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133rd General Assembly

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Sub. S. B. No. 23

Senator Roegner

**Cosponsors: Senators Burke, Uecker, Hackett, Wilson, Hoagland, Huffman, S.,
Huffman, M., Hottinger, Lehner, Brenner, Schuring, Obhof, McColley, Peterson,
Terhar, Coley, Hill, Gavarone**

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, and 2919.1910 of 8
the Revised Code to generally prohibit an 9
abortion of an unborn human individual with a 10
detectable heartbeat and to create the Joint 11
Legislative Committee on Adoption Promotion and 12
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
and 2919.1910 of the Revised Code be enacted to read as follows: 20

Sec. 2317.56. (A) As used in this section: 21

(1) "Medical emergency" has the same meaning as in section 22
2919.16 of the Revised Code. 23

(2) "Medical necessity" means a medical condition of a 24
pregnant woman that, in the reasonable judgment of the physician 25
who is attending the woman, so complicates the pregnancy that it 26
necessitates the immediate performance or inducement of an 27
abortion. 28

(3) "Probable gestational age of the embryo or fetus" 29
means the gestational age that, in the judgment of a physician, 30
is, with reasonable probability, the gestational age of the 31
embryo or fetus at the time that the physician informs a 32
pregnant woman pursuant to division (B) (1) (b) of this section. 33

(B) Except when there is a medical emergency or medical 34
necessity, an abortion shall be performed or induced only if all 35
of the following conditions are satisfied: 36

(1) At least twenty-four hours prior to the performance or 37
inducement of the abortion, a physician meets with the pregnant 38
woman in person in an individual, private setting and gives her 39
an adequate opportunity to ask questions about the abortion that 40
will be performed or induced. At this meeting, the physician 41
shall inform the pregnant woman, verbally or, if she is hearing 42
impaired, by other means of communication, of all of the 43
following: 44

(a) The nature and purpose of the particular abortion 45
procedure to be used and the medical risks associated with that 46

procedure; 47

(b) The probable gestational age of the embryo or fetus; 48

(c) The medical risks associated with the pregnant woman 49
carrying the pregnancy to term. 50

The meeting need not occur at the facility where the 51
abortion is to be performed or induced, and the physician 52
involved in the meeting need not be affiliated with that 53
facility or with the physician who is scheduled to perform or 54
induce the abortion. 55

(2) At least twenty-four hours prior to the performance or 56
inducement of the abortion, the physician who is to perform or 57
induce the abortion or the physician's agent does each of the 58
following in person, by telephone, by certified mail, return 59
receipt requested, or by regular mail evidenced by a certificate 60
of mailing: 61

(a) Inform the pregnant woman of the name of the physician 62
who is scheduled to perform or induce the abortion; 63

(b) Give the pregnant woman copies of the published 64
materials described in division (C) of this section; 65

(c) Inform the pregnant woman that the materials given 66
pursuant to division (B) (2) (b) of this section are published by 67
the state and that they describe the embryo or fetus and list 68
agencies that offer alternatives to abortion. The pregnant woman 69
may choose to examine or not to examine the materials. A 70
physician or an agent of a physician may choose to be 71
disassociated from the materials and may choose to comment or 72
not comment on the materials. 73

(3) If it has been determined that the unborn human 74

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

(4) Prior to the performance or inducement of the 81
abortion, the pregnant woman signs a form consenting to the 82
abortion and certifies both of the following on that form: 83

(a) She has received the information and materials 84
described in divisions (B) (1) and (2) of this section, and her 85
questions about the abortion that will be performed or induced 86
have been answered in a satisfactory manner. 87

(b) She consents to the particular abortion voluntarily, 88
knowingly, intelligently, and without coercion by any person, 89
and she is not under the influence of any drug of abuse or 90
alcohol. 91

The form shall contain the name and contact information of 92
the physician who provided to the pregnant woman the information 93
described in division (B) (1) of this section. 94

(5) Prior to the performance or inducement of the 95
abortion, the physician who is scheduled to perform or induce 96
the abortion or the physician's agent receives a copy of the 97
pregnant woman's signed form on which she consents to the 98
abortion and that includes the certification required by 99
division (B) (4) of this section. 100

