

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 230

Senator Cates

**Cosponsors: Senators Mumper, Buehrer, Schuring, Padgett, Faber, Gardner,
Austria, Schaffer**

—

A BILL

To amend section 4731.22 and to enact section 1
2317.561 of the Revised Code to require that a 2
woman who is to have an abortion be given the 3
opportunity to view any available obstetric 4
ultrasound image. 5

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

Section 1. That section 4731.22 be amended and section 6
2317.561 of the Revised Code be enacted to read as follows: 7

Sec. 2317.561. In addition to the requirements in section 8
2317.56 of the Revised Code, if an obstetric ultrasound 9
examination is performed at any time prior to the performance or 10
inducement of an abortion or the physician performing or inducing 11
the abortion determines that an ultrasound examination will be 12
performed as part of the abortion procedure, the physician shall 13
do both of the following prior to the performance or inducement of 14
the abortion: 15

(A) Provide the pregnant woman receiving the abortion the 16
opportunity to view the active ultrasound image of the embryo or 17
fetus; 18

(B) Offer to provide the pregnant woman with a physical picture of the ultrasound image of the embryo or fetus. 19
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The requirements of division (A) of this section shall be performed at no additional charge to the pregnant woman. 21
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Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board. 23
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(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons: 31
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(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given; 37
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(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease; 41
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(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in 45
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lieu of conviction of, a violation of any federal or state law 49
regulating the possession, distribution, or use of any drug; 50

(4) Willfully betraying a professional confidence. 51

For purposes of this division, "willfully betraying a 52
professional confidence" does not include providing any 53
information, documents, or reports to a child fatality review 54
board under sections 307.621 to 307.629 of the Revised Code and 55
does not include the making of a report of an employee's use of a 56
drug of abuse, or a report of a condition of an employee other 57
than one involving the use of a drug of abuse, to the employer of 58
the employee as described in division (B) of section 2305.33 of 59
the Revised Code. Nothing in this division affects the immunity 60
from civil liability conferred by that section upon a physician 61
who makes either type of report in accordance with division (B) of 62
that section. As used in this division, "employee," "employer," 63
and "physician" have the same meanings as in section 2305.33 of 64
the Revised Code. 65

(5) Making a false, fraudulent, deceptive, or misleading 66
statement in the solicitation of or advertising for patients; in 67
relation to the practice of medicine and surgery, osteopathic 68
medicine and surgery, podiatric medicine and surgery, or a limited 69
branch of medicine; or in securing or attempting to secure any 70
certificate to practice or certificate of registration issued by 71
the board. 72

As used in this division, "false, fraudulent, deceptive, or 73
misleading statement" means a statement that includes a 74
misrepresentation of fact, is likely to mislead or deceive because 75
of a failure to disclose material facts, is intended or is likely 76
to create false or unjustified expectations of favorable results, 77
or includes representations or implications that in reasonable 78
probability will cause an ordinarily prudent person to 79
misunderstand or be deceived. 80

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;	81 82 83 84
(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;	85 86 87 88
(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;	89 90 91
(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;	92 93 94
(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;	95 96 97
(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;	98 99 100
(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	101 102 103
(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;	104 105 106
(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;	107 108 109
(15) Violation of the conditions of limitation placed by the	110

board upon a certificate to practice;	111
(16) Failure to pay license renewal fees specified in this chapter;	112 113
(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;	114 115 116 117
(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.	118 119 120 121 122 123 124 125 126 127 128
For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.	129 130 131 132 133 134 135 136 137 138 139 140
(19) Inability to practice according to acceptable and	141

prevailing standards of care by reason of mental illness or 142
physical illness, including, but not limited to, physical 143
deterioration that adversely affects cognitive, motor, or 144
perceptive skills. 145

