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Sub. H. B. No. 493

Representative Daniels

**Cosponsors: Representatives Ujvagi, Flowers, Goodwin, Collier, Zehringer,
Strahorn, Otterman, J., Hagan, R., Budish, Chandler, Combs, Domenick,
Evans, Gerberry, Harwood, Letson, Szollosi**

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A B I L L

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 17
care coverage reimbursement benefits or other rights under an 18
insurance policy, subscription contract, or health care plan by an 19
insured, subscriber, or plan enrollee to a health care provider, 20
hospital, or other health care facility. 21

(C) "Clinical laboratory" means a facility for the 22
biological, microbiological, serological, chemical, 23
immunohematological, hematological, biophysical, cytological, 24
pathological, or other examination of substances derived from the 25
human body for the purpose of providing information for the 26
diagnosis, prevention, or treatment of any disease, or in the 27
assessment or impairment of the health of human beings. 28

(D) "Cytopathology" means the microscopic examination of 29
cells from fluids, aspirates, washings, brushings, or smears, 30
including a Papanicolaou smear (PAP smear or test). 31

(E) "Hematology" means the microscopic evaluation of bone 32
marrow aspirates and biopsies performed by a physician or under 33
the supervision of a physician and peripheral blood smears when 34
the attending or treating physician or technologist requests that 35
a blood smear be reviewed by a pathologist. 36

(F) "Histologic processing" means fixation, processing, 37
embedding, microtomy, and other special staining, including 38
histochemical or immunohistochemical staining and in situ 39
hybridization of clinical human tissues or cells, for pathological 40
examination. 41

(G) "Histopathology" or "surgical pathology" means the gross 42
and microscopic examination and histologic processing of organ 43
tissue performed by a physician or under the supervision of a 44
physician. 45

(H) "Insurer" means a person authorized under Title XXXIX of 46

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.

(I) "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
surgery.

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

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

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

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

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

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

(D) A referring clinical laboratory;

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

governmental agency. 77

Sec. 3701.862. Nothing in section 3701.861 of the Revised 78
Code shall be construed to do either of the following: 79

(A) Mandate the assignment of benefits for anatomic pathology 80
services; 81

(B) Prohibit a clinical laboratory that provides anatomic 82
pathology services from billing a referring clinical laboratory 83
for anatomic pathology services in instances in which the 84
referring clinical laboratory must send one or more samples to a 85
specialist for analysis, consultation, or histologic processing. 86

Sec. 4731.22. (A) The state medical board, by an affirmative 87
vote of not fewer than six of its members, may revoke or may 88
refuse to grant a certificate to a person found by the board to 89
have committed fraud during the administration of the examination 90
for a certificate to practice or to have committed fraud, 91
misrepresentation, or deception in applying for or securing any 92
certificate to practice or certificate of registration issued by 93
the board. 94

(B) The board, by an affirmative vote of not fewer than six 95
members, shall, to the extent permitted by law, limit, revoke, or 96
suspend an individual's certificate to practice, refuse to 97
register an individual, refuse to reinstate a certificate, or 98
reprimand or place on probation the holder of a certificate for 99
one or more of the following reasons: 100

(1) Permitting one's name or one's certificate to practice or 101
certificate of registration to be used by a person, group, or 102
corporation when the individual concerned is not actually 103
directing the treatment given; 104

(2) Failure to maintain minimal standards applicable to the 105
selection or administration of drugs, or failure to employ 106

acceptable scientific methods in the selection of drugs or other 107
modalities for treatment of disease; 108

(3) Selling, giving away, personally furnishing, prescribing, 109
or administering drugs for other than legal and legitimate 110
therapeutic purposes or a plea of guilty to, a judicial finding of 111
guilt of, or a judicial finding of eligibility for intervention in 112
lieu of conviction of, a violation of any federal or state law 113
regulating the possession, distribution, or use of any drug; 114

(4) Willfully betraying a professional confidence. 115

For purposes of this division, "willfully betraying a 116
professional confidence" does not include providing any 117
information, documents, or reports to a child fatality review 118
board under sections 307.621 to 307.629 of the Revised Code and 119
does not include the making of a report of an employee's use of a 120
drug of abuse, or a report of a condition of an employee other 121
than one involving the use of a drug of abuse, to the employer of 122
the employee as described in division (B) of section 2305.33 of 123
the Revised Code. Nothing in this division affects the immunity 124
from civil liability conferred by that section upon a physician 125
who makes either type of report in accordance with division (B) of 126
that section. As used in this division, "employee," "employer," 127
and "physician" have the same meanings as in section 2305.33 of 128
the Revised Code. 129

