

**As Introduced**

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

**H. B. No. 553**

**Representative McGregor, J.**

**Cosponsors: Representatives Okey, Hagan, R., Ujvagi**

—

**A B I L L**

To amend sections 4731.051, 4731.07, 4731.22, 1  
4731.224, 4731.24, 4731.25, 4731.35, 4760.131, and 2  
4762.131 and to enact sections 4746.01, 4746.02, 3  
4746.03, 4746.031, 4746.04 to 4746.06, 4746.08, 4  
4746.09, 4746.11, 4746.13, 4746.131, 4746.132, 5  
4746.14 to 4746.18, 4746.20, 4746.21, and 4746.99 6  
of the Revised Code to regulate the practice of 7  
surgical technology. 8

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

**Section 1.** That sections 4731.051, 4731.07, 4731.22, 9  
4731.224, 4731.24, 4731.25, 4731.35, 4760.131, and 4762.131 be 10  
amended and sections 4746.01, 4746.02, 4746.03, 4746.031, 4746.04, 11  
4746.05, 4746.06, 4746.08, 4746.09, 4746.11, 4746.13, 4746.131, 12  
4746.132, 4746.14, 4746.15, 4746.16, 4746.17, 4746.18, 4746.20, 13  
4746.21, and 4746.99 of the Revised Code be enacted to read as 14  
follows: 15

**Sec. 4731.051.** The state medical board shall adopt rules in 16  
accordance with Chapter 119. of the Revised Code establishing 17  
universal blood and body fluid precautions that shall be used by 18  
each person who performs exposure prone invasive procedures and is 19

authorized to practice by this chapter or Chapter 4730., 4746., 20  
4760., or 4762. of the Revised Code. The rules shall define and 21  
establish requirements for universal blood and body fluid 22  
precautions that include the following: 23

(A) Appropriate use of hand washing; 24

(B) Disinfection and sterilization of equipment; 25

(C) Handling and disposal of needles and other sharp 26  
instruments; 27

(D) Wearing and disposal of gloves and other protective 28  
garments and devices. 29

**Sec. 4731.07.** The state medical board shall keep a record of 30  
its proceedings. It shall also keep a register of applicants for 31  
certificates of registration and certificates to practice issued 32  
under this chapter and Chapters 4730., 4746., 4760., and 4762. of 33  
the Revised Code. The register shall show the name of the 34  
applicant and whether the applicant was granted or refused a 35  
certificate. With respect to applicants to practice medicine and 36  
surgery or osteopathic medicine and surgery, the register shall 37  
show the name of the institution that granted the applicant the 38  
degree of doctor of medicine or osteopathic medicine. The books 39  
and records of the board shall be prima-facie evidence of matters 40  
therein contained. 41

**Sec. 4731.22.** (A) The state medical board, by an affirmative 42  
vote of not fewer than six of its members, may revoke or may 43  
refuse to grant a certificate to a person found by the board to 44  
have committed fraud during the administration of the examination 45  
for a certificate to practice or to have committed fraud, 46  
misrepresentation, or deception in applying for or securing any 47  
certificate to practice or certificate of registration issued by 48  
the board. 49

(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 regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 to 307.629 of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report 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 81  
that section. As used in this division, "employee," "employer," 82  
and "physician" have the same meanings as in section 2305.33 of 83  
the Revised Code. 84

(5) Making a false, fraudulent, deceptive, or misleading 85  
statement in the solicitation of or advertising for patients; in 86  
relation to the practice of medicine and surgery, osteopathic 87  
medicine and surgery, podiatric medicine and surgery, or a limited 88  
branch of medicine; or in securing or attempting to secure any 89  
certificate to practice or certificate of registration issued by 90  
the board. 91

As used in this division, "false, fraudulent, deceptive, or 92  
misleading statement" means a statement that includes a 93  
misrepresentation of fact, is likely to mislead or deceive because 94  
of a failure to disclose material facts, is intended or is likely 95  
to create false or unjustified expectations of favorable results, 96  
or includes representations or implications that in reasonable 97  
probability will cause an ordinarily prudent person to 98  
misunderstand or be deceived. 99

(6) A departure from, or the failure to conform to, minimal 100  
standards of care of similar practitioners under the same or 101  
similar circumstances, whether or not actual injury to a patient 102  
is established; 103

(7) Representing, with the purpose of obtaining compensation 104  
or other advantage as personal gain or for any other person, that 105  
an incurable disease or injury, or other incurable condition, can 106  
be permanently cured; 107

(8) The obtaining of, or attempting to obtain, money or 108  
anything of value by fraudulent misrepresentations in the course 109  
of practice; 110

(9) A plea of guilty to, a judicial finding of guilt of, or a 111

judicial finding of eligibility for intervention in lieu of	112
conviction for, a felony;	113
(10) Commission of an act that constitutes a felony in this	114
state, regardless of the jurisdiction in which the act was	115
committed;	116
(11) A plea of guilty to, a judicial finding of guilt of, or	117
a judicial finding of eligibility for intervention in lieu of	118
conviction for, a misdemeanor committed in the course of practice;	119
(12) Commission of an act in the course of practice that	120
constitutes a misdemeanor in this state, regardless of the	121
jurisdiction in which the act was committed;	122
(13) A plea of guilty to, a judicial finding of guilt of, or	123
a judicial finding of eligibility for intervention in lieu of	124
conviction for, a misdemeanor involving moral turpitude;	125
(14) Commission of an act involving moral turpitude that	126
constitutes a misdemeanor in this state, regardless of the	127
jurisdiction in which the act was committed;	128
(15) Violation of the conditions of limitation placed by the	129
board upon a certificate to practice;	130
(16) Failure to pay license renewal fees specified in this	131
chapter;	132
(17) Except as authorized in section 4731.31 of the Revised	133
Code, engaging in the division of fees for referral of patients,	134
or the receiving of a thing of value in return for a specific	135
referral of a patient to utilize a particular service or business;	136
(18) Subject to section 4731.226 of the Revised Code,	137
violation of any provision of a code of ethics of the American	138
medical association, the American osteopathic association, the	139
American podiatric medical association, or any other national	140
professional organizations that the board specifies by rule. The	141

state medical board shall obtain and keep on file current copies 142  
of the codes of ethics of the various national professional 143  
organizations. The individual whose certificate is being suspended 144  
or revoked shall not be found to have violated any provision of a 145  
code of ethics of an organization not appropriate to the 146  
individual's profession. 147

For purposes of this division, a "provision of a code of 148  
ethics of a national professional organization" does not include 149  
any provision that would preclude the making of a report by a 150  
physician of an employee's use of a drug of abuse, or of a 151  
condition of an employee other than one involving the use of a 152  
drug of abuse, to the employer of the employee as described in 153  
division (B) of section 2305.33 of the Revised Code. Nothing in 154  
this division affects the immunity from civil liability conferred 155  
by that section upon a physician who makes either type of report 156  
in accordance with division (B) of that section. As used in this 157  
division, "employee," "employer," and "physician" have the same 158  
meanings as in section 2305.33 of the Revised Code. 159

(19) Inability to practice according to acceptable and 160  
prevailing standards of care by reason of mental illness or 161  
physical illness, including, but not limited to, physical 162  
deterioration that adversely affects cognitive, motor, or 163  
perceptive skills. 164

In enforcing this division, the board, upon a showing of a 165  
possible violation, may compel any individual authorized to 166  
practice by this chapter or who has submitted an application 167  
pursuant to this chapter to submit to a mental examination, 168  
physical examination, including an HIV test, or both a mental and 169  
a physical examination. The expense of the examination is the 170  
responsibility of the individual compelled to be examined. Failure 171  
to submit to a mental or physical examination or consent to an HIV 172  
test ordered by the board constitutes an admission of the 173

allegations against the individual unless the failure is due to 174  
circumstances beyond the individual's control, and a default and 175  
final order may be entered without the taking of testimony or 176  
presentation of evidence. If the board finds an individual unable 177  
to practice because of the reasons set forth in this division, the 178  
board shall require the individual to submit to care, counseling, 179  
or treatment by physicians approved or designated by the board, as 180  
a condition for initial, continued, reinstated, or renewed 181  
authority to practice. An individual affected under this division 182  
shall be afforded an opportunity to demonstrate to the board the 183  
ability to resume practice in compliance with acceptable and 184  
prevailing standards under the provisions of the individual's 185  
certificate. For the purpose of this division, any individual who 186  
applies for or receives a certificate to practice under this 187  
chapter accepts the privilege of practicing in this state and, by 188  
so doing, shall be deemed to have given consent to submit to a 189  
mental or physical examination when directed to do so in writing 190  
by the board, and to have waived all objections to the 191  
admissibility of testimony or examination reports that constitute 192  
a privileged communication. 193

(20) Except when civil penalties are imposed under section 194  
4731.225 or 4731.281 of the Revised Code, and subject to section 195  
4731.226 of the Revised Code, violating or attempting to violate, 196  
directly or indirectly, or assisting in or abetting the violation 197  
of, or conspiring to violate, any provisions of this chapter or 198  
any rule promulgated by the board. 199

This division does not apply to a violation or attempted 200  
violation of, assisting in or abetting the violation of, or a 201  
conspiracy to violate, any provision of this chapter or any rule 202  
adopted by the board that would preclude the making of a report by 203  
a physician of an employee's use of a drug of abuse, or of a 204  
condition of an employee other than one involving the use of a 205

drug of abuse, to the employer of the employee as described in 206  
division (B) of section 2305.33 of the Revised Code. Nothing in 207  
this division affects the immunity from civil liability conferred 208  
by that section upon a physician who makes either type of report 209  
in accordance with division (B) of that section. As used in this 210  
division, "employee," "employer," and "physician" have the same 211  
meanings as in section 2305.33 of the Revised Code. 212

(21) The violation of section 3701.79 of the Revised Code or 213  
of any abortion rule adopted by the public health council pursuant 214  
to section 3701.341 of the Revised Code; 215

(22) Any of the following actions taken by the agency 216  
responsible for regulating the practice of medicine and surgery, 217  
osteopathic medicine and surgery, podiatric medicine and surgery, 218  
or the limited branches of medicine in another jurisdiction, for 219  
any reason other than the nonpayment of fees: the limitation, 220  
revocation, or suspension of an individual's license to practice; 221  
acceptance of an individual's license surrender; denial of a 222  
license; refusal to renew or reinstate a license; imposition of 223  
probation; or issuance of an order of censure or other reprimand; 224

(23) The violation of section 2919.12 of the Revised Code or 225  
the performance or inducement of an abortion upon a pregnant woman 226  
with actual knowledge that the conditions specified in division 227  
(B) of section 2317.56 of the Revised Code have not been satisfied 228  
or with a heedless indifference as to whether those conditions 229  
have been satisfied, unless an affirmative defense as specified in 230  
division (H)(2) of that section would apply in a civil action 231  
authorized by division (H)(1) of that section; 232

