

**As Introduced**

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

**S. B. No. 301**

**Senator Seitz**

**Cosponsors: Senators Carey, Spada, Schuring**

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**A B I L L**

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

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

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

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

(1) Histopathology or surgical pathology; 12

(2) Cytopathology; 13

(3) Hematology; 14

(4) Subcellular or molecular pathology; 15

(5) Blood banking services performed by pathologists. 16

(B) "Assignment of benefits" means the transfer of health 17

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

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

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

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

(F) "Histopathology" or "surgical pathology" means the gross 37  
and microscopic examination and histologic processing of organ 38  
tissue performed by a physician or under the supervision of a 39  
physician. 40

(G) "Insurer" means a person authorized under Title XXXIX of 41  
the Revised Code to engage in the business of insurance in this 42  
state, a health insuring corporation, or an entity that is 43  
self-insured and provides benefits to its employees or members. 44

(H) "Physician" means an individual authorized by Chapter 45  
4731. of the Revised Code to practice medicine and surgery, 46  
osteopathic medicine and surgery, or podiatric medicine and 47  
surgery. 48

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

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

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

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

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

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

(D) A referring clinical laboratory; 70

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

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

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

(B) Prohibit a clinical laboratory that provides anatomic 77

pathology services from billing a referring clinical laboratory 78  
for anatomic pathology services in instances in which the 79  
referring clinical laboratory must send one or more samples to a 80  
specialist for analysis, consultation, or histologic processing. 81

**Sec. 4731.22.** (A) The state medical board, by an affirmative 82  
vote of not fewer than six of its members, may revoke or may 83  
refuse to grant a certificate to a person found by the board to 84  
have committed fraud during the administration of the examination 85  
for a certificate to practice or to have committed fraud, 86  
misrepresentation, or deception in applying for or securing any 87  
certificate to practice or certificate of registration issued by 88  
the board. 89

(B) The board, by an affirmative vote of not fewer than six 90  
members, shall, to the extent permitted by law, limit, revoke, or 91  
suspend an individual's certificate to practice, refuse to 92  
register an individual, refuse to reinstate a certificate, or 93  
reprimand or place on probation the holder of a certificate for 94  
one or more of the following reasons: 95

(1) Permitting one's name or one's certificate to practice or 96  
certificate of registration to be used by a person, group, or 97  
corporation when the individual concerned is not actually 98  
directing the treatment given; 99

(2) Failure to maintain minimal standards applicable to the 100  
selection or administration of drugs, or failure to employ 101  
acceptable scientific methods in the selection of drugs or other 102  
modalities for treatment of disease; 103

(3) Selling, giving away, personally furnishing, prescribing, 104  
or administering drugs for other than legal and legitimate 105  
therapeutic purposes or a plea of guilty to, a judicial finding of 106  
guilt of, or a judicial finding of eligibility for intervention in 107  
lieu of conviction of, a violation of any federal or state law 108

regulating the possession, distribution, or use of any drug; 109

(4) Willfully betraying a professional confidence. 110

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

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

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

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

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

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

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

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

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

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

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

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

(15) Violation of the conditions of limitation placed by the

board upon a certificate to practice;	170
(16) Failure to pay license renewal fees specified in this chapter;	171 172
(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;	173 174 175 176
(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.	177 178 179 180 181 182 183 184 185 186 187
For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.	188 189 190 191 192 193 194 195 196 197 198 199
(19) Inability to practice according to acceptable and	200

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

individual to withhold the testimony or evidence in issue;	390
(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;	391 392 393
(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;	394 395 396
(37) Assisting suicide as defined in section 3795.01 of the Revised Code;	397 398
<u>(38) Violation of a prohibition in section 4731.721 or 4731.722 of the Revised Code regarding billing for anatomical pathology services.</u>	399 400 401
(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.	402 403 404 405 406 407 408 409 410 411 412 413
If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the	414 415 416 417 418 419 420

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

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

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

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

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

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

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

On failure to comply with any subpoena issued by the board



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

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

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

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

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

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

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

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

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

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

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

individual against whom the complaint is directed; 548

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

(d) The disposition of the case. 551

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

program. 705

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

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

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

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

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

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

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

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

(D) A referring clinical laboratory; 731

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



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

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

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

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