(C) The department of health shall publish in English and 101
in Spanish, in a typeface large enough to be clearly legible, 102
and in an easily comprehensible format, the following materials 103

on the department's web site: 104

(1) Materials that inform the pregnant woman about family 105
planning information, of publicly funded agencies that are 106
available to assist in family planning, and of public and 107
private agencies and services that are available to assist her 108
through the pregnancy, upon childbirth, and while the child is 109
dependent, including, but not limited to, adoption agencies. The 110
materials shall be geographically indexed; include a 111
comprehensive list of the available agencies, a description of 112
the services offered by the agencies, and the telephone numbers 113
and addresses of the agencies; and inform the pregnant woman 114
about available medical assistance benefits for prenatal care, 115
childbirth, and neonatal care and about the support obligations 116
of the father of a child who is born alive. The department shall 117
ensure that the materials described in division (C) (1) of this 118
section are comprehensive and do not directly or indirectly 119
promote, exclude, or discourage the use of any agency or service 120
described in this division. 121

(2) Materials that inform the pregnant woman of the 122
probable anatomical and physiological characteristics of the 123
zygote, blastocyte, embryo, or fetus at two-week gestational 124
increments for the first sixteen weeks of pregnancy and at four- 125
week gestational increments from the seventeenth week of 126
pregnancy to full term, including any relevant information 127
regarding the time at which the fetus possibly would be viable. 128
The department shall cause these materials to be published ~~only~~ 129
after it consults with independent experts, such as the Ohio 130
state medical association and the Ohio section of the American 131
college of obstetricians and gynecologists relative to the 132
probable anatomical and physiological characteristics of a 133
zygote, blastocyte, embryo, or fetus at the various gestational 134

increments. The materials shall use language that is 135
understandable by the average person who is not medically 136
trained, shall be objective and nonjudgmental, and shall include 137
only accurate scientific information about the zygote, 138
blastocyte, embryo, or fetus at the various gestational 139
increments. If the materials use a pictorial, photographic, or 140
other depiction to provide information regarding the zygote, 141
blastocyte, embryo, or fetus, the materials shall include, in a 142
conspicuous manner, a scale or other explanation that is 143
understandable by the average person and that can be used to 144
determine the actual size of the zygote, blastocyte, embryo, or 145
fetus at a particular gestational increment as contrasted with 146
the depicted size of the zygote, blastocyte, embryo, or fetus at 147
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.

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

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

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(B) By September 30 of each year, the department of health
shall issue a public report that provides statistics for the
previous calendar year compiled from all of the reports covering
that calendar year submitted to the department in accordance
with this section for each of the items listed in division (A)
of this section. The report shall also provide the statistics
for each previous calendar year in which a report was filed with
the department pursuant to this section, adjusted to reflect any
additional information that a physician provides to the
department in a late or corrected report. The department shall
ensure that none of the information included in the report could
reasonably lead to the identification of any pregnant woman upon

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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.	283
<u>(A) As used in this section and sections</u>	
2919.191 to 2919.193 <u>2919.1910</u> of the Revised Code:	284
(A) <u>(1) "Conception" means fertilization.</u>	285
<u>(2) "Contraceptive" means a drug, device, or chemical that</u>	286
<u>prevents conception.</u>	287
<u>(3) "DNA" means deoxyribonucleic acid.</u>	288
<u>(4) "Fetal heartbeat" means cardiac activity or the steady</u>	289
and repetitive rhythmic contraction of the fetal heart within	290
the gestational sac.	291
(B) <u>(5) "Fetus" means the human offspring developing</u>	292
during pregnancy from the moment of conception and includes the	293
embryonic stage of development.	294
(C) <u>(6) "Gestational age" means the age of an unborn human</u>	295
individual as calculated from the first day of the last	296
menstrual period of a pregnant woman.	297
(D) <u>(7) "Gestational sac" means the structure that</u>	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) <u>(8) "Intrauterine pregnancy" means a pregnancy in</u>	302
<u>which the fetus is attached to the placenta within the uterus of</u>	303
<u>the pregnant woman.</u>	304
<u>(9) "Medical emergency" has the same meaning as in section</u>	305
2919.16 of the Revised Code.	306
(F) <u>(10) "Physician" has the same meaning as in section</u>	307
2305.113 of the Revised Code.	308
(G) <u>(11) "Pregnancy" means the human female reproductive</u>	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 (1973) 337
and Planned Parenthood v. Casey, 505 U.S. 833 (1992), the 338

