

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 493

Representative Daniels

**Cosponsors: Representatives Ujvagi, Flowers, Goodwin, Collier, Zehringer,
Strahorn**

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A BILL

To amend section 4731.22 and to enact sections 1
3701.86, 3701.861, 3701.862, 4731.72, 4731.721, 2
4731.722, and 4731.723 of the Revised Code 3
regarding billing for anatomic pathology services. 4
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4731.22 be amended and sections 6
3701.86, 3701.861, 3701.862, 4731.72, 4731.721, 4731.722, and 7
4731.723 of the Revised Code be enacted to read as follows: 8

Sec. 3701.86. As used in this section and in sections 9
3701.861 and 3701.862 of the Revised Code: 10

(A) "Anatomic pathology services" means all of the following: 11

(1) Histopathology or surgical pathology; 12

(2) Cytopathology; 13

(3) Hematology; 14

(4) Subcellular or molecular pathology; 15

(5) Blood banking services performed by pathologists. 16

(B) "Assignment of benefits" means the transfer of health care coverage reimbursement benefits or other rights under an insurance policy, subscription contract, or health care plan by an insured, subscriber, or plan enrollee to a health care provider, hospital, or other health care facility. 17
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(C) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human beings. 22
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(D) "Cytopathology" means the microscopic examination of cells from fluids, aspirates, washings, brushings, or smears, including a Papanicolaou smear (PAP smear or test). 29
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(E) "Hematology" means the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician and peripheral blood smears when the attending or treating physician or technologist requests that a blood smear be reviewed by a pathologist. 32
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(F) "Histopathology" or "surgical pathology" means the gross and microscopic examination and histologic processing of organ tissue performed by a physician or under the supervision of a physician. 37
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(G) "Insurer" means a person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, a health insuring corporation, or an entity that is self-insured and provides benefits to its employees or members. 41
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(H) "Physician" means an individual authorized by Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and 45
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surgery. 48

(I) "Referring clinical laboratory" means a clinical 49
laboratory that refers a patient specimen to another clinical 50
laboratory for an anatomic pathology service, but excludes a 51
laboratory in the office of one or more physicians that refers a 52
specimen and does not perform the professional component of the 53
anatomic pathology service. 54

(J) "Subcellular or molecular pathology" means the assessment 55
of a patient specimen for the detection, localization, 56
measurement, or analysis of one or more protein or nucleic acid 57
targets performed or interpreted by or under supervision of a 58
pathologist. 59

Sec. 3701.861. No clinical laboratory shall present or cause 60
to be presented a claim, bill, or demand for payment for anatomic 61
pathology services to any person other than the following: 62

(A) The patient who receives the services or another 63
individual, such as a parent, spouse, or guardian, who is 64
responsible for the patient's bills; 65

(B) A responsible insurer or other third-party payor of a 66
patient who receives the services; 67

(C) A hospital, public health clinic, or not-for-profit 68
health clinic ordering the services; 69

(D) A referring clinical laboratory; 70

(E) A governmental agency or any person acting on behalf of a 71
governmental agency. 72

Sec. 3701.862. Nothing in section 3701.861 of the Revised 73
Code shall be construed to do either of the following: 74

(A) Mandate the assignment of benefits for anatomic pathology 75
services; 76

(B) Prohibit a clinical laboratory that provides anatomic pathology services from billing a referring clinical laboratory for anatomic pathology services in instances in which the referring clinical laboratory must send one or more samples to a specialist for analysis, consultation, or histologic processing.

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.

(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:

(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;

(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;

(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

lieu of conviction of, a violation of any federal or state law 108
regulating the possession, distribution, or use of any drug; 109

(4) Willfully betraying a professional confidence. 110

For purposes of this division, "willfully betraying a 111
professional confidence" does not include providing any 112
information, documents, or reports to a child fatality review 113
board under sections 307.621 to 307.629 of the Revised Code and 114
does not include the making of a report of an employee's use of a 115
drug of abuse, or a report of a condition of an employee other 116
than one involving the use of a drug of abuse, to the employer of 117
the employee as described in division (B) of section 2305.33 of 118
the Revised Code. Nothing in this division affects the immunity 119
from civil liability conferred by that section upon a physician 120
who makes either type of report in accordance with division (B) of 121
that section. As used in this division, "employee," "employer," 122
and "physician" have the same meanings as in section 2305.33 of 123
the Revised Code. 124