(5) Making a false, fraudulent, deceptive, or misleading 130
statement in the solicitation of or advertising for patients; in 131
relation to the practice of medicine and surgery, osteopathic 132
medicine and surgery, podiatric medicine and surgery, or a limited 133
branch of medicine; or in securing or attempting to secure any 134
certificate to practice or certificate of registration issued by 135
the board. 136

As used in this division, "false, fraudulent, deceptive, or 137

misleading statement" means a statement that includes a 138
misrepresentation of fact, is likely to mislead or deceive because 139
of a failure to disclose material facts, is intended or is likely 140
to create false or unjustified expectations of favorable results, 141
or includes representations or implications that in reasonable 142
probability will cause an ordinarily prudent person to 143
misunderstand or be deceived. 144

(6) A departure from, or the failure to conform to, minimal 145
standards of care of similar practitioners under the same or 146
similar circumstances, whether or not actual injury to a patient 147
is established; 148

(7) Representing, with the purpose of obtaining compensation 149
or other advantage as personal gain or for any other person, that 150
an incurable disease or injury, or other incurable condition, can 151
be permanently cured; 152

(8) The obtaining of, or attempting to obtain, money or 153
anything of value by fraudulent misrepresentations in the course 154
of practice; 155

(9) A plea of guilty to, a judicial finding of guilt of, or a 156
judicial finding of eligibility for intervention in lieu of 157
conviction for, a felony; 158

(10) Commission of an act that constitutes a felony in this 159
state, regardless of the jurisdiction in which the act was 160
committed; 161

(11) A plea of guilty to, a judicial finding of guilt of, or 162
a judicial finding of eligibility for intervention in lieu of 163
conviction for, a misdemeanor committed in the course of practice; 164

(12) Commission of an act in the course of practice that 165
constitutes a misdemeanor in this state, regardless of the 166
jurisdiction in which the act was committed; 167

(13) A plea of guilty to, a judicial finding of guilt of, or 168
a judicial finding of eligibility for intervention in lieu of 169
conviction for, a misdemeanor involving moral turpitude; 170

(14) Commission of an act involving moral turpitude that 171
constitutes a misdemeanor in this state, regardless of the 172
jurisdiction in which the act was committed; 173

(15) Violation of the conditions of limitation placed by the 174
board upon a certificate to practice; 175

(16) Failure to pay license renewal fees specified in this 176
chapter; 177

(17) Except as authorized in section 4731.31 of the Revised 178
Code, engaging in the division of fees for referral of patients, 179
or the receiving of a thing of value in return for a specific 180
referral of a patient to utilize a particular service or business; 181

(18) Subject to section 4731.226 of the Revised Code, 182
violation of any provision of a code of ethics of the American 183
medical association, the American osteopathic association, the 184
American podiatric medical association, or any other national 185
professional organizations that the board specifies by rule. The 186
state medical board shall obtain and keep on file current copies 187
of the codes of ethics of the various national professional 188
organizations. The individual whose certificate is being suspended 189
or revoked shall not be found to have violated any provision of a 190
code of ethics of an organization not appropriate to the 191
individual's profession. 192

For purposes of this division, a "provision of a code of 193
ethics of a national professional organization" does not include 194
any provision that would preclude the making of a report by a 195
physician of an employee's use of a drug of abuse, or of a 196
condition of an employee other than one involving the use of a 197
drug of abuse, to the employer of the employee as described in 198

division (B) of section 2305.33 of the Revised Code. Nothing in 199
this division affects the immunity from civil liability conferred 200
by that section upon a physician who makes either type of report 201
in accordance with division (B) of that section. As used in this 202
division, "employee," "employer," and "physician" have the same 203
meanings as in section 2305.33 of the Revised Code. 204

(19) Inability to practice according to acceptable and 205
prevailing standards of care by reason of mental illness or 206
physical illness, including, but not limited to, physical 207
deterioration that adversely affects cognitive, motor, or 208
perceptive skills. 209