issuance of any other court order or judgment restoring, 339
expanding, or clarifying the authority of states to prohibit or 340
regulate abortion entirely or in part, or the effective date of 341
an amendment to the Constitution of the United States restoring, 342
expanding, or clarifying the authority of states to prohibit or 343
regulate abortion entirely or in part, the attorney general may 344
apply to the pertinent state or federal court for either or both 345
of the following: 346

(a) A declaration that any one or more sections specified 347
in division (B) (1) of this section are constitutional; 348

(b) A judgment or order lifting an injunction against the 349
enforcement of any one or more sections specified in division 350
(B) (1) of this section. 351

(3) If the attorney general fails to apply for the relief 352
described in division (B) (2) of this section within the thirty- 353
day period after an event described in that division occurs, any 354
county prosecutor may apply to the appropriate state or federal 355
court for such relief. 356

(4) If any provision of this section or sections 2919.171 357
or 2919.191 to 2919.1910 of the Revised Code is held invalid, or 358
if the application of such provision to any person or 359
circumstance is held invalid, the invalidity of that provision 360
does not affect any other provisions or applications of this 361
section and sections 2919.171 and 2919.191 to 2919.1910 of the 362
Revised Code that can be given effect without the invalid 363
provision or application, and to this end the provisions of this 364
section and sections 2919.171 and 2919.191 to 2919.1910 of the 365
Revised Code are severable as provided in section 1.50 of the 366
Revised Code. In particular, it is the intent of the general 367
assembly that any invalidity or potential invalidity of a 368

provision of this section or sections 2919.171 or 2919.191 to 369
2919.1910 of the Revised Code is not to impair the immediate and 370
continuing enforceability of the remaining provisions. It is 371
furthermore the intent of the general assembly that the 372
provisions of this section and sections 2919.171 or 2919.191 to 373
2919.1910 of the Revised Code are not to have the effect of 374
repealing or limiting any other laws of this state, except as 375
specified by this section and sections 2919.171 and 2919.191 to 376
2919.1910 of the Revised Code. 377

Sec. 2919.191. (A) The general assembly hereby declares 378
that it finds, according to contemporary medical research, all 379
of the following: 380

(1) As many as thirty per cent of natural pregnancies end 381
in spontaneous miscarriage. 382

(2) Less than five per cent of all natural pregnancies end 383
in spontaneous miscarriage after detection of fetal cardiac 384
activity. 385

(3) Over ninety per cent of in vitro pregnancies survive 386
the first trimester if cardiac activity is detected in the 387
gestational sac. 388

(4) Nearly ninety per cent of in vitro pregnancies do not 389
survive the first trimester where cardiac activity is not 390
detected in the gestational sac. 391

(5) Fetal heartbeat, therefore, has become a key medical 392
predictor that an unborn human individual will reach live birth. 393

(6) Cardiac activity begins at a biologically identifiable 394
moment in time, normally when the fetal heart is formed in the 395
gestational sac. 396

(7) The state of Ohio has a legitimate interest from the 397
outset of the pregnancy in protecting the health of the woman. 398
The state of Ohio has a compelling interest from the outset of 399
the pregnancy in protecting the life of an unborn human 400
individual who may be born. 401

(8) In order to make an informed choice about whether to 402
continue her pregnancy, the pregnant woman has a legitimate 403
interest in knowing the likelihood of the fetus surviving to 404
full-term birth based upon the presence of cardiac activity. 405

(9) The state of Ohio finds that the detection of a fetal 406
heartbeat can be accomplished through standard medical 407
practices. 408

(B) Sections 2919.192 to 2919.195 of the Revised Code 409
apply only to intrauterine pregnancies. 410