(24) The revocation, suspension, restriction, reduction, or 233  
termination of clinical privileges by the United States department 234  
of defense or department of veterans affairs or the termination or 235  
suspension of a certificate of registration to prescribe drugs by 236  
the drug enforcement administration of the United States 237



department of justice; 238

(25) Termination or suspension from participation in the 239  
medicare or medicaid programs by the department of health and 240  
human services or other responsible agency for any act or acts 241  
that also would constitute a violation of division (B)(2), (3), 242  
(6), (8), or (19) of this section; 243

(26) Impairment of ability to practice according to 244  
acceptable and prevailing standards of care because of habitual or 245  
excessive use or abuse of drugs, alcohol, or other substances that 246  
impair ability to practice. 247

For the purposes of this division, any individual authorized 248  
to practice by this chapter accepts the privilege of practicing in 249  
this state subject to supervision by the board. By filing an 250  
application for or holding a certificate to practice under this 251  
chapter, an individual shall be deemed to have given consent to 252  
submit to a mental or physical examination when ordered to do so 253  
by the board in writing, and to have waived all objections to the 254  
admissibility of testimony or examination reports that constitute 255  
privileged communications. 256

If it has reason to believe that any individual authorized to 257  
practice by this chapter or any applicant for certification to 258  
practice suffers such impairment, the board may compel the 259  
individual to submit to a mental or physical examination, or both. 260  
The expense of the examination is the responsibility of the 261  
individual compelled to be examined. Any mental or physical 262  
examination required under this division shall be undertaken by a 263  
treatment provider or physician who is qualified to conduct the 264  
examination and who is chosen by the board. 265

Failure to submit to a mental or physical examination ordered 266  
by the board constitutes an admission of the allegations against 267  
the individual unless the failure is due to circumstances beyond 268

the individual's control, and a default and final order may be 269  
entered without the taking of testimony or presentation of 270  
evidence. If the board determines that the individual's ability to 271  
practice is impaired, the board shall suspend the individual's 272  
certificate or deny the individual's application and shall require 273  
the individual, as a condition for initial, continued, reinstated, 274  
or renewed certification to practice, to submit to treatment. 275

Before being eligible to apply for reinstatement of a 276  
certificate suspended under this division, the impaired 277  
practitioner shall demonstrate to the board the ability to resume 278  
practice in compliance with acceptable and prevailing standards of 279  
care under the provisions of the practitioner's certificate. The 280  
demonstration shall include, but shall not be limited to, the 281  
following: 282

(a) Certification from a treatment provider approved under 283  
section 4731.25 of the Revised Code that the individual has 284  
successfully completed any required inpatient treatment; 285

(b) Evidence of continuing full compliance with an aftercare 286  
contract or consent agreement; 287

(c) Two written reports indicating that the individual's 288  
ability to practice has been assessed and that the individual has 289  
been found capable of practicing according to acceptable and 290  
prevailing standards of care. The reports shall be made by 291  
individuals or providers approved by the board for making the 292  
assessments and shall describe the basis for their determination. 293

The board may reinstate a certificate suspended under this 294  
division after that demonstration and after the individual has 295  
entered into a written consent agreement. 296

When the impaired practitioner resumes practice, the board 297  
shall require continued monitoring of the individual. The 298  
monitoring shall include, but not be limited to, compliance with 299

the written consent agreement entered into before reinstatement or 300  
with conditions imposed by board order after a hearing, and, upon 301  
termination of the consent agreement, submission to the board for 302  
at least two years of annual written progress reports made under 303  
penalty of perjury stating whether the individual has maintained 304  
sobriety. 305

(27) A second or subsequent violation of section 4731.66 or 306  
4731.69 of the Revised Code; 307

(28) Except as provided in division (N) of this section: 308

(a) Waiving the payment of all or any part of a deductible or 309  
copayment that a patient, pursuant to a health insurance or health 310  
care policy, contract, or plan that covers the individual's 311  
services, otherwise would be required to pay if the waiver is used 312  
as an enticement to a patient or group of patients to receive 313  
health care services from that individual; 314

(b) Advertising that the individual will waive the payment of 315  
all or any part of a deductible or copayment that a patient, 316  
pursuant to a health insurance or health care policy, contract, or 317  
plan that covers the individual's services, otherwise would be 318  
required to pay. 319

(29) Failure to use universal blood and body fluid 320  
precautions established by rules adopted under section 4731.051 of 321  
the Revised Code; 322

(30) Failure to provide notice to, and receive acknowledgment 323  
of the notice from, a patient when required by section 4731.143 of 324  
the Revised Code prior to providing nonemergency professional 325  
services, or failure to maintain that notice in the patient's 326  
file; 327

(31) Failure of a physician supervising a physician assistant 328  
to maintain supervision in accordance with the requirements of 329  
Chapter 4730. of the Revised Code and the rules adopted under that 330

chapter;	331
(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;	332 333 334 335 336 337 338
(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;	339 340 341
(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;	342 343 344 345 346 347 348 349 350
(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;	351 352 353
(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;	354 355 356
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	357 358
(38) Failure to comply with the requirements of section 2317.561 of the Revised Code;	359 360

(39) Failure to supervise a surgical technologist in 361  
accordance with the board's rules for supervision of surgical 362  
technologists. 363

(C) Disciplinary actions taken by the board under divisions 364  
(A) and (B) of this section shall be taken pursuant to an 365  
adjudication under Chapter 119. of the Revised Code, except that 366  
in lieu of an adjudication, the board may enter into a consent 367  
agreement with an individual to resolve an allegation of a 368  
violation of this chapter or any rule adopted under it. A consent 369  
agreement, when ratified by an affirmative vote of not fewer than 370  
six members of the board, shall constitute the findings and order 371  
of the board with respect to the matter addressed in the 372  
agreement. If the board refuses to ratify a consent agreement, the 373  
admissions and findings contained in the consent agreement shall 374  
be of no force or effect. 375

If the board takes disciplinary action against an individual 376  
under division (B) of this section for a second or subsequent plea 377  
of guilty to, or judicial finding of guilt of, a violation of 378  
section 2919.123 of the Revised Code, the disciplinary action 379  
shall consist of a suspension of the individual's certificate to 380  
practice for a period of at least one year or, if determined 381  
appropriate by the board, a more serious sanction involving the 382  
individual's certificate to practice. Any consent agreement 383  
entered into under this division with an individual that pertains 384  
to a second or subsequent plea of guilty to, or judicial finding 385  
of guilt of, a violation of that section shall provide for a 386  
suspension of the individual's certificate to practice for a 387  
period of at least one year or, if determined appropriate by the 388  
board, a more serious sanction involving the individual's 389  
certificate to practice. 390

(D) For purposes of divisions (B)(10), (12), and (14) of this 391  
section, the commission of the act may be established by a finding 392

by the board, pursuant to an adjudication under Chapter 119. of 393  
the Revised Code, that the individual committed the act. The board 394  
does not have jurisdiction under those divisions if the trial 395  
court renders a final judgment in the individual's favor and that 396  
judgment is based upon an adjudication on the merits. The board 397  
has jurisdiction under those divisions if the trial court issues 398  
an order of dismissal upon technical or procedural grounds. 399

(E) The sealing of conviction records by any court shall have 400  
no effect upon a prior board order entered under this section or 401  
upon the board's jurisdiction to take action under this section 402  
if, based upon a plea of guilty, a judicial finding of guilt, or a 403  
judicial finding of eligibility for intervention in lieu of 404  
conviction, the board issued a notice of opportunity for a hearing 405  
prior to the court's order to seal the records. The board shall 406  
not be required to seal, destroy, redact, or otherwise modify its 407  
records to reflect the court's sealing of conviction records. 408

(F)(1) The board shall investigate evidence that appears to 409  
show that a person has violated any provision of this chapter or 410  
any rule adopted under it. Any person may report to the board in a 411  
signed writing any information that the person may have that 412  
appears to show a violation of any provision of this chapter or 413  
any rule adopted under it. In the absence of bad faith, any person 414  
who reports information of that nature or who testifies before the 415  
board in any adjudication conducted under Chapter 119. of the 416  
Revised Code shall not be liable in damages in a civil action as a 417  
result of the report or testimony. Each complaint or allegation of 418  
a violation received by the board shall be assigned a case number 419  
and shall be recorded by the board. 420

(2) Investigations of alleged violations of this chapter or 421  
any rule adopted under it shall be supervised by the supervising 422  
member elected by the board in accordance with section 4731.02 of 423  
the Revised Code and by the secretary as provided in section 424

4731.39 of the Revised Code. The president may designate another 425  
member of the board to supervise the investigation in place of the 426  
supervising member. No member of the board who supervises the 427  
investigation of a case shall participate in further adjudication 428  
of the case. 429

(3) In investigating a possible violation of this chapter or 430  
any rule adopted under this chapter, the board may administer 431  
oaths, order the taking of depositions, issue subpoenas, and 432  
compel the attendance of witnesses and production of books, 433  
accounts, papers, records, documents, and testimony, except that a 434  
subpoena for patient record information shall not be issued 435  
without consultation with the attorney general's office and 436  
approval of the secretary and supervising member of the board. 437  
Before issuance of a subpoena for patient record information, the 438  
secretary and supervising member shall determine whether there is 439  
probable cause to believe that the complaint filed alleges a 440  
violation of this chapter or any rule adopted under it and that 441  
the records sought are relevant to the alleged violation and 442  
material to the investigation. The subpoena may apply only to 443  
records that cover a reasonable period of time surrounding the 444  
alleged violation. 445

On failure to comply with any subpoena issued by the board 446  
and after reasonable notice to the person being subpoenaed, the 447  
board may move for an order compelling the production of persons 448  
or records pursuant to the Rules of Civil Procedure. 449

A subpoena issued by the board may be served by a sheriff, 450  
the sheriff's deputy, or a board employee designated by the board. 451  
Service of a subpoena issued by the board may be made by 452  
delivering a copy of the subpoena to the person named therein, 453  
reading it to the person, or leaving it at the person's usual 454  
place of residence. When the person being served is a person whose 455  
practice is authorized by this chapter, service of the subpoena 456

may be made by certified mail, restricted delivery, return receipt 457  
requested, and the subpoena shall be deemed served on the date 458  
delivery is made or the date the person refuses to accept 459  
delivery. 460

A sheriff's deputy who serves a subpoena shall receive the 461  
same fees as a sheriff. Each witness who appears before the board 462  
in obedience to a subpoena shall receive the fees and mileage 463  
provided for witnesses in civil cases in the courts of common 464  
pleas. 465

(4) All hearings and investigations of the board shall be 466  
considered civil actions for the purposes of section 2305.252 of 467  
the Revised Code. 468

(5) Information received by the board pursuant to an 469  
investigation is confidential and not subject to discovery in any 470  
civil action. 471

The board shall conduct all investigations and proceedings in 472  
a manner that protects the confidentiality of patients and persons 473  
who file complaints with the board. The board shall not make 474  
public the names or any other identifying information about 475  
patients or complainants unless proper consent is given or, in the 476  
case of a patient, a waiver of the patient privilege exists under 477  
division (B) of section 2317.02 of the Revised Code, except that 478  
consent or a waiver of that nature is not required if the board 479  
possesses reliable and substantial evidence that no bona fide 480  
physician-patient relationship exists. 481