In enforcing this division, the board, upon a showing of a 210
possible violation, may compel any individual authorized to 211
practice by this chapter or who has submitted an application 212
pursuant to this chapter to submit to a mental examination, 213
physical examination, including an HIV test, or both a mental and 214
a physical examination. The expense of the examination is the 215
responsibility of the individual compelled to be examined. Failure 216
to submit to a mental or physical examination or consent to an HIV 217
test ordered by the board constitutes an admission of the 218
allegations against the individual unless the failure is due to 219
circumstances beyond the individual's control, and a default and 220
final order may be entered without the taking of testimony or 221
presentation of evidence. If the board finds an individual unable 222
to practice because of the reasons set forth in this division, the 223
board shall require the individual to submit to care, counseling, 224
or treatment by physicians approved or designated by the board, as 225
a condition for initial, continued, reinstated, or renewed 226
authority to practice. An individual affected under this division 227
shall be afforded an opportunity to demonstrate to the board the 228
ability to resume practice in compliance with acceptable and 229
prevailing standards under the provisions of the individual's 230

certificate. For the purpose of this division, any individual who 231
applies for or receives a certificate to practice under this 232
chapter accepts the privilege of practicing in this state and, by 233
so doing, shall be deemed to have given consent to submit to a 234
mental or physical examination when directed to do so in writing 235
by the board, and to have waived all objections to the 236
admissibility of testimony or examination reports that constitute 237
a privileged communication. 238

(20) Except when civil penalties are imposed under section 239
4731.225 or 4731.281 of the Revised Code, and subject to section 240
4731.226 of the Revised Code, violating or attempting to violate, 241
directly or indirectly, or assisting in or abetting the violation 242
of, or conspiring to violate, any provisions of this chapter or 243
any rule promulgated by the board. 244

This division does not apply to a violation or attempted 245
violation of, assisting in or abetting the violation of, or a 246
conspiracy to violate, any provision of this chapter or any rule 247
adopted by the board that would preclude the making of a report by 248
a physician of an employee's use of a drug of abuse, or of a 249
condition of an employee other than one involving the use of a 250
drug of abuse, to the employer of the employee as described in 251
division (B) of section 2305.33 of the Revised Code. Nothing in 252
this division affects the immunity from civil liability conferred 253
by that section upon a physician who makes either type of report 254
in accordance with division (B) of that section. As used in this 255
division, "employee," "employer," and "physician" have the same 256
meanings as in section 2305.33 of the Revised Code. 257

(21) The violation of section 3701.79 of the Revised Code or 258
of any abortion rule adopted by the public health council pursuant 259
to section 3701.341 of the Revised Code; 260

(22) Any of the following actions taken by the agency 261
responsible for regulating the practice of medicine and surgery, 262

osteopathic medicine and surgery, podiatric medicine and surgery, 263
or the limited branches of medicine in another jurisdiction, for 264
any reason other than the nonpayment of fees: the limitation, 265
revocation, or suspension of an individual's license to practice; 266
acceptance of an individual's license surrender; denial of a 267
license; refusal to renew or reinstate a license; imposition of 268
probation; or issuance of an order of censure or other reprimand; 269

(23) The violation of section 2919.12 of the Revised Code or 270
the performance or inducement of an abortion upon a pregnant woman 271
with actual knowledge that the conditions specified in division 272
(B) of section 2317.56 of the Revised Code have not been satisfied 273
or with a heedless indifference as to whether those conditions 274
have been satisfied, unless an affirmative defense as specified in 275
division (H)(2) of that section would apply in a civil action 276
authorized by division (H)(1) of that section; 277

(24) The revocation, suspension, restriction, reduction, or 278
termination of clinical privileges by the United States department 279
of defense or department of veterans affairs or the termination or 280
suspension of a certificate of registration to prescribe drugs by 281
the drug enforcement administration of the United States 282
department of justice; 283

(25) Termination or suspension from participation in the 284
medicare or medicaid programs by the department of health and 285
human services or other responsible agency for any act or acts 286
that also would constitute a violation of division (B)(2), (3), 287
(6), (8), or (19) of this section; 288

(26) Impairment of ability to practice according to 289
acceptable and prevailing standards of care because of habitual or 290
excessive use or abuse of drugs, alcohol, or other substances that 291
impair ability to practice. 292

For the purposes of this division, any individual authorized 293

to practice by this chapter accepts the privilege of practicing in 294
this state subject to supervision by the board. By filing an 295
application for or holding a certificate to practice under this 296
chapter, an individual shall be deemed to have given consent to 297
submit to a mental or physical examination when ordered to do so 298
by the board in writing, and to have waived all objections to the 299
admissibility of testimony or examination reports that constitute 300
privileged communications. 301