Sec. 2919.191-2919.192. (A) A person who intends to 411
perform or induce an abortion on a pregnant woman shall 412
determine whether there is a detectable fetal heartbeat of the 413
unborn human individual the pregnant woman is carrying. The 414
method of determining the presence of a fetal heartbeat shall be 415
consistent with the person's good faith understanding of 416
standard medical practice, provided that if rules have been 417
adopted under division ~~(C)~~ (B) of this section, the method 418
chosen shall be one that is consistent with the rules. The 419
person who determines the presence or absence of a fetal 420
heartbeat shall record in the pregnant woman's medical record 421
the estimated gestational age of the unborn human individual, 422
the method used to test for a fetal heartbeat, the date and time 423
of the test, and the results of the test. 424

~~(B) (1) Except when a medical emergency exists that~~ 425

~~prevents compliance with this division, no person shall perform— 426~~
~~or induce an abortion on a pregnant woman prior to determining— 427~~
~~if the unborn human individual the pregnant woman is carrying— 428~~
~~has a detectable fetal heartbeat. Any person who performs or— 429~~
~~induces an abortion on a pregnant woman based on the exception— 430~~
~~in this division shall note in the pregnant woman's medical— 431~~
~~records that a medical emergency necessitating the abortion— 432~~
~~existed and shall also note the medical condition of the— 433~~
~~pregnant woman that prevented compliance with this division. The— 434~~
~~person shall maintain a copy of the notes described in this— 435~~
~~division in the person's own records for at least seven years— 436~~
~~after the notes are entered into the medical records. 437~~

~~(2)~~ The person who performs the examination for the 438
presence of a fetal heartbeat shall give the pregnant woman the 439
option to view or hear the fetal heartbeat. 440

~~(C)~~ (B) The director of health may ~~promulgate~~ adopt rules 441
pursuant to section 111.15 of the Revised Code specifying the 442
appropriate methods of performing an examination for the purpose 443
of determining the presence of a fetal heartbeat of an unborn 444
individual based on standard medical practice. The rules shall 445
require only that an examination shall be performed externally. 446
Nothing in this section shall be construed as requiring a 447
transvaginal ultrasound. 448

~~(D)~~ (C) A person is not in violation of division (A) ~~or—~~ 449
~~(B)~~ of this section if that person has performed an examination 450
for the purpose of determining the presence of a fetal heartbeat 451
~~in the fetus of an unborn human individual~~ utilizing standard 452
medical practice, that examination does not reveal a fetal 453
heartbeat or the person has been informed by a physician who has 454
performed the examination for a fetal heartbeat that the 455

examination did not reveal a fetal heartbeat, and the person 456
notes in the pregnant woman's medical records the procedure 457
utilized to detect the presence of a fetal heartbeat. 458

~~(E) Except as provided in division (F) of this section, no 459
person shall knowingly and purposefully perform or induce an 460
abortion on a pregnant woman before determining in accordance 461
with division (A) of this section whether the unborn human 462
individual the pregnant woman is carrying has a detectable 463
heartbeat. The failure of a person to satisfy the requirements 464
of this section prior to performing or inducing an abortion on a 465
pregnant woman may be the basis for either of the following: 466~~

~~(1) A civil action for compensatory and exemplary damages; 467~~

~~(2) Disciplinary action under section 4731.22 of the 468
Revised Code. 469~~

~~(F) Division (E) of this section does not apply to a 470
physician who performs or induces the abortion if the physician 471
believes that a medical emergency exists that prevents 472
compliance with that division. 473~~

~~(G) The director of health may determine and specify in 474
rules adopted pursuant to section 111.15 of the Revised Code and 475
based upon available medical evidence the statistical 476
probability of bringing an unborn human individual to term based 477
on the gestational age of an unborn human individual who 478
possesses a detectable fetal heartbeat. 479~~

~~(H) A woman on whom an abortion is performed in violation 480
of division (B) of this section or division (B) (3) of section 481
2317.56 of the Revised Code may file a civil action for the 482
wrongful death of the woman's unborn child and may receive at 483
the mother's election at any time prior to final judgment 484~~