(5) Making a false, fraudulent, deceptive, or misleading 125
statement in the solicitation of or advertising for patients; in 126
relation to the practice of medicine and surgery, osteopathic 127
medicine and surgery, podiatric medicine and surgery, or a limited 128
branch of medicine; or in securing or attempting to secure any 129
certificate to practice or certificate of registration issued by 130
the board. 131

As used in this division, "false, fraudulent, deceptive, or 132
misleading statement" means a statement that includes a 133
misrepresentation of fact, is likely to mislead or deceive because 134
of a failure to disclose material facts, is intended or is likely 135
to create false or unjustified expectations of favorable results, 136
or includes representations or implications that in reasonable 137
probability will cause an ordinarily prudent person to 138
misunderstand or be deceived. 139

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| (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; | 140 141 142 143 |
| (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; | 144 145 146 147 |
| (8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice; | 148 149 150 |
| (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; | 151 152 153 |
| (10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed; | 154 155 156 |
| (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; | 157 158 159 |
| (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; | 160 161 162 |
| (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; | 163 164 165 |
| (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; | 166 167 168 |
| (15) Violation of the conditions of limitation placed by the | 169 |

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| board upon a certificate to practice; | 170 |
| (16) Failure to pay license renewal fees specified in this chapter; | 171 172 |
| (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; | 173 174 175 176 |
| (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. | 177 178 179 180 181 182 183 184 185 186 187 |
| 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. | 188 189 190 191 192 193 194 195 196 197 198 199 |
| (19) Inability to practice according to acceptable and | 200 |

prevailing standards of care by reason of mental illness or 201
physical illness, including, but not limited to, physical 202
deterioration that adversely affects cognitive, motor, or 203
perceptive skills. 204

In enforcing this division, the board, upon a showing of a 205
possible violation, may compel any individual authorized to 206
practice by this chapter or who has submitted an application 207
pursuant to this chapter to submit to a mental examination, 208
physical examination, including an HIV test, or both a mental and 209
a physical examination. The expense of the examination is the 210
responsibility of the individual compelled to be examined. Failure 211
to submit to a mental or physical examination or consent to an HIV 212
test ordered by the board constitutes an admission of the 213
allegations against the individual unless the failure is due to 214
circumstances beyond the individual's control, and a default and 215
final order may be entered without the taking of testimony or 216
presentation of evidence. If the board finds an individual unable 217
to practice because of the reasons set forth in this division, the 218
board shall require the individual to submit to care, counseling, 219
or treatment by physicians approved or designated by the board, as 220
a condition for initial, continued, reinstated, or renewed 221
authority to practice. An individual affected under this division 222
shall be afforded an opportunity to demonstrate to the board the 223
ability to resume practice in compliance with acceptable and 224
prevailing standards under the provisions of the individual's 225
certificate. For the purpose of this division, any individual who 226
applies for or receives a certificate to practice under this 227
chapter accepts the privilege of practicing in this state and, by 228
so doing, shall be deemed to have given consent to submit to a 229
mental or physical examination when directed to do so in writing 230
by the board, and to have waived all objections to the 231
admissibility of testimony or examination reports that constitute 232
a privileged communication. 233

(20) Except when civil penalties are imposed under section 234
4731.225 or 4731.281 of the Revised Code, and subject to section 235
4731.226 of the Revised Code, violating or attempting to violate, 236
directly or indirectly, or assisting in or abetting the violation 237
of, or conspiring to violate, any provisions of this chapter or 238
any rule promulgated by the board. 239

This division does not apply to a violation or attempted 240
violation of, assisting in or abetting the violation of, or a 241
conspiracy to violate, any provision of this chapter or any rule 242
adopted by the board that would preclude the making of a report by 243
a physician of an employee's use of a drug of abuse, or of a 244
condition of an employee other than one involving the use of a 245
drug of abuse, to the employer of the employee as described in 246
division (B) of section 2305.33 of the Revised Code. Nothing in 247
this division affects the immunity from civil liability conferred 248
by that section upon a physician who makes either type of report 249
in accordance with division (B) of that section. As used in this 250
division, "employee," "employer," and "physician" have the same 251
meanings as in section 2305.33 of the Revised Code. 252