The board may share any information it receives pursuant to 482  
an investigation, including patient records and patient record 483  
information, with law enforcement agencies, other licensing 484  
boards, and other governmental agencies that are prosecuting, 485  
adjudicating, or investigating alleged violations of statutes or 486  
administrative rules. An agency or board that receives the 487



information shall comply with the same requirements regarding 488  
confidentiality as those with which the state medical board must 489  
comply, notwithstanding any conflicting provision of the Revised 490  
Code or procedure of the agency or board that applies when it is 491  
dealing with other information in its possession. In a judicial 492  
proceeding, the information may be admitted into evidence only in 493  
accordance with the Rules of Evidence, but the court shall require 494  
that appropriate measures are taken to ensure that confidentiality 495  
is maintained with respect to any part of the information that 496  
contains names or other identifying information about patients or 497  
complainants whose confidentiality was protected by the state 498  
medical board when the information was in the board's possession. 499  
Measures to ensure confidentiality that may be taken by the court 500  
include sealing its records or deleting specific information from 501  
its records. 502

(6) On a quarterly basis, the board shall prepare a report 503  
that documents the disposition of all cases during the preceding 504  
three months. The report shall contain the following information 505  
for each case with which the board has completed its activities: 506

(a) The case number assigned to the complaint or alleged 507  
violation; 508

(b) The type of certificate to practice, if any, held by the 509  
individual against whom the complaint is directed; 510

(c) A description of the allegations contained in the 511  
complaint; 512

(d) The disposition of the case. 513

The report shall state how many cases are still pending and 514  
shall be prepared in a manner that protects the identity of each 515  
person involved in each case. The report shall be a public record 516  
under section 149.43 of the Revised Code. 517

(G) If the secretary and supervising member determine that 518

there is clear and convincing evidence that an individual has 519  
violated division (B) of this section and that the individual's 520  
continued practice presents a danger of immediate and serious harm 521  
to the public, they may recommend that the board suspend the 522  
individual's certificate to practice without a prior hearing. 523  
Written allegations shall be prepared for consideration by the 524  
board. 525

The board, upon review of those allegations and by an 526  
affirmative vote of not fewer than six of its members, excluding 527  
the secretary and supervising member, may suspend a certificate 528  
without a prior hearing. A telephone conference call may be 529  
utilized for reviewing the allegations and taking the vote on the 530  
summary suspension. 531

The board shall issue a written order of suspension by 532  
certified mail or in person in accordance with section 119.07 of 533  
the Revised Code. The order shall not be subject to suspension by 534  
the court during pendency of any appeal filed under section 119.12 535  
of the Revised Code. If the individual subject to the summary 536  
suspension requests an adjudicatory hearing by the board, the date 537  
set for the hearing shall be within fifteen days, but not earlier 538  
than seven days, after the individual requests the hearing, unless 539  
otherwise agreed to by both the board and the individual. 540

Any summary suspension imposed under this division shall 541  
remain in effect, unless reversed on appeal, until a final 542  
adjudicative order issued by the board pursuant to this section 543  
and Chapter 119. of the Revised Code becomes effective. The board 544  
shall issue its final adjudicative order within seventy-five days 545  
after completion of its hearing. A failure to issue the order 546  
within seventy-five days shall result in dissolution of the 547  
summary suspension order but shall not invalidate any subsequent, 548  
final adjudicative order. 549

(H) If the board takes action under division (B)(9), (11), or 550

(13) of this section and the judicial finding of guilt, guilty 551  
plea, or judicial finding of eligibility for intervention in lieu 552  
of conviction is overturned on appeal, upon exhaustion of the 553  
criminal appeal, a petition for reconsideration of the order may 554  
be filed with the board along with appropriate court documents. 555  
Upon receipt of a petition of that nature and supporting court 556  
documents, the board shall reinstate the individual's certificate 557  
to practice. The board may then hold an adjudication under Chapter 558  
119. of the Revised Code to determine whether the individual 559  
committed the act in question. Notice of an opportunity for a 560  
hearing shall be given in accordance with Chapter 119. of the 561  
Revised Code. If the board finds, pursuant to an adjudication held 562  
under this division, that the individual committed the act or if 563  
no hearing is requested, the board may order any of the sanctions 564  
identified under division (B) of this section. 565

(I) The certificate to practice issued to an individual under 566  
this chapter and the individual's practice in this state are 567  
automatically suspended as of the date of the individual's second 568  
or subsequent plea of guilty to, or judicial finding of guilt of, 569  
a violation of section 2919.123 of the Revised Code, or the date 570  
the individual pleads guilty to, is found by a judge or jury to be 571  
guilty of, or is subject to a judicial finding of eligibility for 572  
intervention in lieu of conviction in this state or treatment or 573  
intervention in lieu of conviction in another jurisdiction for any 574  
of the following criminal offenses in this state or a 575  
substantially equivalent criminal offense in another jurisdiction: 576  
aggravated murder, murder, voluntary manslaughter, felonious 577  
assault, kidnapping, rape, sexual battery, gross sexual 578  
imposition, aggravated arson, aggravated robbery, or aggravated 579  
burglary. Continued practice after suspension shall be considered 580  
practicing without a certificate. 581

The board shall notify the individual subject to the 582

suspension by certified mail or in person in accordance with 583  
section 119.07 of the Revised Code. If an individual whose 584  
certificate is automatically suspended under this division fails 585  
to make a timely request for an adjudication under Chapter 119. of 586  
the Revised Code, the board shall do whichever of the following is 587  
applicable: 588

(1) If the automatic suspension under this division is for a 589  
second or subsequent plea of guilty to, or judicial finding of 590  
guilt of, a violation of section 2919.123 of the Revised Code, the 591  
board shall enter an order suspending the individual's certificate 592  
to practice for a period of at least one year or, if determined 593  
appropriate by the board, imposing a more serious sanction 594  
involving the individual's certificate to practice. 595

(2) In all circumstances in which division (I)(1) of this 596  
section does not apply, enter a final order permanently revoking 597  
the individual's certificate to practice. 598

(J) If the board is required by Chapter 119. of the Revised 599  
Code to give notice of an opportunity for a hearing and if the 600  
individual subject to the notice does not timely request a hearing 601  
in accordance with section 119.07 of the Revised Code, the board 602  
is not required to hold a hearing, but may adopt, by an 603  
affirmative vote of not fewer than six of its members, a final 604  
order that contains the board's findings. In that final order, the 605  
board may order any of the sanctions identified under division (A) 606  
or (B) of this section. 607

(K) Any action taken by the board under division (B) of this 608  
section resulting in a suspension from practice shall be 609  
accompanied by a written statement of the conditions under which 610  
the individual's certificate to practice may be reinstated. The 611  
board shall adopt rules governing conditions to be imposed for 612  
reinstatement. Reinstatement of a certificate suspended pursuant 613  
to division (B) of this section requires an affirmative vote of 614

not fewer than six members of the board. 615

(L) When the board refuses to grant a certificate to an 616  
applicant, revokes an individual's certificate to practice, 617  
refuses to register an applicant, or refuses to reinstate an 618  
individual's certificate to practice, the board may specify that 619  
its action is permanent. An individual subject to a permanent 620  
action taken by the board is forever thereafter ineligible to hold 621  
a certificate to practice and the board shall not accept an 622  
application for reinstatement of the certificate or for issuance 623  
of a new certificate. 624

(M) Notwithstanding any other provision of the Revised Code, 625  
all of the following apply: 626

(1) The surrender of a certificate issued under this chapter 627  
shall not be effective unless or until accepted by the board. 628  
Reinstatement of a certificate surrendered to the board requires 629  
an affirmative vote of not fewer than six members of the board. 630

(2) An application for a certificate made under the 631  
provisions of this chapter may not be withdrawn without approval 632  
of the board. 633

(3) Failure by an individual to renew a certificate of 634  
registration in accordance with this chapter shall not remove or 635  
limit the board's jurisdiction to take any disciplinary action 636  
under this section against the individual. 637

(N) Sanctions shall not be imposed under division (B)(28) of 638  
this section against any person who waives deductibles and 639  
copayments as follows: 640

(1) In compliance with the health benefit plan that expressly 641  
allows such a practice. Waiver of the deductibles or copayments 642  
shall be made only with the full knowledge and consent of the plan 643  
purchaser, payer, and third-party administrator. Documentation of 644  
the consent shall be made available to the board upon request. 645

(2) For professional services rendered to any other person 646  
authorized to practice pursuant to this chapter, to the extent 647  
allowed by this chapter and rules adopted by the board. 648

(0) Under the board's investigative duties described in this 649  
section and subject to division (F) of this section, the board 650  
shall develop and implement a quality intervention program 651  
designed to improve through remedial education the clinical and 652  
communication skills of individuals authorized under this chapter 653  
to practice medicine and surgery, osteopathic medicine and 654  
surgery, and podiatric medicine and surgery. In developing and 655  
implementing the quality intervention program, the board may do 656  
all of the following: 657

(1) Offer in appropriate cases as determined by the board an 658  
educational and assessment program pursuant to an investigation 659  
the board conducts under this section; 660

(2) Select providers of educational and assessment services, 661  
including a quality intervention program panel of case reviewers; 662

(3) Make referrals to educational and assessment service 663  
providers and approve individual educational programs recommended 664  
by those providers. The board shall monitor the progress of each 665  
individual undertaking a recommended individual educational 666  
program. 667

(4) Determine what constitutes successful completion of an 668  
individual educational program and require further monitoring of 669  
the individual who completed the program or other action that the 670  
board determines to be appropriate; 671

(5) Adopt rules in accordance with Chapter 119. of the 672  
Revised Code to further implement the quality intervention 673  
program. 674

An individual who participates in an individual educational 675  
program pursuant to this division shall pay the financial 676

obligations arising from that educational program. 677

**Sec. 4731.224.** (A) Within sixty days after the imposition of 678  
any formal disciplinary action taken by any health care facility, 679  
including a hospital, health care facility operated by a health 680  
insuring corporation, ambulatory surgical center, or similar 681  
facility, against any individual holding a valid certificate to 682  
practice issued pursuant to this chapter, the chief administrator 683  
or executive officer of the facility shall report to the state 684  
medical board the name of the individual, the action taken by the 685  
facility, and a summary of the underlying facts leading to the 686  
action taken. Upon request, the board shall be provided certified 687  
copies of the patient records that were the basis for the 688  
facility's action. Prior to release to the board, the summary 689  
shall be approved by the peer review committee that reviewed the 690  
case or by the governing board of the facility. As used in this 691  
division, "formal disciplinary action" means any action resulting 692  
in the revocation, restriction, reduction, or termination of 693  
clinical privileges for violations of professional ethics, or for 694  
reasons of medical incompetence, medical malpractice, or drug or 695  
alcohol abuse. "Formal disciplinary action" includes a summary 696  
action, an action that takes effect notwithstanding any appeal 697  
rights that may exist, and an action that results in an individual 698  
surrendering clinical privileges while under investigation and 699  
during proceedings regarding the action being taken or in return 700  
for not being investigated or having proceedings held. "Formal 701  
disciplinary action" does not include any action taken for the 702  
sole reason of failure to maintain records on a timely basis or 703  
failure to attend staff or section meetings. 704