If it has reason to believe that any individual authorized to 302
practice by this chapter or any applicant for certification to 303
practice suffers such impairment, the board may compel the 304
individual to submit to a mental or physical examination, or both. 305
The expense of the examination is the responsibility of the 306
individual compelled to be examined. Any mental or physical 307
examination required under this division shall be undertaken by a 308
treatment provider or physician who is qualified to conduct the 309
examination and who is chosen by the board. 310

Failure to submit to a mental or physical examination ordered 311
by the board constitutes an admission of the allegations against 312
the individual unless the failure is due to circumstances beyond 313
the individual's control, and a default and final order may be 314
entered without the taking of testimony or presentation of 315
evidence. If the board determines that the individual's ability to 316
practice is impaired, the board shall suspend the individual's 317
certificate or deny the individual's application and shall require 318
the individual, as a condition for initial, continued, reinstated, 319
or renewed certification to practice, to submit to treatment. 320

Before being eligible to apply for reinstatement of a 321
certificate suspended under this division, the impaired 322
practitioner shall demonstrate to the board the ability to resume 323
practice in compliance with acceptable and prevailing standards of 324
care under the provisions of the practitioner's certificate. The 325

demonstration shall include, but shall not be limited to, the 326
following: 327

(a) Certification from a treatment provider approved under 328
section 4731.25 of the Revised Code that the individual has 329
successfully completed any required inpatient treatment; 330

(b) Evidence of continuing full compliance with an aftercare 331
contract or consent agreement; 332

(c) Two written reports indicating that the individual's 333
ability to practice has been assessed and that the individual has 334
been found capable of practicing according to acceptable and 335
prevailing standards of care. The reports shall be made by 336
individuals or providers approved by the board for making the 337
assessments and shall describe the basis for their determination. 338

The board may reinstate a certificate suspended under this 339
division after that demonstration and after the individual has 340
entered into a written consent agreement. 341

When the impaired practitioner resumes practice, the board 342
shall require continued monitoring of the individual. The 343
monitoring shall include, but not be limited to, compliance with 344
the written consent agreement entered into before reinstatement or 345
with conditions imposed by board order after a hearing, and, upon 346
termination of the consent agreement, submission to the board for 347
at least two years of annual written progress reports made under 348
penalty of perjury stating whether the individual has maintained 349
sobriety. 350

(27) A second or subsequent violation of section 4731.66 or 351
4731.69 of the Revised Code; 352

(28) Except as provided in division (N) of this section: 353

(a) Waiving the payment of all or any part of a deductible or 354
copayment that a patient, pursuant to a health insurance or health 355

care policy, contract, or plan that covers the individual's 356
services, otherwise would be required to pay if the waiver is used 357
as an enticement to a patient or group of patients to receive 358
health care services from that individual; 359

(b) Advertising that the individual will waive the payment of 360
all or any part of a deductible or copayment that a patient, 361
pursuant to a health insurance or health care policy, contract, or 362
plan that covers the individual's services, otherwise would be 363
required to pay. 364

(29) Failure to use universal blood and body fluid 365
precautions established by rules adopted under section 4731.051 of 366
the Revised Code; 367

(30) Failure to provide notice to, and receive acknowledgment 368
of the notice from, a patient when required by section 4731.143 of 369
the Revised Code prior to providing nonemergency professional 370
services, or failure to maintain that notice in the patient's 371
file; 372

(31) Failure of a physician supervising a physician assistant 373
to maintain supervision in accordance with the requirements of 374
Chapter 4730. of the Revised Code and the rules adopted under that 375
chapter; 376

(32) Failure of a physician or podiatrist to enter into a 377
standard care arrangement with a clinical nurse specialist, 378
certified nurse-midwife, or certified nurse practitioner with whom 379
the physician or podiatrist is in collaboration pursuant to 380
section 4731.27 of the Revised Code or failure to fulfill the 381
responsibilities of collaboration after entering into a standard 382
care arrangement; 383

(33) Failure to comply with the terms of a consult agreement 384
entered into with a pharmacist pursuant to section 4729.39 of the 385
Revised Code; 386

(34) Failure to cooperate in an investigation conducted by 387
the board under division (F) of this section, including failure to 388
comply with a subpoena or order issued by the board or failure to 389
answer truthfully a question presented by the board at a 390
deposition or in written interrogatories, except that failure to 391
cooperate with an investigation shall not constitute grounds for 392
discipline under this section if a court of competent jurisdiction 393
has issued an order that either quashes a subpoena or permits the 394
individual to withhold the testimony or evidence in issue; 395