(21) The violation of section 3701.79 of the Revised Code or 253
of any abortion rule adopted by the public health council pursuant 254
to section 3701.341 of the Revised Code; 255

(22) Any of the following actions taken by the agency 256
responsible for regulating the practice of medicine and surgery, 257
osteopathic medicine and surgery, podiatric medicine and surgery, 258
or the limited branches of medicine in another jurisdiction, for 259
any reason other than the nonpayment of fees: the limitation, 260
revocation, or suspension of an individual's license to practice; 261
acceptance of an individual's license surrender; denial of a 262
license; refusal to renew or reinstate a license; imposition of 263
probation; or issuance of an order of censure or other reprimand; 264

(23) The violation of section 2919.12 of the Revised Code or 265

the performance or inducement of an abortion upon a pregnant woman 266
with actual knowledge that the conditions specified in division 267
(B) of section 2317.56 of the Revised Code have not been satisfied 268
or with a heedless indifference as to whether those conditions 269
have been satisfied, unless an affirmative defense as specified in 270
division (H)(2) of that section would apply in a civil action 271
authorized by division (H)(1) of that section; 272

(24) The revocation, suspension, restriction, reduction, or 273
termination of clinical privileges by the United States department 274
of defense or department of veterans affairs or the termination or 275
suspension of a certificate of registration to prescribe drugs by 276
the drug enforcement administration of the United States 277
department of justice; 278

(25) Termination or suspension from participation in the 279
medicare or medicaid programs by the department of health and 280
human services or other responsible agency for any act or acts 281
that also would constitute a violation of division (B)(2), (3), 282
(6), (8), or (19) of this section; 283

(26) Impairment of ability to practice according to 284
acceptable and prevailing standards of care because of habitual or 285
excessive use or abuse of drugs, alcohol, or other substances that 286
impair ability to practice. 287

For the purposes of this division, any individual authorized 288
to practice by this chapter accepts the privilege of practicing in 289
this state subject to supervision by the board. By filing an 290
application for or holding a certificate to practice under this 291
chapter, an individual shall be deemed to have given consent to 292
submit to a mental or physical examination when ordered to do so 293
by the board in writing, and to have waived all objections to the 294
admissibility of testimony or examination reports that constitute 295
privileged communications. 296

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 328
ability to practice has been assessed and that the individual has 329
been found capable of practicing according to acceptable and 330
prevailing standards of care. The reports shall be made by 331
individuals or providers approved by the board for making the 332
assessments and shall describe the basis for their determination. 333

The board may reinstate a certificate suspended under this 334
division after that demonstration and after the individual has 335
entered into a written consent agreement. 336

When the impaired practitioner resumes practice, the board 337
shall require continued monitoring of the individual. The 338
monitoring shall include, but not be limited to, compliance with 339
the written consent agreement entered into before reinstatement or 340
with conditions imposed by board order after a hearing, and, upon 341
termination of the consent agreement, submission to the board for 342
at least two years of annual written progress reports made under 343
penalty of perjury stating whether the individual has maintained 344
sobriety. 345

(27) A second or subsequent violation of section 4731.66 or 346
4731.69 of the Revised Code; 347

(28) Except as provided in division (N) of this section: 348

(a) Waiving the payment of all or any part of a deductible or 349
copayment that a patient, pursuant to a health insurance or health 350
care policy, contract, or plan that covers the individual's 351
services, otherwise would be required to pay if the waiver is used 352
as an enticement to a patient or group of patients to receive 353
health care services from that individual; 354

(b) Advertising that the individual will waive the payment of 355
all or any part of a deductible or copayment that a patient, 356
pursuant to a health insurance or health care policy, contract, or 357
plan that covers the individual's services, otherwise would be 358