The filing or nonfiling of a report with the board, 705  
investigation by the board, or any disciplinary action taken by 706  
the board, shall not preclude any action by a health care facility 707  
to suspend, restrict, or revoke the individual's clinical 708

privileges. 709

In the absence of fraud or bad faith, no individual or entity 710  
that provides patient records to the board shall be liable in 711  
damages to any person as a result of providing the records. 712

(B) If any individual authorized to practice under this 713  
chapter or any professional association or society of such 714  
individuals believes that a violation of any provision of this 715  
chapter, Chapter 4730., 4746., 4760., or 4762. of the Revised 716  
Code, or any rule of the board has occurred, the individual, 717  
association, or society shall report to the board the information 718  
upon which the belief is based. This division does not require any 719  
treatment provider approved by the board under section 4731.25 of 720  
the Revised Code or any employee, agent, or representative of such 721  
a provider to make reports with respect to an impaired 722  
practitioner participating in treatment or aftercare for substance 723  
abuse as long as the practitioner maintains participation in 724  
accordance with the requirements of section 4731.25 of the Revised 725  
Code, and as long as the treatment provider or employee, agent, or 726  
representative of the provider has no reason to believe that the 727  
practitioner has violated any provision of this chapter or any 728  
rule adopted under it, other than the provisions of division 729  
(B)(26) of section 4731.22 of the Revised Code. This division does 730  
not require reporting by any member of an impaired practitioner 731  
committee established by a health care facility or by any 732  
representative or agent of a committee or program sponsored by a 733  
professional association or society of individuals authorized to 734  
practice under this chapter to provide peer assistance to 735  
practitioners with substance abuse problems with respect to a 736  
practitioner who has been referred for examination to a treatment 737  
program approved by the board under section 4731.25 of the Revised 738  
Code if the practitioner cooperates with the referral for 739  
examination and with any determination that the practitioner 740



should enter treatment and as long as the committee member, 741  
representative, or agent has no reason to believe that the 742  
practitioner has ceased to participate in the treatment program in 743  
accordance with section 4731.25 of the Revised Code or has 744  
violated any provision of this chapter or any rule adopted under 745  
it, other than the provisions of division (B)(26) of section 746  
4731.22 of the Revised Code. 747

(C) Any professional association or society composed 748  
primarily of doctors of medicine and surgery, doctors of 749  
osteopathic medicine and surgery, doctors of podiatric medicine 750  
and surgery, or practitioners of limited branches of medicine that 751  
suspends or revokes an individual's membership for violations of 752  
professional ethics, or for reasons of professional incompetence 753  
or professional malpractice, within sixty days after a final 754  
decision shall report to the board, on forms prescribed and 755  
provided by the board, the name of the individual, the action 756  
taken by the professional organization, and a summary of the 757  
underlying facts leading to the action taken. 758

The filing of a report with the board or decision not to file 759  
a report, investigation by the board, or any disciplinary action 760  
taken by the board, does not preclude a professional organization 761  
from taking disciplinary action against an individual. 762

(D) Any insurer providing professional liability insurance to 763  
an individual authorized to practice under this chapter, or any 764  
other entity that seeks to indemnify the professional liability of 765  
such an individual, shall notify the board within thirty days 766  
after the final disposition of any written claim for damages where 767  
such disposition results in a payment exceeding twenty-five 768  
thousand dollars. The notice shall contain the following 769  
information: 770

(1) The name and address of the person submitting the 771  
notification; 772

(2) The name and address of the insured who is the subject of the claim; 773  
774

(3) The name of the person filing the written claim; 775

(4) The date of final disposition; 776

(5) If applicable, the identity of the court in which the final disposition of the claim took place. 777  
778

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for medical malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the practicing individual. 779  
780  
781  
782  
783  
784  
785  
786  
787  
788

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an individual whose practice is regulated under this chapter, or in any subsequent trial or appeal of a board action or order. 789  
790  
791  
792  
793  
794  
795  
796  
797  
798

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing the individual or in reviewing the individual's clinical privileges. The board shall indicate whether or not the 799  
800  
801  
802  
803

information has been verified. Information transmitted by the 804  
board shall be subject to the same confidentiality provisions as 805  
when maintained by the board. 806

(G) Except for reports filed by an individual pursuant to 807  
division (B) of this section, the board shall send a copy of any 808  
reports or summaries it receives pursuant to this section to the 809  
individual who is the subject of the reports or summaries. The 810  
individual shall have the right to file a statement with the board 811  
concerning the correctness or relevance of the information. The 812  
statement shall at all times accompany that part of the record in 813  
contention. 814

(H) An individual or entity that, pursuant to this section, 815  
reports to the board or refers an impaired practitioner to a 816  
treatment provider approved by the board under section 4731.25 of 817  
the Revised Code shall not be subject to suit for civil damages as 818  
a result of the report, referral, or provision of the information. 819

(I) In the absence of fraud or bad faith, no professional 820  
association or society of individuals authorized to practice under 821  
this chapter that sponsors a committee or program to provide peer 822  
assistance to practitioners with substance abuse problems, no 823  
representative or agent of such a committee or program, and no 824  
member of the state medical board shall be held liable in damages 825  
to any person by reason of actions taken to refer a practitioner 826  
to a treatment provider approved under section 4731.25 of the 827  
Revised Code for examination or treatment. 828

**Sec. 4731.24.** Except as provided in sections 4731.281 and 829  
4731.40 of the Revised Code, all receipts of the state medical 830  
board, from any source, shall be deposited in the state treasury. 831  
Until July 1, 1998, the funds shall be deposited to the credit of 832  
the occupational licensing and regulatory fund. On and after July 833  
1, 1998, the funds shall be deposited to the credit of the state 834

medical board operating fund, which is hereby created on July 1, 835  
1998. All funds deposited into the state treasury under this 836  
section shall be used solely for the administration and 837  
enforcement of this chapter and Chapters 4730., 4746., 4760., and 838  
4762. of the Revised Code by the board. 839

**Sec. 4731.25.** The state medical board, in accordance with 840  
Chapter 119. of the Revised Code, shall adopt and may amend and 841  
rescind rules establishing standards for approval of physicians 842  
and facilities as treatment providers for impaired practitioners 843  
who are regulated under this chapter or Chapter 4730., 4746., 844  
4760., or 4762. of the Revised Code. The rules shall include 845  
standards for both inpatient and outpatient treatment. The rules 846  
shall provide that in order to be approved, a treatment provider 847  
must have the capability of making an initial examination to 848  
determine what type of treatment an impaired practitioner 849  
requires. Subject to the rules, the board shall review and approve 850  
treatment providers on a regular basis. The board, at its 851  
discretion, may withdraw or deny approval subject to the rules. 852

An approved impaired practitioner treatment provider shall: 853

(A) Report to the board the name of any practitioner 854  
suffering or showing evidence of suffering impairment as described 855  
in division (B)(5) of section 4730.25 of the Revised Code, 856  
division (B)(26) of section 4731.22 of the Revised Code, division 857  
(B)(6) of section 4746.13 of the Revised Code, division (B)(6) of 858  
section 4760.13 of the Revised Code, or division (B)(6) of section 859  
4762.13 of the Revised Code who fails to comply within one week 860  
with a referral for examination; 861

(B) Report to the board the name of any impaired practitioner 862  
who fails to enter treatment within forty-eight hours following 863  
the provider's determination that the practitioner needs 864  
treatment; 865

(C) Require every practitioner who enters treatment to agree 866  
to a treatment contract establishing the terms of treatment and 867  
aftercare, including any required supervision or restrictions of 868  
practice during treatment or aftercare; 869

(D) Require a practitioner to suspend practice upon entry 870  
into any required inpatient treatment; 871

(E) Report to the board any failure by an impaired 872  
practitioner to comply with the terms of the treatment contract 873  
during inpatient or outpatient treatment or aftercare; 874

(F) Report to the board the resumption of practice of any 875  
impaired practitioner before the treatment provider has made a 876  
clear determination that the practitioner is capable of practicing 877  
according to acceptable and prevailing standards of care; 878

(G) Require a practitioner who resumes practice after 879  
completion of treatment to comply with an aftercare contract that 880  
meets the requirements of rules adopted by the board for approval 881  
of treatment providers; 882

(H) Report the identity of any practitioner practicing under 883  
the terms of an aftercare contract to hospital administrators, 884  
medical chiefs of staff, and chairpersons of impaired practitioner 885  
committees of all health care institutions at which the 886  
practitioner holds clinical privileges or otherwise practices. If 887  
the practitioner does not hold clinical privileges at any health 888  
care institution, the treatment provider shall report the 889  
practitioner's identity to the impaired practitioner committee of 890  
the county medical society, osteopathic academy, or podiatric 891  
medical association in every county in which the practitioner 892  
practices. If there are no impaired practitioner committees in the 893  
county, the treatment provider shall report the practitioner's 894  
identity to the president or other designated member of the county 895  
medical society, osteopathic academy, or podiatric medical 896

association. 897

(I) Report to the board the identity of any practitioner who 898  
suffers a relapse at any time during or following aftercare. 899

Any individual authorized to practice under this chapter who 900  
enters into treatment by an approved treatment provider shall be 901  
deemed to have waived any confidentiality requirements that would 902  
otherwise prevent the treatment provider from making reports 903  
required under this section. 904

In the absence of fraud or bad faith, no person or 905  
organization that conducts an approved impaired practitioner 906  
treatment program, no member of such an organization, and no 907  
employee, representative, or agent of the treatment provider shall 908  
be held liable in damages to any person by reason of actions taken 909  
or recommendations made by the treatment provider or its 910  
employees, representatives, or agents. 911

**Sec. 4731.35.** (A) This chapter does not apply to or prohibit 912  
in any way the administration of anesthesia by a certified 913  
registered nurse anesthetist under the direction of and in the 914  
immediate presence of an individual authorized by this chapter to 915  
practice medicine and surgery, osteopathic medicine and surgery, 916  
or podiatric medicine and surgery. 917

(B) This chapter does not ~~prohibit~~ do either of the 918  
following: 919

(1) Prohibit an individual from practicing as an 920  
anesthesiologist assistant in accordance with Chapter 4760. of the 921  
Revised Code. 922

(2) Prohibit an individual from practicing as a surgical 923  
technologist in accordance with Chapter 4746. of the Revised Code. 924

**Sec. 4746.01.** As used in this chapter: 925

"Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 926  
927  
928

"Surgical technologist" means an individual who engages in the practice of surgical technology by engaging in any of the activities authorized under section 4746.08 of the Revised Code. 929  
930  
931

Sec. 4746.02. (A)(1) Except as otherwise provided in this section, no person shall practice as a surgical technologist unless the person holds a current, valid certificate to practice as a surgical technologist issued under this chapter. 932  
933  
934  
935

(2) No person without a current, valid certificate to practice as a surgical technologist issued under this chapter shall use the title "surgical technologist" or otherwise hold the person out as a surgical technologist, including the use of any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe the person is authorized to practice as a surgical technologist. 936  
937  
938  
939  
940  
941  
942  
943