(35) Failure to supervise an acupuncturist in accordance with 396
Chapter 4762. of the Revised Code and the board's rules for 397
supervision of an acupuncturist; 398

(36) Failure to supervise an anesthesiologist assistant in 399
accordance with Chapter 4760. of the Revised Code and the board's 400
rules for supervision of an anesthesiologist assistant; 401

(37) Assisting suicide as defined in section 3795.01 of the 402
Revised Code; 403

(38) Violation of a prohibition in section 4731.721 or 404
4731.722 of the Revised Code regarding billing for anatomical 405
pathology services. 406

(C) Disciplinary actions taken by the board under divisions 407
(A) and (B) of this section shall be taken pursuant to an 408
adjudication under Chapter 119. of the Revised Code, except that 409
in lieu of an adjudication, the board may enter into a consent 410
agreement with an individual to resolve an allegation of a 411
violation of this chapter or any rule adopted under it. A consent 412
agreement, when ratified by an affirmative vote of not fewer than 413
six members of the board, shall constitute the findings and order 414
of the board with respect to the matter addressed in the 415
agreement. If the board refuses to ratify a consent agreement, the 416
admissions and findings contained in the consent agreement shall 417

be of no force or effect. 418

If the board takes disciplinary action against an individual 419
under division (B) of this section for a second or subsequent plea 420
of guilty to, or judicial finding of guilt of, a violation of 421
section 2919.123 of the Revised Code, the disciplinary action 422
shall consist of a suspension of the individual's certificate to 423
practice for a period of at least one year or, if determined 424
appropriate by the board, a more serious sanction involving the 425
individual's certificate to practice. Any consent agreement 426
entered into under this division with an individual that pertains 427
to a second or subsequent plea of guilty to, or judicial finding 428
of guilt of, a violation of that section shall provide for a 429
suspension of the individual's certificate to practice for a 430
period of at least one year or, if determined appropriate by the 431
board, a more serious sanction involving the individual's 432
certificate to practice. 433

(D) For purposes of divisions (B)(10), (12), and (14) of this 434
section, the commission of the act may be established by a finding 435
by the board, pursuant to an adjudication under Chapter 119. of 436
the Revised Code, that the individual committed the act. The board 437
does not have jurisdiction under those divisions if the trial 438
court renders a final judgment in the individual's favor and that 439
judgment is based upon an adjudication on the merits. The board 440
has jurisdiction under those divisions if the trial court issues 441
an order of dismissal upon technical or procedural grounds. 442

(E) The sealing of conviction records by any court shall have 443
no effect upon a prior board order entered under this section or 444
upon the board's jurisdiction to take action under this section 445
if, based upon a plea of guilty, a judicial finding of guilt, or a 446
judicial finding of eligibility for intervention in lieu of 447
conviction, the board issued a notice of opportunity for a hearing 448
prior to the court's order to seal the records. The board shall 449

not be required to seal, destroy, redact, or otherwise modify its 450
records to reflect the court's sealing of conviction records. 451

(F)(1) The board shall investigate evidence that appears to 452
show that a person has violated any provision of this chapter or 453
any rule adopted under it. Any person may report to the board in a 454
signed writing any information that the person may have that 455
appears to show a violation of any provision of this chapter or 456
any rule adopted under it. In the absence of bad faith, any person 457
who reports information of that nature or who testifies before the 458
board in any adjudication conducted under Chapter 119. of the 459
Revised Code shall not be liable in damages in a civil action as a 460
result of the report or testimony. Each complaint or allegation of 461
a violation received by the board shall be assigned a case number 462
and shall be recorded by the board. 463

(2) Investigations of alleged violations of this chapter or 464
any rule adopted under it shall be supervised by the supervising 465
member elected by the board in accordance with section 4731.02 of 466
the Revised Code and by the secretary as provided in section 467
4731.39 of the Revised Code. The president may designate another 468
member of the board to supervise the investigation in place of the 469
supervising member. No member of the board who supervises the 470
investigation of a case shall participate in further adjudication 471
of the case. 472

(3) In investigating a possible violation of this chapter or 473
any rule adopted under this chapter, the board may administer 474
oaths, order the taking of depositions, issue subpoenas, and 475
compel the attendance of witnesses and production of books, 476
accounts, papers, records, documents, and testimony, except that a 477
subpoena for patient record information shall not be issued 478
without consultation with the attorney general's office and 479
approval of the secretary and supervising member of the board. 480
Before issuance of a subpoena for patient record information, the 481

secretary and supervising member shall determine whether there is 482
probable cause to believe that the complaint filed alleges a 483
violation of this chapter or any rule adopted under it and that 484
the records sought are relevant to the alleged violation and 485
material to the investigation. The subpoena may apply only to 486
records that cover a reasonable period of time surrounding the 487
alleged violation. 488