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| required to pay. | 359 |
| (29) Failure to use universal blood and body fluid | 360 |
| precautions established by rules adopted under section 4731.051 of | 361 |
| the Revised Code; | 362 |
| (30) Failure to provide notice to, and receive acknowledgment | 363 |
| of the notice from, a patient when required by section 4731.143 of | 364 |
| the Revised Code prior to providing nonemergency professional | 365 |
| services, or failure to maintain that notice in the patient's | 366 |
| file; | 367 |
| (31) Failure of a physician supervising a physician assistant | 368 |
| to maintain supervision in accordance with the requirements of | 369 |
| Chapter 4730. of the Revised Code and the rules adopted under that | 370 |
| chapter; | 371 |
| (32) Failure of a physician or podiatrist to enter into a | 372 |
| standard care arrangement with a clinical nurse specialist, | 373 |
| certified nurse-midwife, or certified nurse practitioner with whom | 374 |
| the physician or podiatrist is in collaboration pursuant to | 375 |
| section 4731.27 of the Revised Code or failure to fulfill the | 376 |
| responsibilities of collaboration after entering into a standard | 377 |
| care arrangement; | 378 |
| (33) Failure to comply with the terms of a consult agreement | 379 |
| entered into with a pharmacist pursuant to section 4729.39 of the | 380 |
| Revised Code; | 381 |
| (34) Failure to cooperate in an investigation conducted by | 382 |
| the board under division (F) of this section, including failure to | 383 |
| comply with a subpoena or order issued by the board or failure to | 384 |
| answer truthfully a question presented by the board at a | 385 |
| deposition or in written interrogatories, except that failure to | 386 |
| cooperate with an investigation shall not constitute grounds for | 387 |
| discipline under this section if a court of competent jurisdiction | 388 |
| has issued an order that either quashes a subpoena or permits the | 389 |

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| individual to withhold the testimony or evidence in issue; | 390 |
| (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; | 391 392 393 |
| (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; | 394 395 396 |
| (37) Assisting suicide as defined in section 3795.01 of the Revised Code; | 397 398 |
| <u>(38) Violation of a prohibition in section 4731.721 or 4731.722 of the Revised Code regarding billing for anatomical pathology services.</u> | 399 400 401 |
| (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. | 402 403 404 405 406 407 408 409 410 411 412 413 |
| 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 | 414 415 416 417 418 419 420 |

individual's certificate to practice. Any consent agreement 421
entered into under this division with an individual that pertains 422
to a second or subsequent plea of guilty to, or judicial finding 423
of guilt of, a violation of that section shall provide for a 424
suspension of the individual's certificate to practice for a 425
period of at least one year or, if determined appropriate by the 426
board, a more serious sanction involving the individual's 427
certificate to practice. 428

(D) For purposes of divisions (B)(10), (12), and (14) of this 429
section, the commission of the act may be established by a finding 430
by the board, pursuant to an adjudication under Chapter 119. of 431
the Revised Code, that the individual committed the act. The board 432
does not have jurisdiction under those divisions if the trial 433
court renders a final judgment in the individual's favor and that 434
judgment is based upon an adjudication on the merits. The board 435
has jurisdiction under those divisions if the trial court issues 436
an order of dismissal upon technical or procedural grounds. 437

(E) The sealing of conviction records by any court shall have 438
no effect upon a prior board order entered under this section or 439
upon the board's jurisdiction to take action under this section 440
if, based upon a plea of guilty, a judicial finding of guilt, or a 441
judicial finding of eligibility for intervention in lieu of 442
conviction, the board issued a notice of opportunity for a hearing 443
prior to the court's order to seal the records. The board shall 444
not be required to seal, destroy, redact, or otherwise modify its 445
records to reflect the court's sealing of conviction records. 446

(F)(1) The board shall investigate evidence that appears to 447
show that a person has violated any provision of this chapter or 448
any rule adopted under it. Any person may report to the board in a 449
signed writing any information that the person may have that 450
appears to show a violation of any provision of this chapter or 451
any rule adopted under it. In the absence of bad faith, any person 452

who reports information of that nature or who testifies before the 453
board in any adjudication conducted under Chapter 119. of the 454
Revised Code shall not be liable in damages in a civil action as a 455
result of the report or testimony. Each complaint or allegation of 456
a violation received by the board shall be assigned a case number 457
and shall be recorded by the board. 458