In enforcing this division, the board, upon a showing of a 146
possible violation, may compel any individual authorized to 147
practice by this chapter or who has submitted an application 148
pursuant to this chapter to submit to a mental examination, 149
physical examination, including an HIV test, or both a mental and 150
a physical examination. The expense of the examination is the 151
responsibility of the individual compelled to be examined. Failure 152
to submit to a mental or physical examination or consent to an HIV 153
test ordered by the board constitutes an admission of the 154
allegations against the individual unless the failure is due to 155
circumstances beyond the individual's control, and a default and 156
final order may be entered without the taking of testimony or 157
presentation of evidence. If the board finds an individual unable 158
to practice because of the reasons set forth in this division, the 159
board shall require the individual to submit to care, counseling, 160
or treatment by physicians approved or designated by the board, as 161
a condition for initial, continued, reinstated, or renewed 162
authority to practice. An individual affected under this division 163
shall be afforded an opportunity to demonstrate to the board the 164
ability to resume practice in compliance with acceptable and 165
prevailing standards under the provisions of the individual's 166
certificate. For the purpose of this division, any individual who 167
applies for or receives a certificate to practice under this 168
chapter accepts the privilege of practicing in this state and, by 169
so doing, shall be deemed to have given consent to submit to a 170
mental or physical examination when directed to do so in writing 171
by the board, and to have waived all objections to the 172
admissibility of testimony or examination reports that constitute 173
a privileged communication. 174

(20) Except when civil penalties are imposed under section 175
4731.225 or 4731.281 of the Revised Code, and subject to section 176
4731.226 of the Revised Code, violating or attempting to violate, 177
directly or indirectly, or assisting in or abetting the violation 178
of, or conspiring to violate, any provisions of this chapter or 179
any rule promulgated by the board. 180

This division does not apply to a violation or attempted 181
violation of, assisting in or abetting the violation of, or a 182
conspiracy to violate, any provision of this chapter or any rule 183
adopted by the board that would preclude the making of a report by 184
a physician of an employee's use of a drug of abuse, or of a 185
condition of an employee other than one involving the use of a 186
drug of abuse, to the employer of the employee as described in 187
division (B) of section 2305.33 of the Revised Code. Nothing in 188
this division affects the immunity from civil liability conferred 189
by that section upon a physician who makes either type of report 190
in accordance with division (B) of that section. As used in this 191
division, "employee," "employer," and "physician" have the same 192
meanings as in section 2305.33 of the Revised Code. 193

(21) The violation of section 3701.79 of the Revised Code or 194
of any abortion rule adopted by the public health council pursuant 195
to section 3701.341 of the Revised Code; 196

(22) Any of the following actions taken by the agency 197
responsible for regulating the practice of medicine and surgery, 198
osteopathic medicine and surgery, podiatric medicine and surgery, 199
or the limited branches of medicine in another jurisdiction, for 200
any reason other than the nonpayment of fees: the limitation, 201
revocation, or suspension of an individual's license to practice; 202
acceptance of an individual's license surrender; denial of a 203
license; refusal to renew or reinstate a license; imposition of 204
probation; or issuance of an order of censure or other reprimand; 205

(23) The violation of section 2919.12 of the Revised Code or 206

the performance or inducement of an abortion upon a pregnant woman 207
with actual knowledge that the conditions specified in division 208
(B) of section 2317.56 of the Revised Code have not been satisfied 209
or with a heedless indifference as to whether those conditions 210
have been satisfied, unless an affirmative defense as specified in 211
division (H)(2) of that section would apply in a civil action 212
authorized by division (H)(1) of that section; 213

(24) The revocation, suspension, restriction, reduction, or 214
termination of clinical privileges by the United States department 215
of defense or department of veterans affairs or the termination or 216
suspension of a certificate of registration to prescribe drugs by 217
the drug enforcement administration of the United States 218
department of justice; 219

(25) Termination or suspension from participation in the 220
medicare or medicaid programs by the department of health and 221
human services or other responsible agency for any act or acts 222
that also would constitute a violation of division (B)(2), (3), 223
(6), (8), or (19) of this section; 224

(26) Impairment of ability to practice according to 225
acceptable and prevailing standards of care because of habitual or 226
excessive use or abuse of drugs, alcohol, or other substances that 227
impair ability to practice. 228

For the purposes of this division, any individual authorized 229
to practice by this chapter accepts the privilege of practicing in 230
this state subject to supervision by the board. By filing an 231
application for or holding a certificate to practice under this 232
chapter, an individual shall be deemed to have given consent to 233
submit to a mental or physical examination when ordered to do so 234
by the board in writing, and to have waived all objections to the 235
admissibility of testimony or examination reports that constitute 236
privileged communications. 237

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

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

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

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

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

(c) Two written reports indicating that the individual's 269
ability to practice has been assessed and that the individual has 270
been found capable of practicing according to acceptable and 271
prevailing standards of care. The reports shall be made by 272
individuals or providers approved by the board for making the 273
assessments and shall describe the basis for their determination. 274