On failure to comply with any subpoena issued by the board 489
and after reasonable notice to the person being subpoenaed, the 490
board may move for an order compelling the production of persons 491
or records pursuant to the Rules of Civil Procedure. 492

A subpoena issued by the board may be served by a sheriff, 493
the sheriff's deputy, or a board employee designated by the board. 494
Service of a subpoena issued by the board may be made by 495
delivering a copy of the subpoena to the person named therein, 496
reading it to the person, or leaving it at the person's usual 497
place of residence. When the person being served is a person whose 498
practice is authorized by this chapter, service of the subpoena 499
may be made by certified mail, restricted delivery, return receipt 500
requested, and the subpoena shall be deemed served on the date 501
delivery is made or the date the person refuses to accept 502
delivery. 503

A sheriff's deputy who serves a subpoena shall receive the 504
same fees as a sheriff. Each witness who appears before the board 505
in obedience to a subpoena shall receive the fees and mileage 506
provided for witnesses in civil cases in the courts of common 507
pleas. 508

(4) All hearings and investigations of the board shall be 509
considered civil actions for the purposes of section 2305.252 of 510
the Revised Code. 511

(5) Information received by the board pursuant to an 512

investigation is confidential and not subject to discovery in any 513
civil action. 514

The board shall conduct all investigations and proceedings in 515
a manner that protects the confidentiality of patients and persons 516
who file complaints with the board. The board shall not make 517
public the names or any other identifying information about 518
patients or complainants unless proper consent is given or, in the 519
case of a patient, a waiver of the patient privilege exists under 520
division (B) of section 2317.02 of the Revised Code, except that 521
consent or a waiver of that nature is not required if the board 522
possesses reliable and substantial evidence that no bona fide 523
physician-patient relationship exists. 524

The board may share any information it receives pursuant to 525
an investigation, including patient records and patient record 526
information, with law enforcement agencies, other licensing 527
boards, and other governmental agencies that are prosecuting, 528
adjudicating, or investigating alleged violations of statutes or 529
administrative rules. An agency or board that receives the 530
information shall comply with the same requirements regarding 531
confidentiality as those with which the state medical board must 532
comply, notwithstanding any conflicting provision of the Revised 533
Code or procedure of the agency or board that applies when it is 534
dealing with other information in its possession. In a judicial 535
proceeding, the information may be admitted into evidence only in 536
accordance with the Rules of Evidence, but the court shall require 537
that appropriate measures are taken to ensure that confidentiality 538
is maintained with respect to any part of the information that 539
contains names or other identifying information about patients or 540
complainants whose confidentiality was protected by the state 541
medical board when the information was in the board's possession. 542
Measures to ensure confidentiality that may be taken by the court 543
include sealing its records or deleting specific information from 544

its records. 545

(6) On a quarterly basis, the board shall prepare a report 546
that documents the disposition of all cases during the preceding 547
three months. The report shall contain the following information 548
for each case with which the board has completed its activities: 549

(a) The case number assigned to the complaint or alleged 550
violation; 551

(b) The type of certificate to practice, if any, held by the 552
individual against whom the complaint is directed; 553

(c) A description of the allegations contained in the 554
complaint; 555

(d) The disposition of the case. 556

The report shall state how many cases are still pending and 557
shall be prepared in a manner that protects the identity of each 558
person involved in each case. The report shall be a public record 559
under section 149.43 of the Revised Code. 560

(G) If the secretary and supervising member determine that 561
there is clear and convincing evidence that an individual has 562
violated division (B) of this section and that the individual's 563
continued practice presents a danger of immediate and serious harm 564
to the public, they may recommend that the board suspend the 565
individual's certificate to practice without a prior hearing. 566
Written allegations shall be prepared for consideration by the 567
board. 568

The board, upon review of those allegations and by an 569
affirmative vote of not fewer than six of its members, excluding 570
the secretary and supervising member, may suspend a certificate 571
without a prior hearing. A telephone conference call may be 572
utilized for reviewing the allegations and taking the vote on the 573
summary suspension. 574