(2) Investigations of alleged violations of this chapter or 459
any rule adopted under it shall be supervised by the supervising 460
member elected by the board in accordance with section 4731.02 of 461
the Revised Code and by the secretary as provided in section 462
4731.39 of the Revised Code. The president may designate another 463
member of the board to supervise the investigation in place of the 464
supervising member. No member of the board who supervises the 465
investigation of a case shall participate in further adjudication 466
of the case. 467

(3) In investigating a possible violation of this chapter or 468
any rule adopted under this chapter, the board may administer 469
oaths, order the taking of depositions, issue subpoenas, and 470
compel the attendance of witnesses and production of books, 471
accounts, papers, records, documents, and testimony, except that a 472
subpoena for patient record information shall not be issued 473
without consultation with the attorney general's office and 474
approval of the secretary and supervising member of the board. 475
Before issuance of a subpoena for patient record information, the 476
secretary and supervising member shall determine whether there is 477
probable cause to believe that the complaint filed alleges a 478
violation of this chapter or any rule adopted under it and that 479
the records sought are relevant to the alleged violation and 480
material to the investigation. The subpoena may apply only to 481
records that cover a reasonable period of time surrounding the 482
alleged violation. 483

On failure to comply with any subpoena issued by the board 484

and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

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

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

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

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

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under

division (B) of section 2317.02 of the Revised Code, except that 516
consent or a waiver of that nature is not required if the board 517
possesses reliable and substantial evidence that no bona fide 518
physician-patient relationship exists. 519

The board may share any information it receives pursuant to 520
an investigation, including patient records and patient record 521
information, with law enforcement agencies, other licensing 522
boards, and other governmental agencies that are prosecuting, 523
adjudicating, or investigating alleged violations of statutes or 524
administrative rules. An agency or board that receives the 525
information shall comply with the same requirements regarding 526
confidentiality as those with which the state medical board must 527
comply, notwithstanding any conflicting provision of the Revised 528
Code or procedure of the agency or board that applies when it is 529
dealing with other information in its possession. In a judicial 530
proceeding, the information may be admitted into evidence only in 531
accordance with the Rules of Evidence, but the court shall require 532
that appropriate measures are taken to ensure that confidentiality 533
is maintained with respect to any part of the information that 534
contains names or other identifying information about patients or 535
complainants whose confidentiality was protected by the state 536
medical board when the information was in the board's possession. 537
Measures to ensure confidentiality that may be taken by the court 538
include sealing its records or deleting specific information from 539
its records. 540

(6) On a quarterly basis, the board shall prepare a report 541
that documents the disposition of all cases during the preceding 542
three months. The report shall contain the following information 543
for each case with which the board has completed its activities: 544

(a) The case number assigned to the complaint or alleged 545
violation; 546

(b) The type of certificate to practice, if any, held by the 547

individual against whom the complaint is directed; 548

(c) A description of the allegations contained in the 549
complaint; 550

(d) The disposition of the case. 551

The report shall state how many cases are still pending and 552
shall be prepared in a manner that protects the identity of each 553
person involved in each case. The report shall be a public record 554
under section 149.43 of the Revised Code. 555

(G) If the secretary and supervising member determine that 556
there is clear and convincing evidence that an individual has 557
violated division (B) of this section and that the individual's 558
continued practice presents a danger of immediate and serious harm 559
to the public, they may recommend that the board suspend the 560
individual's certificate to practice without a prior hearing. 561
Written allegations shall be prepared for consideration by the 562
board. 563

The board, upon review of those allegations and by an 564
affirmative vote of not fewer than six of its members, excluding 565
the secretary and supervising member, may suspend a certificate 566
without a prior hearing. A telephone conference call may be 567
utilized for reviewing the allegations and taking the vote on the 568
summary suspension. 569

The board shall issue a written order of suspension by 570
certified mail or in person in accordance with section 119.07 of 571
the Revised Code. The order shall not be subject to suspension by 572
the court during pendency of any appeal filed under section 119.12 573
of the Revised Code. If the individual subject to the summary 574
suspension requests an adjudicatory hearing by the board, the date 575
set for the hearing shall be within fifteen days, but not earlier 576
than seven days, after the individual requests the hearing, unless 577
otherwise agreed to by both the board and the individual. 578