(B) Division (A)(1) of this section does not apply to any of the following: 944  
945

(1) A student participating in a surgical technology educational program accredited by the commission on accreditation of allied health education programs or the entity recognized by the state medical board as the successor of the commission; 946  
947  
948  
949

(2) A person who otherwise holds professional authority granted pursuant to the Revised Code to perform any of the activities that a surgical technologist is authorized to perform; 950  
951  
952

(3) A person who practices as a surgical technologist pursuant to the person's employment with the federal government. 953  
954

(C) A person who meets any of the following requirements may 955

practice as a surgical technologist until five years after the 956  
effective date of this section without a current, valid 957  
certificate to practice as a surgical technologist issued under 958  
this chapter: 959

(1) The person graduated before the effective date of this 960  
section from an educational program for surgical technologists 961  
accredited by the commission on accreditation of allied health 962  
education programs. 963

(2) The person graduated from an educational program for 964  
surgical technology operated by the United States army, navy, air 965  
force, marine corps, or coast guard or the United States public 966  
health service. 967

(3) The person was employed as a surgical technologist in a 968  
health care facility located in this state for at least eighteen 969  
months during the three-year period before the effective date of 970  
this section. 971

(D) A person who graduates on or after the effective date of 972  
this section from an educational program for surgical technology 973  
accredited by the commission on accreditation of allied health 974  
education programs or the entity recognized by the state medical 975  
board as the successor of the commission may practice as a 976  
surgical technologist for not more than three months without a 977  
current, valid certificate to practice as a surgical technologist 978  
issued under this chapter. 979

(E) A person who meets both of the following requirements may 980  
perform the tasks specified in division (C) of section 4746.08 of 981  
the Revised Code without a current, valid certificate to practice 982  
as a surgical technologist issued under this chapter: 983

(1) The person is a graduate of a surgical assistant program 984  
accredited by the commission of accreditation of allied health 985  
education programs or the entity recognized by the state medical 986



board as the successor of the commission of accreditation of 987  
allied health education programs. 988

(2) The person is certified as a first assistant by the 989  
national board of surgical technology and surgical assisting or 990  
the entity recognized by the state medical board as the successor 991  
of the national board of surgical technology and surgical 992  
assisting. 993

**Sec. 4746.03.** (A) An individual seeking a certificate to 994  
practice as a surgical technologist shall file with the state 995  
medical board a written application on a form prescribed and 996  
supplied by the board. The application shall include all the 997  
information the board considers necessary to process the 998  
application, including evidence satisfactory to the board that the 999  
applicant meets the requirements specified in division (B) of this 1000  
section. 1001

At the time an application is submitted, the applicant shall 1002  
pay the board the application fee specified by the board in rules 1003  
adopted under section 4746.11 of the Revised Code. No part of the 1004  
fee shall be returned. 1005

(B) To be eligible to receive a certificate to practice as a 1006  
surgical technologist, an applicant shall meet both of the 1007  
following requirements: 1008

(1) Be at least eighteen years of age and of good moral 1009  
character; 1010

(2) Hold current certification as a surgical technologist 1011  
from the national board of surgical technology and surgical 1012  
assisting or the entity recognized by the state medical board as 1013  
the successor of the national board of surgical technology and 1014  
surgical assisting. 1015

(C) The board shall review all applications received under 1016

this section. Not later than sixty days after receiving a complete application, the board shall determine whether an applicant meets the requirements to receive a certificate to practice as a surgical technologist. The affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate to practice as a surgical technologist. 1017  
1018  
1019  
1020  
1021  
1022  
1023

Sec. 4746.031. In addition to any other eligibility requirement set forth in this chapter, each applicant for a certificate to practice as a surgical technologist shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state medical board shall not grant to an applicant a certificate to practice as a surgical technologist unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section 4746.04 of the Revised Code. 1024  
1025  
1026  
1027  
1028  
1029  
1030  
1031  
1032

Sec. 4746.04. If the state medical board determines under section 4746.03 of the Revised Code that an applicant meets the requirements for a certificate to practice as a surgical technologist, the secretary of the board shall register the applicant as a surgical technologist and issue to the applicant a certificate to practice as a surgical technologist. The certificate shall expire biennially and may be renewed in accordance with section 4746.06 of the Revised Code. 1033  
1034  
1035  
1036  
1037  
1038  
1039  
1040

Sec. 4746.05. On application by the holder of a certificate to practice as a surgical technologist, the state medical board shall issue a duplicate certificate to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for a duplicate certificate is thirty-five dollars. 1041  
1042  
1043  
1044  
1045  
1046

Sec. 4746.06. (A) A person seeking to renew a certificate to practice as a surgical technologist shall, on or before the thirty-first day of January of each even-numbered year, apply for renewal of the certificate. The state medical board shall send renewal notices at least one month prior to the expiration date.

Renewal applications shall be submitted to the board in a manner prescribed by the board. Each application shall be accompanied by a biennial renewal fee specified by the board in rules adopted under section 4746.11 of the Revised Code.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate under section 4746.13 of the Revised Code to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last signing an application for a certificate to practice as a surgical technologist.

(B) To be eligible for renewal, a surgical technologist shall certify both of the following to the board:

(1) That the surgical technologist, during the period the surgical technologists' current certificate to practice was in effect, completed not less than the following number of hours of continuing education units approved by the association of surgical technologists or the entity recognized by the board as the successor to the association of surgical technologists;

(a) Unless the surgical technologist's current certificate to practice was in effect for less than two years because it was issued after the beginning of the biennial period for which it was issued, thirty;

(b) If the surgical technologist's current certificate to practice was in effect for less than two years because it was

issued after the beginning of the biennial period for which it was 1077  
issued, a prorated number of hours as the board determines. 1078

(2) That the surgical technologist has maintained 1079  
certification from the national board of surgical technology and 1080  
surgical assisting or the entity recognized by the state medical 1081  
board as the successor of the national board of surgical 1082  
technology and surgical assisting. 1083

(C) If an applicant submits a complete renewal application 1084  
and qualifies for renewal pursuant to division (B) of this 1085  
section, the board shall issue to the applicant a renewed 1086  
certificate to practice as a surgical technologist. 1087

(D) A certificate to practice that is not renewed on or 1088  
before its expiration date is automatically suspended on its 1089  
expiration date. If a certificate has been suspended pursuant to 1090  
this division for two years or less, the board shall reinstate the 1091  
certificate upon an applicant's submission of a renewal 1092  
application, the biennial renewal fee, and the applicable monetary 1093  
penalty. The penalty for reinstatement is twenty-five dollars. If 1094  
a certificate has been suspended pursuant to this division for 1095  
more than two years, it may be restored upon an applicant's 1096  
submission of a restoration application, the biennial renewal fee, 1097  
and the applicable monetary penalty and compliance with sections 1098  
4776.01 to 4776.04 of the Revised Code. The board shall not 1099  
restore a certificate unless the board, in its discretion, decides 1100  
that the results of the criminal records check do not make the 1101  
applicant ineligible for a certificate issued pursuant to section 1102  
4746.04 of the Revised Code. The penalty for restoration is fifty 1103  
dollars. 1104

**Sec. 4746.08.** A person holding a current, valid certificate 1105  
to practice as a surgical technologist issued under this chapter, 1106  
acting at the express instruction of an operating physician or in 1107

<u>anticipation of the operating physician's need, may do the</u>	1108
<u>following as part of intraoperative surgical patient care:</u>	1109
<u>(A) Prepare the operating room, including the sterile field,</u>	1110
<u>for surgical procedures by doing both of the following:</u>	1111
<u>(1) Insuring that surgical equipment is functioning properly</u>	1112
<u>and safely;</u>	1113
<u>(2) Sterilizing supplies, equipment, and instruments by using</u>	1114
<u>sterile technique.</u>	1115
<u>(B) Under the supervision of an operating physician, perform</u>	1116
<u>the following tasks within the sterile field:</u>	1117
<u>(1) Pass and retrieve supplies, equipment, and instruments as</u>	1118
<u>appropriate;</u>	1119
<u>(2) Sponge, suction, or both the operative site of the</u>	1120
<u>patient;</u>	1121
<u>(3) Prepare and cut suture materials;</u>	1122
<u>(4) Transfer and irrigate with fluids;</u>	1123
<u>(5) Transfer, but not administer, drugs;</u>	1124
<u>(6) Hold retractors;</u>	1125
<u>(7) Assist in counting sponges, needles, and other supplies</u>	1126
<u>and instruments;</u>	1127
<u>(8) Handle specimens;</u>	1128
<u>(9) Perform other related or similar tasks as the operating</u>	1129
<u>physician directs.</u>	1130
<u>(C) If the surgical technologist is certified as a first</u>	1131
<u>assistant by the national board of surgical technology and</u>	1132
<u>surgical assisting or the entity recognized by the state medical</u>	1133
<u>board as the successor of the national board of surgical</u>	1134
<u>technology and surgical assisting, perform the following tasks</u>	1135

under the supervision of an operating physician: 1136

(1) Assist the operating physician with exposure and 1137

hemostasis; 1138

(2) Position a patient; 1139

(3) Close wounds in skin, subcutaneous, and fascial tissues 1140

by suture or other means specified by the state medical board in 1141

rules adopted under section 4746.11 of the Revised Code; 1142

(4) Apply dressings to wounds; 1143

(5) Other tasks specified by the state medical board in rules 1144

adopted under section 4746.11 of the Revised Code. 1145

Sec. 4746.09. At all times when an individual who is a 1146

surgical technologist is providing direct patient care, the 1147

individual shall display in an appropriate manner the title 1148

"surgical technologist" as a means of identifying the individual's 1149

authority to practice under this chapter. 1150

In the case of an individual who is a student participating 1151

in a surgical technology educational program accredited by the 1152

commission on accreditation of allied health education programs or 1153

the entity recognized by the state medical board as the successor 1154

of the commission, when the individual is providing direct patient 1155

care or is otherwise involved with direct patient care under the 1156

program, the individual shall display in an appropriate manner the 1157

title "student surgical technologist" or another appropriate 1158

designation as a means of identifying the individual as a student 1159

participating in the program. 1160

Sec. 4746.11. (A) The state medical board shall adopt rules 1161

in accordance with Chapter 119. of the Revised Code to implement 1162

and administer this chapter. 1163

(B) The rules adopted under this section shall include all of 1164

<u>the following:</u>	1165
<u>(1) Standards and procedures for issuing and renewing certificates to practice as a surgical technologist;</u>	1166
<u>(2) Application fees for an initial or renewed certificate to practice;</u>	1167
<u>(3) For the purpose of section 4746.08 of the Revised Code, both of the following:</u>	1168
<u>(a) Additional means by which a surgical technologist who is certified as a first assistant may close wounds in skin, subcutaneous, and fascial tissues;</u>	1169
<u>(b) Other tasks such a surgical technologist may perform.</u>	1170
<u>(4) Any other standards and procedures the board considers necessary to govern the practice of surgical technology, the supervisory relationship between surgical technologists and supervising operating physicians, and the administration and enforcement of this chapter.</u>	1171
<u><b>Sec. 4746.13.</b> (A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate to practice as a surgical technologist to an individual found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.</u>	1172
<u>(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 as a surgical technologist, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:</u>	1173
<u>(1) Permitting the holder's name or certificate to be used by</u>	1174