~~damages in an amount equal to ten thousand dollars or an amount~~ 485
~~determined by the trier of fact after consideration of the~~ 486
~~evidence subject to the same defenses and requirements of proof,~~ 487
~~except any requirement of live birth, as would apply to a suit~~ 488
~~for the wrongful death of a child who had been born alive.~~ 489

Sec. 2919.193. (A) Except as provided in division (B) of 490
this section, no person shall knowingly and purposefully perform 491
or induce an abortion on a pregnant woman before determining in 492
accordance with division (A) of section 2919.192 of the Revised 493
Code whether the unborn human individual the pregnant woman is 494
carrying has a detectable heartbeat. 495

Whoever violates this division is guilty of performing or 496
inducing an abortion before determining whether there is a 497
detectable fetal heartbeat, a felony of the fifth degree. A 498
violation of this division may also be the basis of either of 499
the following: 500

(1) A civil action for compensatory and exemplary damages; 501

(2) Disciplinary action under section 4731.22 of the 502
Revised Code. 503

(B) Division (A) of this section does not apply to a 504
physician who performs or induces the abortion if the physician 505
believes that a medical emergency, as defined in section 2919.16 506
of the Revised Code, exists that prevents compliance with that 507
division. 508

(C) A physician who performs or induces an abortion on a 509
pregnant woman based on the exception in division (B) of this 510
section shall make written notations in the pregnant woman's 511
medical records of both of the following: 512

(1) The physician's belief that a medical emergency 513

necessitating the abortion existed; 514

(2) The medical condition of the pregnant woman that 515
assertedly prevented compliance with division (A) of this 516
section. 517

For at least seven years from the date the notations are 518
made, the physician shall maintain in the physician's own 519
records a copy of the notations. 520

(D) A person is not in violation of division (A) of this 521
section if the person acts in accordance with division (A) of 522
section 2919.192 of the Revised Code and the method used to 523
determine the presence of a fetal heartbeat does not reveal a 524
fetal heartbeat. 525

Sec. ~~2919.192~~ 2919.194. (A) ~~If~~ Notwithstanding division 526
(A) (3) of this section, if a person who intends to perform or 527
induce an abortion on a pregnant woman has determined, under 528
section ~~2919.191~~ 2919.192 of the Revised Code, that the unborn 529
human individual the pregnant woman is carrying has a detectable 530
heartbeat, the person shall not, except as provided in division 531
(B) of this section, perform or induce the abortion ~~until~~ 532
~~without meeting~~ all of the following requirements ~~have been met~~ 533
and ~~without~~ at least twenty-four hours ~~have elapsed~~ elapsing 534
after the last of the requirements is met: 535

(1) The person intending to perform or induce the abortion 536
shall inform the pregnant woman in writing that the unborn human 537
individual the pregnant woman is carrying has a fetal heartbeat. 538

(2) The person intending to perform or induce the abortion 539
shall inform the pregnant woman, to the best of the person's 540
knowledge, of the statistical probability of bringing the unborn 541
human individual possessing a detectable fetal heartbeat to term 542

based on the gestational age of the unborn human individual the 543
pregnant woman is carrying or, if the director of health has 544
specified statistical probability information pursuant to rules 545
adopted under division (C) of this section, shall provide to the 546
pregnant woman that information. 547

(3) The pregnant woman shall sign a form acknowledging 548
that the pregnant woman has received information from the person 549
intending to perform or induce the abortion that the unborn 550
human individual the pregnant woman is carrying has a fetal 551
heartbeat and that the pregnant woman is aware of the 552
statistical probability of bringing the unborn human individual 553
the pregnant woman is carrying to term. 554

(B) Division (A) of this section does not apply if the 555
person who intends to perform or induce the abortion believes 556
that a medical emergency exists that prevents compliance with 557
that division. 558

(C) The director of health may adopt rules that specify 559
information regarding the statistical probability of bringing an 560
unborn human individual possessing a detectable heartbeat to 561
term based on the gestational age of the unborn human 562
individual. The rules shall be based on available medical 563
evidence and shall be adopted in accordance with section 111.15 564
of the Revised Code. 565