The board shall issue a written order of suspension by 575
certified mail or in person in accordance with section 119.07 of 576
the Revised Code. The order shall not be subject to suspension by 577
the court during pendency of any appeal filed under section 119.12 578
of the Revised Code. If the individual subject to the summary 579
suspension requests an adjudicatory hearing by the board, the date 580
set for the hearing shall be within fifteen days, but not earlier 581
than seven days, after the individual requests the hearing, unless 582
otherwise agreed to by both the board and the individual. 583

Any summary suspension imposed under this division shall 584
remain in effect, unless reversed on appeal, until a final 585
adjudicative order issued by the board pursuant to this section 586
and Chapter 119. of the Revised Code becomes effective. The board 587
shall issue its final adjudicative order within seventy-five days 588
after completion of its hearing. A failure to issue the order 589
within seventy-five days shall result in dissolution of the 590
summary suspension order but shall not invalidate any subsequent, 591
final adjudicative order. 592

(H) If the board takes action under division (B)(9), (11), or 593
(13) of this section and the judicial finding of guilt, guilty 594
plea, or judicial finding of eligibility for intervention in lieu 595
of conviction is overturned on appeal, upon exhaustion of the 596
criminal appeal, a petition for reconsideration of the order may 597
be filed with the board along with appropriate court documents. 598
Upon receipt of a petition of that nature and supporting court 599
documents, the board shall reinstate the individual's certificate 600
to practice. The board may then hold an adjudication under Chapter 601
119. of the Revised Code to determine whether the individual 602
committed the act in question. Notice of an opportunity for a 603
hearing shall be given in accordance with Chapter 119. of the 604
Revised Code. If the board finds, pursuant to an adjudication held 605
under this division, that the individual committed the act or if 606

no hearing is requested, the board may order any of the sanctions 607
identified under division (B) of this section. 608

(I) The certificate to practice issued to an individual under 609
this chapter and the individual's practice in this state are 610
automatically suspended as of the date of the individual's second 611
or subsequent plea of guilty to, or judicial finding of guilt of, 612
a violation of section 2919.123 of the Revised Code, or the date 613
the individual pleads guilty to, is found by a judge or jury to be 614
guilty of, or is subject to a judicial finding of eligibility for 615
intervention in lieu of conviction in this state or treatment or 616
intervention in lieu of conviction in another jurisdiction for any 617
of the following criminal offenses in this state or a 618
substantially equivalent criminal offense in another jurisdiction: 619
aggravated murder, murder, voluntary manslaughter, felonious 620
assault, kidnapping, rape, sexual battery, gross sexual 621
imposition, aggravated arson, aggravated robbery, or aggravated 622
burglary. Continued practice after suspension shall be considered 623
practicing without a certificate. 624

The board shall notify the individual subject to the 625
suspension by certified mail or in person in accordance with 626
section 119.07 of the Revised Code. If an individual whose 627
certificate is automatically suspended under this division fails 628
to make a timely request for an adjudication under Chapter 119. of 629
the Revised Code, the board shall do whichever of the following is 630
applicable: 631

(1) If the automatic suspension under this division is for a 632
second or subsequent plea of guilty to, or judicial finding of 633
guilt of, a violation of section 2919.123 of the Revised Code, the 634
board shall enter an order suspending the individual's certificate 635
to practice for a period of at least one year or, if determined 636
appropriate by the board, imposing a more serious sanction 637
involving the individual's certificate to practice. 638

(2) In all circumstances in which division (I)(1) of this 639
section does not apply, enter a final order permanently revoking 640
the individual's certificate to practice. 641

(J) If the board is required by Chapter 119. of the Revised 642
Code to give notice of an opportunity for a hearing and if the 643
individual subject to the notice does not timely request a hearing 644
in accordance with section 119.07 of the Revised Code, the board 645
is not required to hold a hearing, but may adopt, by an 646
affirmative vote of not fewer than six of its members, a final 647
order that contains the board's findings. In that final order, the 648
board may order any of the sanctions identified under division (A) 649
or (B) of this section. 650

(K) Any action taken by the board under division (B) of this 651
section resulting in a suspension from practice shall be 652
accompanied by a written statement of the conditions under which 653
the individual's certificate to practice may be reinstated. The 654
board shall adopt rules governing conditions to be imposed for 655
reinstatement. Reinstatement of a certificate suspended pursuant 656
to division (B) of this section requires an affirmative vote of 657
not fewer than six members of the board. 658