<u>another person;</u>	1195
<u>(2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;</u>	1196
	1197
	1198
<u>(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board;</u>	1199
	1200
	1201
	1202
<u>(4) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established;</u>	1203
	1204
	1205
	1206
<u>(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;</u>	1207
	1208
	1209
	1210
<u>(6) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;</u>	1211
	1212
	1213
	1214
<u>(7) Willfully betraying a professional confidence;</u>	1215
<u>(8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate to practice as a surgical technologist.</u>	1216
	1217
	1218
<u>As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable</u>	1219
	1220
	1221
	1222
	1223
	1224



probability will cause an ordinarily prudent person to 1225  
misunderstand or be deceived. 1226

(9) The obtaining of, or attempting to obtain, money or a 1227  
thing of value by fraudulent misrepresentations in the course of 1228  
practice; 1229

(10) A plea of guilty to, a judicial finding of guilt of, or 1230  
a judicial finding of eligibility for intervention in lieu of 1231  
conviction for, a felony; 1232

(11) Commission of an act that constitutes a felony in this 1233  
state, regardless of the jurisdiction in which the act was 1234  
committed; 1235

(12) A plea of guilty to, a judicial finding of guilt of, or 1236  
a judicial finding of eligibility for intervention in lieu of 1237  
conviction for, a misdemeanor committed in the course of practice; 1238

(13) A plea of guilty to, a judicial finding of guilt of, or 1239  
a judicial finding of eligibility for intervention in lieu of 1240  
conviction for, a misdemeanor involving moral turpitude; 1241

(14) Commission of an act in the course of practice that 1242  
constitutes a misdemeanor in this state, regardless of the 1243  
jurisdiction in which the act was committed; 1244

(15) Commission of an act involving moral turpitude that 1245  
constitutes a misdemeanor in this state, regardless of the 1246  
jurisdiction in which the act was committed; 1247

(16) A plea of guilty to, a judicial finding of guilt of, or 1248  
a judicial finding of eligibility for intervention in lieu of 1249  
conviction for violating any state or federal law regulating the 1250  
possession, distribution, or use of any drug, including 1251  
trafficking in drugs; 1252

(17) Any of the following actions taken by the state agency 1253  
responsible for regulating the practice of surgical technologists 1254

in another jurisdiction, for any reason other than the nonpayment 1255  
of fees: the limitation, revocation, or suspension of an 1256  
individual's license to practice; acceptance of an individual's 1257  
license surrender; denial of a license; refusal to renew or 1258  
reinstate a license; imposition of probation; or issuance of an 1259  
order of censure or other reprimand; 1260

(18) Violation of the conditions placed by the board on a 1261  
certificate to practice as a surgical technologist; 1262

(19) Failure to use universal blood and body fluid 1263  
precautions established by rules adopted under section 4731.051 of 1264  
the Revised Code; 1265

(20) Failure to cooperate in an investigation conducted by 1266  
the board under section 4746.14 of the Revised Code, including 1267  
failure to comply with a subpoena or order issued by the board or 1268  
failure to answer truthfully a question presented by the board at 1269  
a deposition or in written interrogatories, except that failure to 1270  
cooperate with an investigation shall not constitute grounds for 1271  
discipline under this section if a court of competent jurisdiction 1272  
has issued an order that either quashes a subpoena or permits the 1273  
individual to withhold the testimony or evidence in issue; 1274

(21) Failure to maintain certification from the national 1275  
board of surgical technology and surgical assisting or the entity 1276  
recognized by the state medical board as the successor of the 1277  
national board of surgical technology and surgical assisting, 1278  
including the revocation or suspension of the certification, or 1279  
failure to notify the state medical board that the certification 1280  
has not been maintained. 1281

(C) Disciplinary actions taken by the board under divisions 1282  
(A) and (B) of this section shall be taken pursuant to an 1283  
adjudication under Chapter 119. of the Revised Code, except that 1284  
in lieu of an adjudication, the board may enter into a consent 1285

agreement with a surgical technologist or applicant to resolve an 1286  
allegation of a violation of this chapter or any rule adopted 1287  
under it. A consent agreement, when ratified by an affirmative 1288  
vote of not fewer than six members of the board, shall constitute 1289  
the findings and order of the board with respect to the matter 1290  
addressed in the agreement. If the board refuses to ratify a 1291  
consent agreement, the admissions and findings contained in the 1292  
consent agreement shall be of no force or effect. 1293

(D) For purposes of divisions (B)(11), (14), and (15) of this 1294  
section, the commission of the act may be established by a finding 1295  
by the board, pursuant to an adjudication under Chapter 119. of 1296  
the Revised Code, that the applicant or certificate holder 1297  
committed the act in question. The board shall have no 1298  
jurisdiction under these divisions in cases where the trial court 1299  
renders a final judgment in the certificate holder's favor and 1300  
that judgment is based upon an adjudication on the merits. The 1301  
board shall have jurisdiction under these divisions in cases where 1302  
the trial court issues an order of dismissal on technical or 1303  
procedural grounds. 1304

(E) The sealing of conviction records by any court shall have 1305  
no effect on a prior board order entered under the provisions of 1306  
this section or on the board's jurisdiction to take action under 1307  
the provisions of this section if, based upon a plea of guilty, a 1308  
judicial finding of guilt, or a judicial finding of eligibility 1309  
for intervention in lieu of conviction, the board issued a notice 1310  
of opportunity for a hearing prior to the court's order to seal 1311  
the records. The board shall not be required to seal, destroy, 1312  
redact, or otherwise modify its records to reflect the court's 1313  
sealing of conviction records. 1314

(F) For purposes of this division, any individual who holds a 1315  
certificate to practice as a surgical technologist issued under 1316  
this chapter, or applies for a certificate to practice, shall be 1317

deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a certificate to practice as a surgical technologist issued under this chapter or who has applied for a certificate to practice to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test 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 finds a surgical technologist unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the surgical technologist to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate to practice. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.

(2) For purposes of division (B)(6) of this section, if the board has reason to believe that any individual who holds a certificate to practice as a surgical technologist issued under this chapter or any applicant for a certificate 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 1350  
compelled to be examined. Any mental or physical examination 1351  
required under this division shall be undertaken by a treatment 1352  
provider or physician qualified to conduct such examination and 1353  
chosen by the board. 1354

Failure to submit to a mental or physical examination ordered 1355  
by the board constitutes an admission of the allegations against 1356  
the individual unless the failure is due to circumstances beyond 1357  
the individual's control, and a default and final order may be 1358  
entered without the taking of testimony or presentation of 1359  
evidence. If the board determines that the individual's ability to 1360  
practice is impaired, the board shall suspend the individual's 1361  
certificate or deny the individual's application and shall require 1362  
the individual, as a condition for an initial, continued, 1363  
reinstated, or renewed certificate to practice, to submit to 1364  
treatment. 1365

Before being eligible to apply for reinstatement of a 1366  
certificate suspended under this division, the surgical 1367  
technologist shall demonstrate to the board the ability to resume 1368  
practice in compliance with acceptable and prevailing standards of 1369  
care. The demonstration shall include the following: 1370

(a) Certification from a treatment provider approved under 1371  
section 4731.25 of the Revised Code that the individual has 1372  
successfully completed any required inpatient treatment; 1373

(b) Evidence of continuing full compliance with an aftercare 1374  
contract or consent agreement; 1375

(c) Two written reports indicating that the individual's 1376  
ability to practice has been assessed and that the individual has 1377  
been found capable of practicing according to acceptable and 1378  
prevailing standards of care. The reports shall be made by 1379  
individuals or providers approved by the board for making such 1380

assessments and shall describe the basis for their determination. 1381

The board may reinstate a certificate suspended under this 1382  
division after such demonstration and after the individual has 1383  
entered into a written consent agreement. 1384

When the impaired surgical technologist resumes practice, the 1385  
board shall require continued monitoring of the surgical 1386  
technologist. The monitoring shall include monitoring of 1387  
compliance with the written consent agreement entered into before 1388  
reinstatement or with conditions imposed by board order after a 1389  
hearing, and, on termination of the consent agreement, submission 1390  
to the board for at least two years of annual written progress 1391  
reports made under penalty of falsification stating whether the 1392  
surgical technologist has maintained sobriety. 1393

(G) If the secretary and supervising member determine that 1394  
there is clear and convincing evidence that a surgical 1395  
technologist has violated division (B) of this section and that 1396  
the individual's continued practice presents a danger of immediate 1397  
and serious harm to the public, they may recommend that the board 1398  
suspend the individual's certificate to practice without a prior 1399  
hearing. Written allegations shall be prepared for consideration 1400  
by the board. 1401

The board, on review of the allegations and by an affirmative 1402  
vote of not fewer than six of its members, excluding the secretary 1403  
and supervising member, may suspend a certificate without a prior 1404  
hearing. A telephone conference call may be utilized for reviewing 1405  
the allegations and taking the vote on the summary suspension. 1406

The board shall issue a written order of suspension by 1407  
certified mail or in person in accordance with section 119.07 of 1408  
the Revised Code. The order shall not be subject to suspension by 1409  
the court during pendency of any appeal filed under section 119.12 1410  
of the Revised Code. If the surgical technologist requests an 1411

adjudicatory hearing by the board, the date set for the hearing 1412  
shall be within fifteen days, but not earlier than seven days, 1413  
after the surgical technologist requests the hearing, unless 1414  
otherwise agreed to by both the board and the certificate holder. 1415

A summary suspension imposed under this division shall remain 1416  
in effect, unless reversed on appeal, until a final adjudicative 1417  
order issued by the board pursuant to this section and Chapter 1418  
119. of the Revised Code becomes effective. The board shall issue 1419  
its final adjudicative order within sixty days after completion of 1420  
its hearing. Failure to issue the order within sixty days shall 1421  
result in dissolution of the summary suspension order, but shall 1422  
not invalidate any subsequent, final adjudicative order. 1423

(H) If the board takes action under division (B)(10), (12), 1424  
(13), or (16) of this section, and the judicial finding of guilt, 1425  
guilty plea, or judicial finding of eligibility for intervention 1426  
in lieu of conviction is overturned on appeal, on exhaustion of 1427  
the criminal appeal, a petition for reconsideration of the order 1428  
may be filed with the board along with appropriate court 1429  
documents. On receipt of a petition and supporting court 1430  
documents, the board shall reinstate the certificate to practice 1431  
as a surgical technologist. The board may then hold an 1432  
adjudication under Chapter 119. of the Revised Code to determine 1433  
whether the individual committed the act in question. Notice of 1434  
opportunity for hearing shall be given in accordance with Chapter 1435  
119. of the Revised Code. If the board finds, pursuant to an 1436  
adjudication held under this division, that the individual 1437  
committed the act, or if no hearing is requested, it may order any 1438  
of the sanctions specified in division (B) of this section. 1439