The board may reinstate a certificate suspended under this 275
division after that demonstration and after the individual has 276
entered into a written consent agreement. 277

When the impaired practitioner resumes practice, the board 278
shall require continued monitoring of the individual. The 279
monitoring shall include, but not be limited to, compliance with 280
the written consent agreement entered into before reinstatement or 281
with conditions imposed by board order after a hearing, and, upon 282
termination of the consent agreement, submission to the board for 283
at least two years of annual written progress reports made under 284
penalty of perjury stating whether the individual has maintained 285
sobriety. 286

(27) A second or subsequent violation of section 4731.66 or 287
4731.69 of the Revised Code; 288

(28) Except as provided in division (N) of this section: 289

(a) Waiving the payment of all or any part of a deductible or 290
copayment that a patient, pursuant to a health insurance or health 291
care policy, contract, or plan that covers the individual's 292
services, otherwise would be required to pay if the waiver is used 293
as an enticement to a patient or group of patients to receive 294
health care services from that individual; 295

(b) Advertising that the individual will waive the payment of 296
all or any part of a deductible or copayment that a patient, 297
pursuant to a health insurance or health care policy, contract, or 298
plan that covers the individual's services, otherwise would be 299

required to pay.	300
(29) Failure to use universal blood and body fluid	301
precautions established by rules adopted under section 4731.051 of	302
the Revised Code;	303
(30) Failure to provide notice to, and receive acknowledgment	304
of the notice from, a patient when required by section 4731.143 of	305
the Revised Code prior to providing nonemergency professional	306
services, or failure to maintain that notice in the patient's	307
file;	308
(31) Failure of a physician supervising a physician assistant	309
to maintain supervision in accordance with the requirements of	310
Chapter 4730. of the Revised Code and the rules adopted under that	311
chapter;	312
(32) Failure of a physician or podiatrist to enter into a	313
standard care arrangement with a clinical nurse specialist,	314
certified nurse-midwife, or certified nurse practitioner with whom	315
the physician or podiatrist is in collaboration pursuant to	316
section 4731.27 of the Revised Code or failure to fulfill the	317
responsibilities of collaboration after entering into a standard	318
care arrangement;	319
(33) Failure to comply with the terms of a consult agreement	320
entered into with a pharmacist pursuant to section 4729.39 of the	321
Revised Code;	322
(34) Failure to cooperate in an investigation conducted by	323
the board under division (F) of this section, including failure to	324
comply with a subpoena or order issued by the board or failure to	325
answer truthfully a question presented by the board at a	326
deposition or in written interrogatories, except that failure to	327
cooperate with an investigation shall not constitute grounds for	328
discipline under this section if a court of competent jurisdiction	329
has issued an order that either quashes a subpoena or permits the	330

individual to withhold the testimony or evidence in issue;	331
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	332 333 334
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	335 336 337
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	338 339
<u>(38) Failure to comply with the requirements of section 2317.561 of the Revised Code.</u>	340 341
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.	342 343 344 345 346 347 348 349 350 351 352 353
If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement	354 355 356 357 358 359 360 361

entered into under this division with an individual that pertains 362
to a second or subsequent plea of guilty to, or judicial finding 363
of guilt of, a violation of that section shall provide for a 364
suspension of the individual's certificate to practice for a 365
period of at least one year or, if determined appropriate by the 366
board, a more serious sanction involving the individual's 367
certificate to practice. 368

(D) For purposes of divisions (B)(10), (12), and (14) of this 369
section, the commission of the act may be established by a finding 370
by the board, pursuant to an adjudication under Chapter 119. of 371
the Revised Code, that the individual committed the act. The board 372
does not have jurisdiction under those divisions if the trial 373
court renders a final judgment in the individual's favor and that 374
judgment is based upon an adjudication on the merits. The board 375
has jurisdiction under those divisions if the trial court issues 376
an order of dismissal upon technical or procedural grounds. 377

(E) The sealing of conviction records by any court shall have 378
no effect upon a prior board order entered under this section or 379
upon the board's jurisdiction to take action under this section 380
if, based upon a plea of guilty, a judicial finding of guilt, or a 381
judicial finding of eligibility for intervention in lieu of 382
conviction, the board issued a notice of opportunity for a hearing 383
prior to the court's order to seal the records. The board shall 384
not be required to seal, destroy, redact, or otherwise modify its 385
records to reflect the court's sealing of conviction records. 386