(L) When the board refuses to grant a certificate to an 659
applicant, revokes an individual's certificate to practice, 660
refuses to register an applicant, or refuses to reinstate an 661
individual's certificate to practice, the board may specify that 662
its action is permanent. An individual subject to a permanent 663
action taken by the board is forever thereafter ineligible to hold 664
a certificate to practice and the board shall not accept an 665
application for reinstatement of the certificate or for issuance 666
of a new certificate. 667

(M) Notwithstanding any other provision of the Revised Code, 668
all of the following apply: 669

(1) The surrender of a certificate issued under this chapter 670
shall not be effective unless or until accepted by the board. 671
Reinstatement of a certificate surrendered to the board requires 672
an affirmative vote of not fewer than six members of the board. 673

(2) An application for a certificate made under the 674
provisions of this chapter may not be withdrawn without approval 675
of the board. 676

(3) Failure by an individual to renew a certificate of 677
registration in accordance with this chapter shall not remove or 678
limit the board's jurisdiction to take any disciplinary action 679
under this section against the individual. 680

(N) Sanctions shall not be imposed under division (B)(28) of 681
this section against any person who waives deductibles and 682
copayments as follows: 683

(1) In compliance with the health benefit plan that expressly 684
allows such a practice. Waiver of the deductibles or copayments 685
shall be made only with the full knowledge and consent of the plan 686
purchaser, payer, and third-party administrator. Documentation of 687
the consent shall be made available to the board upon request. 688

(2) For professional services rendered to any other person 689
authorized to practice pursuant to this chapter, to the extent 690
allowed by this chapter and rules adopted by the board. 691

(O) Under the board's investigative duties described in this 692
section and subject to division (F) of this section, the board 693
shall develop and implement a quality intervention program 694
designed to improve through remedial education the clinical and 695
communication skills of individuals authorized under this chapter 696
to practice medicine and surgery, osteopathic medicine and 697
surgery, and podiatric medicine and surgery. In developing and 698
implementing the quality intervention program, the board may do 699
all of the following: 700

(1) Offer in appropriate cases as determined by the board an 701
educational and assessment program pursuant to an investigation 702
the board conducts under this section; 703

(2) Select providers of educational and assessment services, 704
including a quality intervention program panel of case reviewers; 705

(3) Make referrals to educational and assessment service 706
providers and approve individual educational programs recommended 707
by those providers. The board shall monitor the progress of each 708
individual undertaking a recommended individual educational 709
program. 710

(4) Determine what constitutes successful completion of an 711
individual educational program and require further monitoring of 712
the individual who completed the program or other action that the 713
board determines to be appropriate; 714

(5) Adopt rules in accordance with Chapter 119. of the 715
Revised Code to further implement the quality intervention 716
program. 717

An individual who participates in an individual educational 718
program pursuant to this division shall pay the financial 719
obligations arising from that educational program. 720

Sec. 4731.72. As used in this section and in sections 721
4731.721, 4731.722, and 4731.723 of the Revised Code, "anatomic 722
pathology services," "assignment of benefits," "histologic 723
processing," "insurer," "physician," and "referring clinical 724
laboratory" have the same meanings as in section 3701.86 of the 725
Revised Code. 726

Sec. 4731.721. No physician shall present or cause to be 727
presented a claim, bill, or demand for payment for anatomic 728
pathology services to any person other than the following: 729

(A) The patient who receives the services or another individual, such as a parent, spouse, or guardian, who is responsible for the patient's bills; 730
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(B) A responsible insurer or other third-party payor of a patient who receives the services; 733
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(C) A hospital, public health clinic, or not-for-profit health clinic ordering the services; 735
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(D) A referring clinical laboratory; 737

(E) A governmental agency or any person acting on behalf of a governmental agency. 738
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Sec. 4731.722. (A) As used in this section: 740

(1) "Professional component of an anatomic pathology service" means the entire anatomic pathology service other than histologic processing. 741
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(2) "Technical component of an anatomic pathology service" means only histologic processing. 744
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(B) Subject to division (C) of this section, no physician shall charge, bill, or otherwise solicit payment, directly or indirectly, for anatomic pathology services unless the services are personally rendered by the physician or rendered under the on-site supervision of the physician. 746
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(C) Division (B) of this section does not prohibit a physician who performs the professional component of an anatomic pathology service on a patient specimen from billing for the technical component of an anatomic pathology service when that component is performed by a clinical laboratory. 751
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Sec. 4731.723. Nothing in section 4731.721 or 4731.722 of the Revised Code shall be construed to mandate the assignment of benefits for anatomic pathology services. 756
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Section 2. That existing section 4731.22 of the Revised Code	759
is hereby repealed.	760