(I) The certificate to practice of a surgical technologist 1440  
and the surgical technologist's practice in this state are 1441  
automatically suspended as of the date the surgical technologist 1442  
pleads guilty to, is found by a judge or jury to be guilty of, or 1443

is subject to a judicial finding of eligibility for intervention 1444  
in lieu of conviction in this state or treatment of intervention 1445  
in lieu of conviction in another jurisdiction for any of the 1446  
following criminal offenses in this state or a substantially 1447  
equivalent criminal offense in another jurisdiction: aggravated 1448  
murder, murder, voluntary manslaughter, felonious assault, 1449  
kidnapping, rape, sexual battery, gross sexual imposition, 1450  
aggravated arson, aggravated robbery, or aggravated burglary. 1451  
Continued practice after the suspension shall be considered 1452  
practicing without a certificate. 1453

The board shall notify the individual subject to the 1454  
suspension by certified mail or in person in accordance with 1455  
section 119.07 of the Revised Code. If an individual whose 1456  
certificate is suspended under this division fails to make a 1457  
timely request for an adjudication under Chapter 119. of the 1458  
Revised Code, the board shall enter a final order permanently 1459  
revoking the individual's certificate to practice. 1460

(J) In any instance in which the board is required by Chapter 1461  
119. of the Revised Code to give notice of opportunity for hearing 1462  
and the individual subject to the notice does not timely request a 1463  
hearing in accordance with section 119.07 of the Revised Code, the 1464  
board is not required to hold a hearing, but may adopt, by an 1465  
affirmative vote of not fewer than six of its members, a final 1466  
order that contains the board's findings. In the final order, the 1467  
board may order any of the sanctions identified under division (A) 1468  
or (B) of this section. 1469

(K) Any action taken by the board under division (B) of this 1470  
section resulting in a suspension shall be accompanied by a 1471  
written statement of the conditions under which the surgical 1472  
technologist's certificate may be reinstated. The board shall 1473  
adopt rules in accordance with Chapter 119. of the Revised Code 1474  
governing conditions to be imposed for reinstatement. 1475



Reinstatement of a certificate suspended pursuant to division (B) 1476  
of this section requires an affirmative vote of not fewer than six 1477  
members of the board. 1478

(L) When the board refuses to grant a certificate to practice 1479  
as a surgical technologist to an applicant, revokes an 1480  
individual's certificate, refuses to renew a certificate, or 1481  
refuses to reinstate an individual's certificate, the board may 1482  
specify that its action is permanent. An individual subject to a 1483  
permanent action taken by the board is forever thereafter 1484  
ineligible to hold a certificate to practice as a surgical 1485  
technologist and the board shall not accept an application for 1486  
reinstatement of the certificate or for issuance of a new 1487  
certificate. 1488

(M) Notwithstanding any other provision of the Revised Code, 1489  
all of the following apply: 1490

(1) The surrender of a certificate to practice as a surgical 1491  
technologist issued under this chapter is not effective unless or 1492  
until accepted by the board. Reinstatement of a certificate 1493  
surrendered to the board requires an affirmative vote of not fewer 1494  
than six members of the board. 1495

(2) An application made under this chapter for a certificate 1496  
to practice may not be withdrawn without approval of the board. 1497

(3) Failure by an individual to renew a certificate to 1498  
practice in accordance with section 4746.06 of the Revised Code 1499  
shall not remove or limit the board's jurisdiction to take 1500  
disciplinary action under this section against the individual. 1501

**Sec. 4746.131.** On receipt of a notice pursuant to section 1502  
3123.43 of the Revised Code, the state medical board shall comply 1503  
with sections 3123.41 to 3123.50 of the Revised Code and any 1504  
applicable rules adopted under section 3123.63 of the Revised Code 1505

with respect to a certificate to practice as a surgical 1506  
technologist issued under this chapter. 1507

Sec. 4746.132. If the state medical board has reason to 1508  
believe that any person who has been granted a certificate to 1509  
practice as a surgical technologist under this chapter is mentally 1510  
ill or mentally incompetent, it may file in the probate court of 1511  
the county in which the person has a legal residence an affidavit 1512  
in the form prescribed in section 5122.11 of the Revised Code and 1513  
signed by the board secretary or a member of the board secretary's 1514  
staff, whereupon the same proceedings shall be had as provided in 1515  
Chapter 5122. of the Revised Code. The attorney general may 1516  
represent the board in any proceeding commenced under this 1517  
section. 1518

If any person who has been granted a certificate to practice 1519  
is adjudged by a probate court to be mentally ill or mentally 1520  
incompetent, the person's certificate shall be automatically 1521  
suspended until the person has filed with the state medical board 1522  
a certified copy of an adjudication by a probate court of the 1523  
person's subsequent restoration to competency or has submitted to 1524  
the board proof, satisfactory to the board, that the person has 1525  
been discharged as having a restoration to competency in the 1526  
manner and form provided in section 5122.38 of the Revised Code. 1527  
The judge of the probate court shall forthwith notify the state 1528  
medical board of an adjudication of mental illness or mental 1529  
incompetence, and shall note any suspension of a certificate in 1530  
the margin of the court's record of such certificate. 1531

Sec. 4746.14. (A) The state medical board shall investigate 1532  
evidence that appears to show that any person has violated this 1533  
chapter or the rules adopted under it. Any person may report to 1534  
the board in a signed writing any information the person has that 1535  
appears to show a violation of any provision of this chapter or 1536

the rules adopted under it. In the absence of bad faith, a person 1537  
who reports such information or testifies before the board in an 1538  
adjudication conducted under Chapter 119. of the Revised Code 1539  
shall not be liable for civil damages as a result of reporting the 1540  
information or providing testimony. Each complaint or allegation 1541  
of a violation received by the board shall be assigned a case 1542  
number and be recorded by the board. 1543

(B) Investigations of alleged violations of this chapter or 1544  
rules adopted under it shall be supervised by the supervising 1545  
member elected by the board in accordance with section 4731.02 of 1546  
the Revised Code and by the secretary as provided in section 1547  
4746.17 of the Revised Code. The board's president may designate 1548  
another member of the board to supervise the investigation in 1549  
place of the supervising member. A member of the board who 1550  
supervises the investigation of a case shall not participate in 1551  
further adjudication of the case. 1552

(C) In investigating a possible violation of this chapter or 1553  
the rules adopted under it, the board may administer oaths, order 1554  
the taking of depositions, issue subpoenas, and compel the 1555  
attendance of witnesses and production of books, accounts, papers, 1556  
records, documents, and testimony, except that a subpoena for 1557  
patient record information shall not be issued without 1558  
consultation with the attorney general's office and approval of 1559  
the secretary and supervising member of the board. Before issuance 1560  
of a subpoena for patient record information, the secretary and 1561  
supervising member shall determine whether there is probable cause 1562  
to believe that the complaint filed alleges a violation of this 1563  
chapter or the rules adopted under it and that the records sought 1564  
are relevant to the alleged violation and material to the 1565  
investigation. The subpoena may apply only to records that cover a 1566  
reasonable period of time surrounding the alleged violation. 1567

On failure to comply with any subpoena issued by the board 1568

and after reasonable notice to the person being subpoenaed, the 1569  
board may move for an order compelling the production of persons 1570  
or records pursuant to the Rules of Civil Procedure. 1571

A subpoena issued by the board may be served by a sheriff, 1572  
the sheriff's deputy, or a board employee designated by the board. 1573  
Service of a subpoena issued by the board may be made by 1574  
delivering a copy of the subpoena to the person named therein, 1575  
reading it to the person, or leaving it at the person's usual 1576  
place of residence. When the person being served is a surgical 1577  
technologist, service of the subpoena may be made by certified 1578  
mail, restricted delivery, return receipt requested, and the 1579  
subpoena shall be deemed served on the date delivery is made or 1580  
the date the person refuses to accept delivery. 1581

A sheriff's deputy who serves a subpoena shall receive the 1582  
same fees as a sheriff. Each witness who appears before the board 1583  
in obedience to a subpoena shall receive the fees and mileage 1584  
provided for witnesses in civil cases in the courts of common 1585  
pleas. 1586

(D) All hearings and investigations of the board shall be 1587  
considered civil actions for the purposes of section 2305.252 of 1588  
the Revised Code. 1589

(E) Information received by the board pursuant to an 1590  
investigation is confidential and not subject to discovery in any 1591  
civil action. 1592

The board shall conduct all investigations and proceedings in 1593  
a manner that protects the confidentiality of patients and persons 1594  
who file complaints with the board. The board shall not make 1595  
public the names or any other identifying information about 1596  
patients or complainants unless proper consent is given. 1597

The board may share any information it receives pursuant to 1598  
an investigation, including patient records and patient record 1599

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

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training council that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

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

(1) The case number assigned to the complaint or alleged

violation; 1632

(2) The type of certificate, if any, held by the individual 1633  
against whom the complaint is directed; 1634

(3) A description of the allegations contained in the 1635  
complaint; 1636

(4) The disposition of the case. 1637

The report shall state how many cases are still pending, and 1638  
shall be prepared in a manner that protects the identity of each 1639  
person involved in each case. The report is a public record for 1640  
purposes of section 149.43 of the Revised Code. 1641

Sec. 4746.15. (A) As used in this section, "prosecutor" has 1642  
the same meaning as in section 2935.01 of the Revised Code. 1643

(B) Whenever any person holding a valid certificate to 1644  
practice as a surgical technologist issued under this chapter 1645  
pleads guilty to, is subject to a judicial finding of guilt of, or 1646  
is subject to a judicial finding of eligibility for intervention 1647  
in lieu of conviction for a violation of Chapter 2907., 2925., or 1648  
3719. of the Revised Code or of any substantively comparable 1649  
ordinance of a municipal corporation in connection with the 1650  
person's practice, the prosecutor in the case, on forms prescribed 1651  
and provided by the state medical board, shall promptly notify the 1652  
board of the conviction. Within thirty days of receipt of that 1653  
information, the board shall initiate action in accordance with 1654  
Chapter 119. of the Revised Code to determine whether to suspend 1655  
or revoke the certificate under section 4746.13 of the Revised 1656  
Code. 1657

(C) The prosecutor in any case against any person holding a 1658  
valid certificate to practice issued under this chapter, on forms 1659  
prescribed and provided by the state medical board, shall notify 1660  
the board of any of the following: 1661

(1) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a felony, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a felony charge; 1662  
1663  
1664  
1665  
1666

(2) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor committed in the course of practice, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor, if the alleged act was committed in the course of practice; 1667  
1668  
1669  
1670  
1671  
1672  
1673

(3) A plea of guilty to, a finding of guilt by a jury or court of, or judicial finding of eligibility for intervention in lieu of conviction for a misdemeanor involving moral turpitude, or a case in which the trial court issues an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor involving moral turpitude. 1674  
1675  
1676  
1677  
1678  
1679

The report shall include the name and address of the certificate holder, the nature of the offense for which the action was taken, and the certified court documents recording the action. 1680  
1681  
1682

**Sec. 4746.16.** (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid certificate to practice as a surgical technologist, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified 1683  
1684  
1685  
1686  
1687  
1688  
1689  
1690  
1691  
1692

copies of the patient records that were the basis for the 1693  
facility's action. Prior to release to the board, the summary 1694  
shall be approved by the peer review committee that reviewed the 1695  
case or by the governing board of the facility. 1696