(F)(1) The board shall investigate evidence that appears to 387
show that a person has violated any provision of this chapter or 388
any rule adopted under it. Any person may report to the board in a 389
signed writing any information that the person may have that 390
appears to show a violation of any provision of this chapter or 391
any rule adopted under it. In the absence of bad faith, any person 392
who reports information of that nature or who testifies before the 393

board in any adjudication conducted under Chapter 119. of the 394
Revised Code shall not be liable in damages in a civil action as a 395
result of the report or testimony. Each complaint or allegation of 396
a violation received by the board shall be assigned a case number 397
and shall be recorded by the board. 398

(2) Investigations of alleged violations of this chapter or 399
any rule adopted under it shall be supervised by the supervising 400
member elected by the board in accordance with section 4731.02 of 401
the Revised Code and by the secretary as provided in section 402
4731.39 of the Revised Code. The president may designate another 403
member of the board to supervise the investigation in place of the 404
supervising member. No member of the board who supervises the 405
investigation of a case shall participate in further adjudication 406
of the case. 407

(3) In investigating a possible violation of this chapter or 408
any rule adopted under this chapter, the board may administer 409
oaths, order the taking of depositions, issue subpoenas, and 410
compel the attendance of witnesses and production of books, 411
accounts, papers, records, documents, and testimony, except that a 412
subpoena for patient record information shall not be issued 413
without consultation with the attorney general's office and 414
approval of the secretary and supervising member of the board. 415
Before issuance of a subpoena for patient record information, the 416
secretary and supervising member shall determine whether there is 417
probable cause to believe that the complaint filed alleges a 418
violation of this chapter or any rule adopted under it and that 419
the records sought are relevant to the alleged violation and 420
material to the investigation. The subpoena may apply only to 421
records that cover a reasonable period of time surrounding the 422
alleged violation. 423

On failure to comply with any subpoena issued by the board 424
and after reasonable notice to the person being subpoenaed, the 425

board may move for an order compelling the production of persons 426
or records pursuant to the Rules of Civil Procedure. 427

A subpoena issued by the board may be served by a sheriff, 428
the sheriff's deputy, or a board employee designated by the board. 429
Service of a subpoena issued by the board may be made by 430
delivering a copy of the subpoena to the person named therein, 431
reading it to the person, or leaving it at the person's usual 432
place of residence. When the person being served is a person whose 433
practice is authorized by this chapter, service of the subpoena 434
may be made by certified mail, restricted delivery, return receipt 435
requested, and the subpoena shall be deemed served on the date 436
delivery is made or the date the person refuses to accept 437
delivery. 438

A sheriff's deputy who serves a subpoena shall receive the 439
same fees as a sheriff. Each witness who appears before the board 440
in obedience to a subpoena shall receive the fees and mileage 441
provided for witnesses in civil cases in the courts of common 442
pleas. 443

(4) All hearings and investigations of the board shall be 444
considered civil actions for the purposes of section 2305.252 of 445
the Revised Code. 446

(5) Information received by the board pursuant to an 447
investigation is confidential and not subject to discovery in any 448
civil action. 449

The board shall conduct all investigations and proceedings in 450
a manner that protects the confidentiality of patients and persons 451
who file complaints with the board. The board shall not make 452
public the names or any other identifying information about 453
patients or complainants unless proper consent is given or, in the 454
case of a patient, a waiver of the patient privilege exists under 455
division (B) of section 2317.02 of the Revised Code, except that 456

consent or a waiver of that nature is not required if the board 457
possesses reliable and substantial evidence that no bona fide 458
physician-patient relationship exists. 459

The board may share any information it receives pursuant to 460
an investigation, including patient records and patient record 461
information, with law enforcement agencies, other licensing 462
boards, and other governmental agencies that are prosecuting, 463
adjudicating, or investigating alleged violations of statutes or 464
administrative rules. An agency or board that receives the 465
information shall comply with the same requirements regarding 466
confidentiality as those with which the state medical board must 467
comply, notwithstanding any conflicting provision of the Revised 468
Code or procedure of the agency or board that applies when it is 469
dealing with other information in its possession. In a judicial 470
proceeding, the information may be admitted into evidence only in 471
accordance with the Rules of Evidence, but the court shall require 472
that appropriate measures are taken to ensure that confidentiality 473
is maintained with respect to any part of the information that 474
contains names or other identifying information about patients or 475
complainants whose confidentiality was protected by the state 476
medical board when the information was in the board's possession. 477
Measures to ensure confidentiality that may be taken by the court 478
include sealing its records or deleting specific information from 479
its records. 480