(D) This section does not have the effect of repealing or 566
limiting any other provision of the Revised Code relating to 567
informed consent for an abortion, including the provisions in 568
section 2317.56 of the Revised Code. 569

(E) Whoever violates division (A) of this section is 570
guilty of performing or inducing an abortion without informed 571

consent when there is a detectable fetal heartbeat, a 572
misdemeanor of the first degree on a first offense and a felony 573
of the fourth degree on each subsequent offense. 574

Sec. 2919.195. (A) Except as provided in division (B) of 575
this section, no person shall knowingly and purposefully perform 576
or induce an abortion on a pregnant woman with the specific 577
intent of causing or abetting the termination of the life of the 578
unborn human individual the pregnant woman is carrying and whose 579
fetal heartbeat has been detected in accordance with division 580
(A) of section 2919.192 of the Revised Code. 581

Whoever violates this division is guilty of performing or 582
inducing an abortion after the detection of a fetal heartbeat, a 583
felony of the fifth degree. 584

(B) Division (A) of this section does not apply to a 585
physician who performs a medical procedure that, in the 586
physician's reasonable medical judgment, is designed or intended 587
to prevent the death of the pregnant woman or to prevent a 588
serious risk of the substantial and irreversible impairment of a 589
major bodily function of the pregnant woman. 590

A physician who performs a medical procedure as described 591
in this division shall declare, in a written document, that the 592
medical procedure is necessary, to the best of the physician's 593
reasonable medical judgment, to prevent the death of the 594
pregnant woman or to prevent a serious risk of the substantial 595
and irreversible impairment of a major bodily function of the 596
pregnant woman. In the document, the physician shall specify the 597
pregnant woman's medical condition that the medical procedure is 598
asserted to address and the medical rationale for the 599
physician's conclusion that the medical procedure is necessary 600
to prevent the death of the pregnant woman or to prevent a 601

serious risk of the substantial and irreversible impairment of a
major bodily function of the pregnant woman.

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

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

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

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

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

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

address that condition.

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

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

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Sec. 2919.197. Nothing in sections 2919.19 to 2919.196 of
the Revised Code prohibits the sale, use, prescription, or
administration of a drug, device, or chemical for contraceptive
purposes.

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

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

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(1) A woman on whom an abortion was performed or induced
in violation of division (A) of section 2919.193 or division (A)

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of section 2919.195 of the Revised Code;

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

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

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(1) Damages in an amount equal to ten thousand dollars or
an amount determined by the trier of fact after consideration of
the evidence at the mother's election at any time prior to final
judgment 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;

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

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

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

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(1) The court finds that the commencement of the action

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constitutes frivolous conduct, as defined in section 2323.51 of
the Revised Code.

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

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

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

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

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

Each member of the committee shall hold office during the

general assembly in which the member is appointed and until a 718
successor has been appointed, notwithstanding the adjournment 719
sine die of the general assembly in which the member was 720
appointed or the expiration of the member's term as a member of 721
the general assembly. Any vacancies occurring among the members 722
of the committee shall be filled in the manner of the original 723
appointment. 724

(D) The committee has the same powers as other standing or 725
select committees of the general assembly. 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 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;

(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 license or 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.

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.

(19) Inability to practice according to acceptable and

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; 950

(26) Impairment of ability to practice according to 951
acceptable and prevailing standards of care because of habitual 952
or excessive use or abuse of drugs, alcohol, or other substances 953
that impair ability to practice. 954

For the purposes of this division, any individual 955
authorized to practice by this chapter accepts the privilege of 956
practicing in this state subject to supervision by the board. By 957
filing an application for or holding a license or certificate to 958
practice under this chapter, an individual shall be deemed to 959
have given consent to submit to a mental or physical examination 960
when ordered to do so by the board in writing, and to have 961
waived all objections to the admissibility of testimony or 962
examination reports that constitute privileged communications. 963

If it has reason to believe that any individual authorized 964
to practice by this chapter or any applicant for licensure or 965
certification to practice suffers such impairment, the board may 966
compel the individual to submit to a mental or physical 967
examination, or both. The expense of the examination is the 968
responsibility of the individual compelled to be examined. Any 969
mental or physical examination required under this division 970
shall be undertaken by a treatment provider or physician who is 971
qualified to conduct the examination and who is chosen by the 972
board. 973