The filing of a report with the board or decision not to file 1697  
a report, investigation by the board, or any disciplinary action 1698  
taken by the board, does not preclude a health care facility from 1699  
taking disciplinary action against a surgical technologist. 1700

In the absence of fraud or bad faith, no individual or entity 1701  
that provides patient records to the board shall be liable in 1702  
damages to any person as a result of providing the records. 1703

(B) A surgical technologist, professional association or 1704  
society of surgical technologists, physician, or professional 1705  
association or society of physicians that believes a violation of 1706  
any provision of this chapter, Chapter 4731. of the Revised Code, 1707  
or rule of the board has occurred shall report to the board the 1708  
information on which the belief is based. This division does not 1709  
require any treatment provider approved by the board under section 1710  
4731.25 of the Revised Code or any employee, agent, or 1711  
representative of such a provider to make reports with respect to 1712  
a surgical technologist participating in treatment or aftercare 1713  
for substance abuse as long as the surgical technologist maintains 1714  
participation in accordance with the requirements of section 1715  
4731.25 of the Revised Code and the treatment provider or 1716  
employee, agent, or representative of the provider has no reason 1717  
to believe that the surgical technologist has violated any 1718  
provision of this chapter or rule adopted under it, other than 1719  
being impaired by alcohol, drugs, or other substances. This 1720  
division does not require reporting by any member of an impaired 1721  
practitioner committee established by a health care facility or by 1722  
any representative or agent of a committee or program sponsored by 1723  
a professional association or society of surgical technologists to 1724



provide peer assistance to surgical technologists with substance 1725  
abuse problems with respect to a surgical technologist who has 1726  
been referred for examination to a treatment program approved by 1727  
the board under section 4731.25 of the Revised Code if the 1728  
surgical technologist cooperates with the referral for examination 1729  
and with any determination that the surgical technologist should 1730  
enter treatment and as long as the committee member, 1731  
representative, or agent has no reason to believe that the 1732  
surgical technologist has ceased to participate in the treatment 1733  
program in accordance with section 4731.25 of the Revised Code or 1734  
has violated any provision of this chapter or rule adopted under 1735  
it, other than being impaired by alcohol, drugs, or other 1736  
substances. 1737

(C) Any professional association or society composed 1738  
primarily of surgical technologists that suspends or revokes an 1739  
individual's membership for violations of professional ethics, or 1740  
for reasons of professional incompetence or professional 1741  
malpractice, within sixty days after a final decision, shall 1742  
report to the board, on forms prescribed and provided by the 1743  
board, the name of the individual, the action taken by the 1744  
professional organization, and a summary of the underlying facts 1745  
leading to the action taken. 1746

The filing of a report with the board or decision not to file 1747  
a report, investigation by the board, or any disciplinary action 1748  
taken by the board, does not preclude a professional organization 1749  
from taking disciplinary action against a surgical technologist. 1750

(D) Any insurer providing professional liability insurance to 1751  
any person holding a valid certificate to practice as a surgical 1752  
technologist or any other entity that seeks to indemnify the 1753  
professional liability of a surgical technologist shall notify the 1754  
board within thirty days after the final disposition of any 1755  
written claim for damages where such disposition results in a 1756

payment exceeding twenty-five thousand dollars. The notice shall 1757  
contain the following information: 1758

(1) The name and address of the person submitting the 1759  
notification; 1760

(2) The name and address of the insured who is the subject of 1761  
the claim; 1762

(3) The name of the person filing the written claim; 1763

(4) The date of final disposition; 1764

(5) If applicable, the identity of the court in which the 1765  
final disposition of the claim took place. 1766

(E) The board may investigate possible violations of this 1767  
chapter or the rules adopted under it that are brought to its 1768  
attention as a result of the reporting requirements of this 1769  
section, except that the board shall conduct an investigation if a 1770  
possible violation involves repeated malpractice. As used in this 1771  
division, "repeated malpractice" means three or more claims for 1772  
malpractice within the previous five-year period, each resulting 1773  
in a judgment or settlement in excess of twenty-five thousand 1774  
dollars in favor of the claimant, and each involving negligent 1775  
conduct by the surgical technologist. 1776

(F) All summaries, reports, and records received and 1777  
maintained by the board pursuant to this section shall be held in 1778  
confidence and shall not be subject to discovery or introduction 1779  
in evidence in any federal or state civil action involving a 1780  
surgical technologist, supervising physician, or health care 1781  
facility arising out of matters that are the subject of the 1782  
reporting required by this section. The board may use the 1783  
information obtained only as the basis for an investigation, as 1784  
evidence in a disciplinary hearing against a surgical technologist 1785  
or supervising operating physician, or in any subsequent trial or 1786  
appeal of a board action or order. 1787

The board may disclose the summaries and reports it receives 1788  
under this section only to health care facility committees within 1789  
or outside this state that are involved in credentialing or 1790  
recredentialing a surgical technologist or supervising operating 1791  
physician or reviewing their privilege to practice within a 1792  
particular facility. The board shall indicate whether or not the 1793  
information has been verified. Information transmitted by the 1794  
board shall be subject to the same confidentiality provisions as 1795  
when maintained by the board. 1796

(G) Except for reports filed by an individual pursuant to 1797  
division (B) of this section, the board shall send a copy of any 1798  
reports or summaries it receives pursuant to this section to the 1799  
surgical technologist. The surgical technologist shall have the 1800  
right to file a statement with the board concerning the 1801  
correctness or relevance of the information. The statement shall 1802  
at all times accompany that part of the record in contention. 1803

(H) An individual or entity that reports to the board or 1804  
refers an impaired surgical technologist to a treatment provider 1805  
approved by the board under section 4731.25 of the Revised Code 1806  
shall not be subject to suit for civil damages as a result of the 1807  
report, referral, or provision of the information. 1808

(I) In the absence of fraud or bad faith, a professional 1809  
association or society of surgical technologists that sponsors a 1810  
committee or program to provide peer assistance to a surgical 1811  
technologist with substance abuse problems, a representative or 1812  
agent of such a committee or program, and a member of the state 1813  
medical board shall not be held liable in damages to any person by 1814  
reason of actions taken to refer a surgical technologist to a 1815  
treatment provider approved under section 4731.25 of the Revised 1816  
Code for examination or treatment. 1817

**Sec. 4746.17.** The secretary of the state medical board shall 1818

enforce the laws relating to the practice of surgical technology. 1819  
If the secretary has knowledge or notice of a violation of this 1820  
chapter or the rules adopted under it, the secretary shall 1821  
investigate the matter, and, upon probable cause appearing, file a 1822  
complaint and prosecute the offender. When requested by the 1823  
secretary, the prosecuting attorney of the proper county shall 1824  
take charge of and conduct the prosecution. 1825

**Sec. 4746.18.** The attorney general, the prosecuting attorney 1826  
of any county in which the offense was committed or the offender 1827  
resides, the state medical board, or any other person having 1828  
knowledge of a person engaged either directly or by complicity in 1829  
practicing as a surgical technologist without having first 1830  
obtained under this chapter a certificate to practice as a 1831  
surgical technologist, may, in accordance with provisions of the 1832  
Revised Code governing injunctions, maintain an action in the name 1833  
of the state to enjoin any person from engaging either directly or 1834  
by complicity in unlawfully practicing as a surgical technologist 1835  
by applying for an injunction in any court of competent 1836  
jurisdiction. 1837

Prior to application for an injunction, the secretary of the 1838  
state medical board shall notify the person allegedly engaged 1839  
either directly or by complicity in the unlawful practice by 1840  
registered mail that the secretary has received information 1841  
indicating that this person is so engaged. The person shall answer 1842  
the secretary within thirty days showing that the person is either 1843  
properly licensed for the stated activity or that the person is 1844  
not in violation of this chapter. If the answer is not forthcoming 1845  
within thirty days after notice by the secretary, the secretary 1846  
shall request that the attorney general, the prosecuting attorney 1847  
of the county in which the offense was committed or the offender 1848  
resides, or the state medical board proceed as authorized in this 1849  
section. 1850

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

**Sec. 4746.20.** The state medical board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in this chapter, except that the fees may not exceed the specified amounts by more than fifty per cent.

All fees, penalties, and other funds received by the board under this chapter shall be deposited in accordance with section 4731.24 of the Revised Code.

**Sec. 4746.21.** In the absence of fraud or bad faith, the state medical board, a current or former board member, an agent of the board, a person formally requested by the board to be the board's representative, or an employee of the board shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If any such person asks to be defended by the state against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, and if the request is made in writing at a reasonable time before trial and the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for the person's defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay any part

of a claim or judgment that is for punitive or exemplary damages. 1881

**Sec. 4746.99.** (A) Whoever violates division (A)(1) or (2) of 1882  
section 4746.02 of the Revised Code is guilty of a misdemeanor of 1883  
the first degree on a first offense; on each subsequent offense, 1884  
the person is guilty of a felony of the fourth degree. 1885

(B) Whoever violates division (A), (B), (C), or (D) of 1886  
section 4746.16 of the Revised Code is guilty of a minor 1887  
misdemeanor on a first offense; on each subsequent offense the 1888  
person is guilty of a misdemeanor of the fourth degree, except 1889  
that an individual guilty of a subsequent offense shall not be 1890  
subject to imprisonment, but to a fine alone of up to one thousand 1891  
dollars for each offense. 1892

**Sec. 4760.131.** On receipt of a notice pursuant to section 1893  
~~2301.373~~ 3123.43 of the Revised Code, the state medical board 1894  
shall comply with ~~that section~~ sections 3123.41 to 3123.50 of the 1895  
Revised Code and any applicable rules adopted under section 1896  
3123.63 of the Revised Code with respect to a certificate of 1897  
registration issued pursuant to this chapter. 1898

**Sec. 4762.131.** On receipt of a notice pursuant to section 1899  
~~2301.373~~ 3123.43 of the Revised Code, the state medical board 1900  
shall comply with ~~that section~~ sections 3123.41 to 3123.50 of the 1901  
Revised Code and any applicable rules adopted under section 1902  
3123.63 of the Revised Code with respect to a certificate of 1903  
registration issued pursuant to this chapter. 1904

**Section 2.** That existing sections 4731.051, 4731.07, 4731.22, 1905  
4731.224, 4731.24, 4731.25, 4731.35, 4760.131, and 4762.131 of the 1906  
Revised Code are hereby repealed. 1907

**Section 3.** Not later than six months after the effective date 1908

of this act, the State Medical Board shall do both of the 1909  
following: 1910

(A) Adopt all rules necessary to implement Chapter 4746. of 1911  
the Revised Code, as enacted by this act; 1912

(B) Implement all procedures necessary to accept applications 1913  
from individuals seeking to obtain certificates to practice as 1914  
radiologist assistants, process the applications, and issue the 1915  
certificates. 1916

**Section 4.** Sections 4746.02 and 4746.16 of the Revised Code, 1917  
as enacted by this act, shall take effect one year after the 1918  
effective date of this section. 1919