(6) On a quarterly basis, the board shall prepare a report 481
that documents the disposition of all cases during the preceding 482
three months. The report shall contain the following information 483
for each case with which the board has completed its activities: 484

(a) The case number assigned to the complaint or alleged 485
violation; 486

(b) The type of certificate to practice, if any, held by the 487
individual against whom the complaint is directed; 488

(c) A description of the allegations contained in the 489
complaint; 490

(d) The disposition of the case. 491

The report shall state how many cases are still pending and 492
shall be prepared in a manner that protects the identity of each 493
person involved in each case. The report shall be a public record 494
under section 149.43 of the Revised Code. 495

(G) If the secretary and supervising member determine that 496
there is clear and convincing evidence that an individual has 497
violated division (B) of this section and that the individual's 498
continued practice presents a danger of immediate and serious harm 499
to the public, they may recommend that the board suspend the 500
individual's certificate to practice without a prior hearing. 501
Written allegations shall be prepared for consideration by the 502
board. 503

The board, upon review of those allegations and by an 504
affirmative vote of not fewer than six of its members, excluding 505
the secretary and supervising member, may suspend a certificate 506
without a prior hearing. A telephone conference call may be 507
utilized for reviewing the allegations and taking the vote on the 508
summary suspension. 509

The board shall issue a written order of suspension by 510
certified mail or in person in accordance with section 119.07 of 511
the Revised Code. The order shall not be subject to suspension by 512
the court during pendency of any appeal filed under section 119.12 513
of the Revised Code. If the individual subject to the summary 514
suspension requests an adjudicatory hearing by the board, the date 515
set for the hearing shall be within fifteen days, but not earlier 516
than seven days, after the individual requests the hearing, unless 517
otherwise agreed to by both the board and the individual. 518

Any summary suspension imposed under this division shall 519

remain in effect, unless reversed on appeal, until a final 520
adjudicative order issued by the board pursuant to this section 521
and Chapter 119. of the Revised Code becomes effective. The board 522
shall issue its final adjudicative order within seventy-five days 523
after completion of its hearing. A failure to issue the order 524
within seventy-five days shall result in dissolution of the 525
summary suspension order but shall not invalidate any subsequent, 526
final adjudicative order. 527

(H) If the board takes action under division (B)(9), (11), or 528
(13) of this section and the judicial finding of guilt, guilty 529
plea, or judicial finding of eligibility for intervention in lieu 530
of conviction is overturned on appeal, upon exhaustion of the 531
criminal appeal, a petition for reconsideration of the order may 532
be filed with the board along with appropriate court documents. 533
Upon receipt of a petition of that nature and supporting court 534
documents, the board shall reinstate the individual's certificate 535
to practice. The board may then hold an adjudication under Chapter 536
119. of the Revised Code to determine whether the individual 537
committed the act in question. Notice of an opportunity for a 538
hearing shall be given in accordance with Chapter 119. of the 539
Revised Code. If the board finds, pursuant to an adjudication held 540
under this division, that the individual committed the act or if 541
no hearing is requested, the board may order any of the sanctions 542
identified under division (B) of this section. 543

(I) The certificate to practice issued to an individual under 544
this chapter and the individual's practice in this state are 545
automatically suspended as of the date of the individual's second 546
or subsequent plea of guilty to, or judicial finding of guilt of, 547
a violation of section 2919.123 of the Revised Code, or the date 548
the individual pleads guilty to, is found by a judge or jury to be 549
guilty of, or is subject to a judicial finding of eligibility for 550
intervention in lieu of conviction in this state or treatment or 551

intervention in lieu of conviction in another jurisdiction for any 552
of the following criminal offenses in this state or a 553
substantially equivalent criminal offense in another jurisdiction: 554
aggravated murder, murder, voluntary manslaughter, felonious 555
assault, kidnapping, rape, sexual battery, gross sexual 556
imposition, aggravated arson, aggravated robbery, or aggravated 557
burglary. Continued practice after suspension shall be considered 558
practicing without a certificate. 559

The board shall notify the individual subject to the 560
suspension by certified mail or in person in accordance with 561
section 119.07 of the Revised Code. If an individual whose 562
certificate is automatically suspended under this division fails 563
to make a timely request for an adjudication under Chapter 119. of 564
the Revised Code, the board shall do whichever of the following is 565
applicable: 566