Any summary suspension imposed under this division shall 579
remain in effect, unless reversed on appeal, until a final 580
adjudicative order issued by the board pursuant to this section 581
and Chapter 119. of the Revised Code becomes effective. The board 582
shall issue its final adjudicative order within seventy-five days 583
after completion of its hearing. A failure to issue the order 584
within seventy-five days shall result in dissolution of the 585
summary suspension order but shall not invalidate any subsequent, 586
final adjudicative order. 587

(H) If the board takes action under division (B)(9), (11), or 588
(13) of this section and the judicial finding of guilt, guilty 589
plea, or judicial finding of eligibility for intervention in lieu 590
of conviction is overturned on appeal, upon exhaustion of the 591
criminal appeal, a petition for reconsideration of the order may 592
be filed with the board along with appropriate court documents. 593
Upon receipt of a petition of that nature and supporting court 594
documents, the board shall reinstate the individual's certificate 595
to practice. The board may then hold an adjudication under Chapter 596
119. of the Revised Code to determine whether the individual 597
committed the act in question. Notice of an opportunity for a 598
hearing shall be given in accordance with Chapter 119. of the 599
Revised Code. If the board finds, pursuant to an adjudication held 600
under this division, that the individual committed the act or if 601
no hearing is requested, the board may order any of the sanctions 602
identified under division (B) of this section. 603

(I) The certificate to practice issued to an individual under 604
this chapter and the individual's practice in this state are 605
automatically suspended as of the date of the individual's second 606
or subsequent plea of guilty to, or judicial finding of guilt of, 607
a violation of section 2919.123 of the Revised Code, or the date 608
the individual pleads guilty to, is found by a judge or jury to be 609
guilty of, or is subject to a judicial finding of eligibility for 610

intervention in lieu of conviction in this state or treatment or 611
intervention in lieu of conviction in another jurisdiction for any 612
of the following criminal offenses in this state or a 613
substantially equivalent criminal offense in another jurisdiction: 614
aggravated murder, murder, voluntary manslaughter, felonious 615
assault, kidnapping, rape, sexual battery, gross sexual 616
imposition, aggravated arson, aggravated robbery, or aggravated 617
burglary. Continued practice after suspension shall be considered 618
practicing without a certificate. 619

The board shall notify the individual subject to the 620
suspension by certified mail or in person in accordance with 621
section 119.07 of the Revised Code. If an individual whose 622
certificate is automatically suspended under this division fails 623
to make a timely request for an adjudication under Chapter 119. of 624
the Revised Code, the board shall do whichever of the following is 625
applicable: 626

(1) If the automatic suspension under this division is for a 627
second or subsequent plea of guilty to, or judicial finding of 628
guilt of, a violation of section 2919.123 of the Revised Code, the 629
board shall enter an order suspending the individual's certificate 630
to practice for a period of at least one year or, if determined 631
appropriate by the board, imposing a more serious sanction 632
involving the individual's certificate to practice. 633

(2) In all circumstances in which division (I)(1) of this 634
section does not apply, enter a final order permanently revoking 635
the individual's certificate to practice. 636

(J) If the board is required by Chapter 119. of the Revised 637
Code to give notice of an opportunity for a hearing and if the 638
individual subject to the notice does not timely request a hearing 639
in accordance with section 119.07 of the Revised Code, the board 640
is not required to hold a hearing, but may adopt, by an 641
affirmative vote of not fewer than six of its members, a final 642

order that contains the board's findings. In that final order, the 643
board may order any of the sanctions identified under division (A) 644
or (B) of this section. 645

(K) Any action taken by the board under division (B) of this 646
section resulting in a suspension from practice shall be 647
accompanied by a written statement of the conditions under which 648
the individual's certificate to practice may be reinstated. The 649
board shall adopt rules governing conditions to be imposed for 650
reinstatement. Reinstatement of a certificate suspended pursuant 651
to division (B) of this section requires an affirmative vote of 652
not fewer than six members of the board. 653

(L) When the board refuses to grant a certificate to an 654
applicant, revokes an individual's certificate to practice, 655
refuses to register an applicant, or refuses to reinstate an 656
individual's certificate to practice, the board may specify that 657
its action is permanent. An individual subject to a permanent 658
action taken by the board is forever thereafter ineligible to hold 659
a certificate to practice and the board shall not accept an 660
application for reinstatement of the certificate or for issuance 661
of a new certificate. 662