Failure to submit to a mental or physical examination 974
ordered by the board constitutes an admission of the allegations 975
against the individual unless the failure is due to 976
circumstances beyond the individual's control, and a default and 977
final order may be entered without the taking of testimony or 978
presentation of evidence. If the board determines that the 979
individual's ability to practice is impaired, the board shall 980
suspend the individual's license or certificate or deny the 981
individual's application and shall require the individual, as a 982
condition for initial, continued, reinstated, or renewed 983
licensure or certification to practice, to submit to treatment. 984

Before being eligible to apply for reinstatement of a 985
license or certificate suspended under this division, the 986
impaired practitioner shall demonstrate to the board the ability 987
to resume practice in compliance with acceptable and prevailing 988
standards of care under the provisions of the practitioner's 989
license or certificate. The demonstration shall include, but 990
shall not be limited to, the following: 991

(a) Certification from a treatment provider approved under 992
section 4731.25 of the Revised Code that the individual has 993
successfully completed any required inpatient treatment; 994

(b) Evidence of continuing full compliance with an 995
aftercare contract or consent agreement; 996

(c) Two written reports indicating that the individual's 997
ability to practice has been assessed and that the individual 998
has been found capable of practicing according to acceptable and 999
prevailing standards of care. The reports shall be made by 1000
individuals or providers approved by the board for making the 1001
assessments and shall describe the basis for their 1002
determination. 1003

The board may reinstate a license or certificate suspended 1004
under this division after that demonstration and after the 1005
individual has entered into a written consent agreement. 1006

When the impaired practitioner resumes practice, the board 1007
shall require continued monitoring of the individual. The 1008
monitoring shall include, but not be limited to, compliance with 1009
the written consent agreement entered into before reinstatement 1010
or with conditions imposed by board order after a hearing, and, 1011
upon termination of the consent agreement, submission to the 1012
board for at least two years of annual written progress reports 1013

made under penalty of perjury stating whether the individual has 1014
maintained sobriety. 1015

(27) A second or subsequent violation of section 4731.66 1016
or 4731.69 of the Revised Code; 1017

(28) Except as provided in division (N) of this section: 1018

(a) Waiving the payment of all or any part of a deductible 1019
or copayment that a patient, pursuant to a health insurance or 1020
health care policy, contract, or plan that covers the 1021
individual's services, otherwise would be required to pay if the 1022
waiver is used as an enticement to a patient or group of 1023
patients to receive health care services from that individual; 1024

(b) Advertising that the individual will waive the payment 1025
of all or any part of a deductible or copayment that a patient, 1026
pursuant to a health insurance or health care policy, contract, 1027
or plan that covers the individual's services, otherwise would 1028
be required to pay. 1029

(29) Failure to use universal blood and body fluid 1030
precautions established by rules adopted under section 4731.051 1031
of the Revised Code; 1032

(30) Failure to provide notice to, and receive 1033
acknowledgment of the notice from, a patient when required by 1034
section 4731.143 of the Revised Code prior to providing 1035
nonemergency professional services, or failure to maintain that 1036
notice in the patient's medical record; 1037

(31) Failure of a physician supervising a physician 1038
assistant to maintain supervision in accordance with the 1039
requirements of Chapter 4730. of the Revised Code and the rules 1040
adopted under that chapter; 1041

