice or certificate to recommend issued to an individual 1369
under this chapter and the individual's practice in this state 1370
are automatically suspended as of the date the individual pleads 1371
guilty to, is found by a judge or jury to be guilty of, or is 1372
subject to a judicial finding of eligibility for intervention in 1373
lieu of conviction in this state or treatment or intervention in 1374
lieu of conviction in another jurisdiction for any of the 1375
following criminal offenses in this state or a substantially 1376
equivalent criminal offense in another jurisdiction: aggravated 1377
murder, murder, voluntary manslaughter, felonious assault, 1378
kidnapping, rape, sexual battery, gross sexual imposition, 1379
aggravated arson, aggravated robbery, or aggravated burglary. 1380
Continued practice after suspension shall be considered 1381
practicing without a license or certificate. 1382

The board shall notify the individual subject to the 1383
suspension by certified mail or in person in accordance with 1384
section 119.07 of the Revised Code. If an individual whose 1385
license or certificate is automatically suspended under this 1386
division fails to make a timely request for an adjudication 1387
under Chapter 119. of the Revised Code, the board shall do 1388
whichever of the following is applicable: 1389

(1) If the automatic suspension under this division is for 1390
a second or subsequent plea of guilty to, or judicial finding of 1391
guilt of, a violation of section 2919.123 of the Revised Code, 1392
the board shall enter an order suspending the individual's 1393
license or certificate to practice for a period of at least one 1394
year or, if determined appropriate by the board, imposing a more 1395
serious sanction involving the individual's license or 1396

certificate to practice. 1397

(2) In all circumstances in which division (I)(1) of this 1398
section does not apply, enter a final order permanently revoking 1399
the individual's license or certificate to practice. 1400

(J) If the board is required by Chapter 119. of the 1401
Revised Code to give notice of an opportunity for a hearing and 1402
if the individual subject to the notice does not timely request 1403
a hearing in accordance with section 119.07 of the Revised Code, 1404
the board is not required to hold a hearing, but may adopt, by 1405
an affirmative vote of not fewer than six of its members, a 1406
final order that contains the board's findings. In that final 1407
order, the board may order any of the sanctions identified under 1408
division (A) or (B) of this section. 1409

(K) Any action taken by the board under division (B) of 1410
this section resulting in a suspension from practice shall be 1411
accompanied by a written statement of the conditions under which 1412
the individual's license or certificate to practice may be 1413
reinstated. The board shall adopt rules governing conditions to 1414
be imposed for reinstatement. Reinstatement of a license or 1415
certificate suspended pursuant to division (B) of this section 1416
requires an affirmative vote of not fewer than six members of 1417
the board. 1418

(L) When the board refuses to grant or issue a license or 1419
certificate to practice to an applicant, revokes an individual's 1420
license or certificate to practice, refuses to renew an 1421
individual's license or certificate to practice, or refuses to 1422
reinstate an individual's license or certificate to practice, 1423
the board may specify that its action is permanent. An 1424
individual subject to a permanent action taken by the board is 1425
forever thereafter ineligible to hold a license or certificate 1426

to practice and the board shall not accept an application for 1427
reinstatement of the license or certificate or for issuance of a 1428
new license or certificate. 1429

(M) Notwithstanding any other provision of the Revised 1430
Code, all of the following apply: 1431

(1) The surrender of a license or certificate issued under 1432
this chapter shall not be effective unless or until accepted by 1433
the board. A telephone conference call may be utilized for 1434
acceptance of the surrender of an individual's license or 1435
certificate to practice. The telephone conference call shall be 1436
considered a special meeting under division (F) of section 1437
121.22 of the Revised Code. Reinstatement of a license or 1438
certificate surrendered to the board requires an affirmative 1439
vote of not fewer than six members of the board. 1440

(2) An application for a license or certificate made under 1441
the provisions of this chapter may not be withdrawn without 1442
approval of the board. 1443

(3) Failure by an individual to renew a license or 1444
certificate to practice in accordance with this chapter or a 1445
certificate to recommend in accordance with rules adopted under 1446
section 4731.301 of the Revised Code shall not remove or limit 1447
the board's jurisdiction to take any disciplinary action under 1448
this section against the individual. 1449

(4) At the request of the board, a license or certificate 1450
holder shall immediately surrender to the board a license or 1451
certificate that the board has suspended, revoked, or 1452
permanently revoked. 1453

(N) Sanctions shall not be imposed under division (B) (28) 1454
of this section against any person who waives deductibles and 1455

copayments as follows: 1456

(1) In compliance with the health benefit plan that 1457
expressly allows such a practice. Waiver of the deductibles or 1458
copayments shall be made only with the full knowledge and 1459
consent of the plan purchaser, payer, and third-party 1460
administrator. Documentation of the consent shall be made 1461
available to the board upon request. 1462

(2) For professional services rendered to any other person 1463
authorized to practice pursuant to this chapter, to the extent 1464
allowed by this chapter and rules adopted by the board. 1465

(O) Under the board's investigative duties described in 1466
this section and subject to division (F) of this section, the 1467
board shall develop and implement a quality intervention program 1468
designed to improve through remedial education the clinical and 1469
communication skills of individuals authorized under this 1470
chapter to practice medicine and surgery, osteopathic medicine 1471
and surgery, and podiatric medicine and surgery. In developing 1472
and implementing the quality intervention program, the board may 1473
do all of the following: 1474

(1) Offer in appropriate cases as determined by the board 1475
an educational and assessment program pursuant to an 1476
investigation the board conducts under this section; 1477

(2) Select providers of educational and assessment 1478
services, including a quality intervention program panel of case 1479
reviewers; 1480

(3) Make referrals to educational and assessment service 1481
providers and approve individual educational programs 1482
recommended by those providers. The board shall monitor the 1483
progress of each individual undertaking a recommended individual 1484

educational program. 1485

(4) Determine what constitutes successful completion of an 1486
individual educational program and require further monitoring of 1487
the individual who completed the program or other action that 1488
the board determines to be appropriate; 1489

(5) Adopt rules in accordance with Chapter 119. of the 1490
Revised Code to further implement the quality intervention 1491
program. 1492

An individual who participates in an individual 1493
educational program pursuant to this division shall pay the 1494
financial obligations arising from that educational program. 1495

Section 2. That existing sections 2317.56, 2919.171, 1496
2919.19, 2919.191, 2919.192, 2919.193, and 4731.22 of the 1497
Revised Code are hereby repealed. 1498

Section 3. If any provisions of a section as amended or 1499
enacted by this act, or the application thereof to any person or 1500
circumstance is held invalid, the invalidity does not affect 1501
other provisions or applications of the section or related 1502
sections which can be given effect without the invalid provision 1503
or application, and to this end the provisions are severable. 1504