(M) Notwithstanding any other provision of the Revised Code, 663
all of the following apply: 664

(1) The surrender of a certificate issued under this chapter 665
shall not be effective unless or until accepted by the board. 666
Reinstatement of a certificate surrendered to the board requires 667
an affirmative vote of not fewer than six members of the board. 668

(2) An application for a certificate made under the 669
provisions of this chapter may not be withdrawn without approval 670
of the board. 671

(3) Failure by an individual to renew a certificate of 672
registration in accordance with this chapter shall not remove or 673

limit the board's jurisdiction to take any disciplinary action 674
under this section against the individual. 675

(N) Sanctions shall not be imposed under division (B)(28) of 676
this section against any person who waives deductibles and 677
copayments as follows: 678

(1) In compliance with the health benefit plan that expressly 679
allows such a practice. Waiver of the deductibles or copayments 680
shall be made only with the full knowledge and consent of the plan 681
purchaser, payer, and third-party administrator. Documentation of 682
the consent shall be made available to the board upon request. 683

(2) For professional services rendered to any other person 684
authorized to practice pursuant to this chapter, to the extent 685
allowed by this chapter and rules adopted by the board. 686

(O) Under the board's investigative duties described in this 687
section and subject to division (F) of this section, the board 688
shall develop and implement a quality intervention program 689
designed to improve through remedial education the clinical and 690
communication skills of individuals authorized under this chapter 691
to practice medicine and surgery, osteopathic medicine and 692
surgery, and podiatric medicine and surgery. In developing and 693
implementing the quality intervention program, the board may do 694
all of the following: 695

(1) Offer in appropriate cases as determined by the board an 696
educational and assessment program pursuant to an investigation 697
the board conducts under this section; 698

(2) Select providers of educational and assessment services, 699
including a quality intervention program panel of case reviewers; 700

(3) Make referrals to educational and assessment service 701
providers and approve individual educational programs recommended 702
by those providers. The board shall monitor the progress of each 703
individual undertaking a recommended individual educational 704

program. 705

(4) Determine what constitutes successful completion of an 706
individual educational program and require further monitoring of 707
the individual who completed the program or other action that the 708
board determines to be appropriate; 709

(5) Adopt rules in accordance with Chapter 119. of the 710
Revised Code to further implement the quality intervention 711
program. 712

An individual who participates in an individual educational 713
program pursuant to this division shall pay the financial 714
obligations arising from that educational program. 715

Sec. 4731.72. As used in this section and in sections 716
4731.721, 4731.722, and 4731.723 of the Revised Code, "anatomic 717
pathology services," "assignment of benefits," "insurer," 718
"physician," and "referring clinical laboratory" have the same 719
meanings as in section 3701.86 of the Revised Code. 720

Sec. 4731.721. No physician shall present or cause to be 721
presented a claim, bill, or demand for payment for anatomic 722
pathology services to any person other than the following: 723

(A) The patient who receives the services or another 724
individual, such as a parent, spouse, or guardian, who is 725
responsible for the patient's bills; 726

(B) A responsible insurer or other third-party payor of a 727
patient who receives the services; 728

(C) A hospital, public health clinic, or not-for-profit 729
health clinic ordering the services; 730

(D) A referring clinical laboratory; 731

(E) A governmental agency or any person acting on behalf of a 732
governmental agency. 733

Sec. 4731.722. (A) Subject to division (B) of this section, 734
no physician shall charge, bill, or otherwise solicit payment, 735
directly or indirectly, for anatomic pathology services unless the 736
services are personally rendered by the physician or rendered 737
under the direct supervision of the physician in accordance with 738
42 U.S.C. 263a. 739

(B) Division (A) of this section does not prohibit a 740
physician who performs the professional component of an anatomic 741
pathology service on a patient specimen from billing for analysis, 742
consultation, or histologic processing on that specimen when 743
analysis, consultation, or histologic processing is performed by 744
another physician or clinical laboratory. 745

Sec. 4731.723. Nothing in section 4731.721 or 4731.722 of the 746
Revised Code shall be construed to mandate the assignment of 747
benefits for anatomic pathology services. 748

Section 2. That existing section 4731.22 of the Revised Code 749
is hereby repealed. 750