- (32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement; 1042
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- (33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code; 1049
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- (34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue; 1052
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- (35) Failure to supervise an oriental medicine practitioner or acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for providing that supervision; 1063
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- (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; 1067
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- (37) Assisting suicide, as defined in section 3795.01 of 1070

the Revised Code;	1071
(38) Failure to comply with the requirements of section	1072
2317.561 of the Revised Code;	1073
(39) Failure to supervise a radiologist assistant in	1074
accordance with Chapter 4774. of the Revised Code and the	1075
board's rules for supervision of radiologist assistants;	1076
(40) Performing or inducing an abortion at an office or	1077
facility with knowledge that the office or facility fails to	1078
post the notice required under section 3701.791 of the Revised	1079
Code;	1080
(41) Failure to comply with the standards and procedures	1081
established in rules under section 4731.054 of the Revised Code	1082
for the operation of or the provision of care at a pain	1083
management clinic;	1084
(42) Failure to comply with the standards and procedures	1085
established in rules under section 4731.054 of the Revised Code	1086
for providing supervision, direction, and control of individuals	1087
at a pain management clinic;	1088
(43) Failure to comply with the requirements of section	1089
4729.79 or 4731.055 of the Revised Code, unless the state board	1090
of pharmacy no longer maintains a drug database pursuant to	1091
section 4729.75 of the Revised Code;	1092
(44) Failure to comply with the requirements of section	1093
2919.171, 2919.202, or 2919.203 of the Revised Code or failure	1094
to submit to the department of health in accordance with a court	1095
order a complete report as described in section 2919.171 or	1096
2919.202 of the Revised Code;	1097
(45) Practicing at a facility that is subject to licensure	1098

as a category III terminal distributor of dangerous drugs with a 1099
pain management clinic classification unless the person 1100
operating the facility has obtained and maintains the license 1101
with the classification; 1102

(46) Owning a facility that is subject to licensure as a 1103
category III terminal distributor of dangerous drugs with a pain 1104
management clinic classification unless the facility is licensed 1105
with the classification; 1106

(47) Failure to comply with any of the requirement 1107
requirements regarding making or maintaining notes medical 1108
records or documents described in division (B) (A) of section 1109
2919.191-2919.192, division (C) of section 2919.193, division 1110
(B) of section 2919.195, or division (A) of section 2919.196 of 1111
the Revised Code ~~or failure to satisfy the requirements of~~ 1112
~~section 2919.191 of the Revised Code prior to performing or~~ 1113
~~inducing an abortion upon a pregnant woman;~~ 1114

(48) Failure to comply with the requirements in section 1115
3719.061 of the Revised Code before issuing for a minor a 1116
prescription for an opioid analgesic, as defined in section 1117
3719.01 of the Revised Code; 1118

(49) Failure to comply with the requirements of section 1119
4731.30 of the Revised Code or rules adopted under section 1120
4731.301 of the Revised Code when recommending treatment with 1121
medical marijuana; 1122

(50) Practicing at a facility, clinic, or other location 1123
that is subject to licensure as a category III terminal 1124
distributor of dangerous drugs with an office-based opioid 1125
treatment classification unless the person operating that place 1126
has obtained and maintains the license with the classification; 1127

(51) Owning a facility, clinic, or other location that is 1128
subject to licensure as a category III terminal distributor of 1129
dangerous drugs with an office-based opioid treatment 1130
classification unless that place is licensed with the 1131
classification; 1132

(52) A pattern of continuous or repeated violations of 1133
division (E) (2) or (3) of section 3963.02 of the Revised Code. 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 or agent 1237
designated by the board. Service of a subpoena issued by the 1238
board may be made by delivering a copy of the subpoena to the 1239
person named therein, reading it to the person, or leaving it at 1240
the person's usual place of residence, usual place of business, 1241
or address on file with the board. When serving a subpoena to an 1242
applicant for or the holder of a license or certificate issued 1243
under this chapter, service of the subpoena may be made by 1244
certified mail, return receipt requested, and the subpoena shall 1245
be deemed served on the date delivery is made or the date the 1246
person refuses to accept delivery. If the person being served 1247
refuses to accept the subpoena or is not located, service may be 1248
made to 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

Section 4. Section 4731.22 of the Revised Code is 1505
presented in this act as a composite of the section as amended 1506
by both Am. Sub. H.B. 111 and Sub. H.B. 156 of the 132nd General 1507
Assembly. The General Assembly, applying the principle stated in 1508
division (B) of section 1.52 of the Revised Code that amendments 1509
are to be harmonized if reasonably capable of simultaneous 1510
operation, finds that the composite is the resulting version of 1511
the section in effect prior to the effective date of the section 1512
as presented in this act. 1513