(1) If the automatic suspension under this division is for a 567
second or subsequent plea of guilty to, or judicial finding of 568
guilt of, a violation of section 2919.123 of the Revised Code, the 569
board shall enter an order suspending the individual's certificate 570
to practice for a period of at least one year or, if determined 571
appropriate by the board, imposing a more serious sanction 572
involving the individual's certificate to practice. 573

(2) In all circumstances in which division (I)(1) of this 574
section does not apply, enter a final order permanently revoking 575
the individual's certificate to practice. 576

(J) If the board is required by Chapter 119. of the Revised 577
Code to give notice of an opportunity for a hearing and if the 578
individual subject to the notice does not timely request a hearing 579
in accordance with section 119.07 of the Revised Code, the board 580
is not required to hold a hearing, but may adopt, by an 581
affirmative vote of not fewer than six of its members, a final 582
order that contains the board's findings. In that final order, the 583

board may order any of the sanctions identified under division (A) 584
or (B) of this section. 585

(K) Any action taken by the board under division (B) of this 586
section resulting in a suspension from practice shall be 587
accompanied by a written statement of the conditions under which 588
the individual's certificate to practice may be reinstated. The 589
board shall adopt rules governing conditions to be imposed for 590
reinstatement. Reinstatement of a certificate suspended pursuant 591
to division (B) of this section requires an affirmative vote of 592
not fewer than six members of the board. 593

(L) When the board refuses to grant a certificate to an 594
applicant, revokes an individual's certificate to practice, 595
refuses to register an applicant, or refuses to reinstate an 596
individual's certificate to practice, the board may specify that 597
its action is permanent. An individual subject to a permanent 598
action taken by the board is forever thereafter ineligible to hold 599
a certificate to practice and the board shall not accept an 600
application for reinstatement of the certificate or for issuance 601
of a new certificate. 602

(M) Notwithstanding any other provision of the Revised Code, 603
all of the following apply: 604

(1) The surrender of a certificate issued under this chapter 605
shall not be effective unless or until accepted by the board. 606
Reinstatement of a certificate surrendered to the board requires 607
an affirmative vote of not fewer than six members of the board. 608

(2) An application for a certificate made under the 609
provisions of this chapter may not be withdrawn without approval 610
of the board. 611

(3) Failure by an individual to renew a certificate of 612
registration in accordance with this chapter shall not remove or 613
limit the board's jurisdiction to take any disciplinary action 614

under this section against the individual. 615

(N) Sanctions shall not be imposed under division (B)(28) of 616
this section against any person who waives deductibles and 617
copayments as follows: 618

(1) In compliance with the health benefit plan that expressly 619
allows such a practice. Waiver of the deductibles or copayments 620
shall be made only with the full knowledge and consent of the plan 621
purchaser, payer, and third-party administrator. Documentation of 622
the consent shall be made available to the board upon request. 623

(2) For professional services rendered to any other person 624
authorized to practice pursuant to this chapter, to the extent 625
allowed by this chapter and rules adopted by the board. 626

(O) Under the board's investigative duties described in this 627
section and subject to division (F) of this section, the board 628
shall develop and implement a quality intervention program 629
designed to improve through remedial education the clinical and 630
communication skills of individuals authorized under this chapter 631
to practice medicine and surgery, osteopathic medicine and 632
surgery, and podiatric medicine and surgery. In developing and 633
implementing the quality intervention program, the board may do 634
all of the following: 635

(1) Offer in appropriate cases as determined by the board an 636
educational and assessment program pursuant to an investigation 637
the board conducts under this section; 638

(2) Select providers of educational and assessment services, 639
including a quality intervention program panel of case reviewers; 640

(3) Make referrals to educational and assessment service 641
providers and approve individual educational programs recommended 642
by those providers. The board shall monitor the progress of each 643
individual undertaking a recommended individual educational 644
program. 645

(4) Determine what constitutes successful completion of an 646
individual educational program and require further monitoring of 647
the individual who completed the program or other action that the 648
board determines to be appropriate; 649

(5) Adopt rules in accordance with Chapter 119. of the 650
Revised Code to further implement the quality intervention 651
program. 652

An individual who participates in an individual educational 653
program pursuant to this division shall pay the financial 654
obligations arising from that educational program. 655

Section 2. That existing section 4731.22 of the Revised Code 656
is hereby repealed. 657