

§ 4760.01. Definitions.

As used in this chapter:

(A) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(B) "Anesthesiologist assistant" means an individual who assists an anesthesiologist in developing and implementing anesthesia care plans for patients.

(C) "Anesthesiologist" means a physician who has successfully completed an approved anesthesiology training program, as specified in the accreditation requirements that must be met to qualify as graduate medical education under section 4731.091 [4731.09.1] of the Revised Code.

(D) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(E) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.02. Certificate required to practice as anesthesiologist assistant; exceptions.

(A) Except as provided in division (B) of this section, no person shall practice as an anesthesiologist assistant unless the person holds a current, valid certificate of registration issued under this chapter to practice as an anesthesiologist assistant.

(B) Division (A) of this section does not apply to either of the following:

(1) A person participating in a training program leading toward certification by the national commission for certification of anesthesiologist assistants, as long as the person is supervised by an anesthesiologist, an individual participating in a hospital residency program in preparation to practice as an anesthesiologist, or an anesthesiologist assistant who holds a current, valid certificate of registration issued under this chapter;

(2) Any person who otherwise holds professional authority granted pursuant to the Revised Code to perform any of the activities that an anesthesiologist assistant is authorized to perform.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.03. Application for certificate of registration.

(A) An individual seeking a certificate of registration as an anesthesiologist assistant shall file with the state medical board a written application on a form prescribed and supplied by the board. The application shall include all of the following information:

- (1) Evidence satisfactory to the board that the applicant is at least twenty-one years of age and of good moral character;
- (2) Evidence satisfactory to the board that the applicant has successfully completed the training necessary to prepare individuals to practice as anesthesiologist assistants, as specified in section 4760.031 [4760.03.1] of the Revised Code;
- (3) Evidence satisfactory to the board that the applicant holds current certification from the national commission for certification of anesthesiologist assistants and that the requirements for receiving the certification included passage of an examination to determine the individual's competence to practice as an anesthesiologist assistant;
- (4) Any other information the board considers necessary to process the application and evaluate the applicant's qualifications.

(B) At the time of making application for a certificate of registration, the applicant shall pay the board a fee of one hundred dollars, no part of which shall be returned.

(C) The board shall review all applications received under 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 of registration. 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. The board shall not issue a certificate of registration to an applicant unless the applicant is certified by the national commission for certification of anesthesiologist assistants or a successor organization that is recognized by the board.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.031. Training requirements.

As a condition of being eligible to receive a certificate of registration as an anesthesiologist assistant, an individual must successfully complete the following training requirements:

(A) A baccalaureate or higher degree program at an institution of higher education accredited by an organization recognized by the board of regents. The program must have included courses in the following areas of study:

- (1) General biology;
- (2) General chemistry;
- (3) Organic chemistry;
- (4) Physics;
- (5) Calculus.

(B) A training program conducted for the purpose of preparing individuals to practice as anesthesiologist assistants. If the program was completed prior to the effective date of this section, the program must have been completed at Case Western Reserve University or Emory University in Atlanta, Georgia. If the program is completed on or after the effective date of this section, the program must be a graduate-level program accredited by the commission on accreditation of allied health education programs or any of the commission's successor organizations. In either case, the training program must have included at least all of the following components:

(1) Basic sciences of anesthesia: physiology, pathophysiology, anatomy, and biochemistry. The courses must be presented as a continuum of didactic courses designed to teach students the foundations of human biological existence on which clinical correlations to anesthesia practice are based.

(2) Pharmacology for the anesthetic sciences. The course must include instruction in the anesthetic principles of pharmacology, pharmacodynamics, pharmacokinetics, uptake and distribution, intravenous anesthetics and narcotics, and volatile anesthetics.

(3) Physics in anesthesia.

(4) Fundamentals of anesthetic sciences, presented as a continuum of courses covering a series of topics in basic medical sciences with special emphasis on the effects of anesthetics on normal physiology and pathophysiology.

(5) Patient instrumentation and monitoring, presented as a continuum of

courses focusing on the design of, proper preparation of, and proper methods of resolving problems that arise with anesthesia equipment. The courses must provide a balance between the engineering concepts used in anesthesia instruments and the clinical application of anesthesia instruments.

(6) Clinically based conferences in which techniques of anesthetic management, quality assurance issues, and current professional literature are reviewed from the perspective of practice improvement.

(7) Clinical experience consisting of at least two thousand hours of direct patient contact, presented as a continuum of courses throughout the entirety of the program, beginning with a gradual introduction of the techniques for the anesthetic management of patients and culminating in the assimilation of the graduate of the program into the work force. Areas of instruction must include the following:

- (a) Preoperative patient assessment;
- (b) Indwelling vascular catheter placement, including intravenous and arterial catheters;
- (c) Airway management, including mask airway and orotracheal intubation;
- (d) Intraoperative charting;
- (e) Administration and maintenance of anesthetic agents, narcotics, hypnotics, and muscle relaxants;
- (f) Administration and maintenance of volatile anesthetics;
- (g) Administration of blood products and fluid therapy;
- (h) Patient monitoring;
- (i) Postoperative management of patients;
- (j) Regional anesthesia techniques;
- (k) Administration of vasoactive substances for treatment of unacceptable patient hemodynamic status;
- (l) Specific clinical training in all the subspecialties of anesthesia, including pediatrics, neurosurgery, cardiovascular surgery, trauma, obstetrics, orthopedics, and vascular surgery.

(8) Basic life support that qualifies the individual to administer cardiopulmonary resuscitation to patients in need. The course must include the instruction necessary to be certified in basic life support by the American red cross or the American heart association.

(9) Advanced cardiac life support that qualifies the individual to participate in the pharmacologic intervention and management resuscitation efforts for a patient in full cardiac arrest. The course must include the instruction necessary to be certified in advanced cardiac life support by the American red cross or the American heart association.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.04. Registration of applicant; issuance of certificate; expiration; renewal.

If the state medical board determines under section 4760.03 of the Revised Code that an applicant meets the requirements for a certificate of registration as an anesthesiologist assistant, the secretary of the board shall register the applicant as an anesthesiologist assistant and issue to the applicant a certificate of registration as an anesthesiologist assistant. The certificate shall expire biennially and may be renewed in accordance with section 4760.06 of the Revised Code.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.05. Duplicate certificate.

On application by the holder of a certificate of registration as an anesthesiologist assistant, 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.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.06. Application for renewal; suspension upon expiration; reinstatement.

(A) A person seeking to renew a certificate of registration as an anesthesiologist assistant 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.

Applications shall be submitted to the board on forms the board shall prescribe and supply. Each application shall be accompanied by a biennial renewal fee of one hundred dollars.

The applicant shall report any criminal offense that constitutes grounds for refusing to issue a certificate of registration under section 4760.13 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 of registration as an anesthesiologist assistant.

(B) To be eligible for renewal, an anesthesiologist assistant must certify to the board that the assistant has maintained certification by the national commission for the certification of anesthesiologist assistants.

(C) If an applicant submits a complete renewal application and qualifies for renewal pursuant to division (B) of this section, the board shall issue to the applicant a renewed certificate of registration as an anesthesiologist assistant.

(D) A certificate of registration that is not renewed on or before its expiration date is automatically suspended on its expiration date. The board shall reinstate a certificate suspended for failure to renew on an applicant's submission of the biennial renewal fee and the applicable monetary penalty. The penalty for reinstatement is twenty-five dollars if the certificate has been suspended for two years or less and fifty dollars if the certificate has been suspended for more than two years.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.08. Conditions for practice; supervising anesthesiologist to adopt written practice protocol.

An anesthesiologist assistant shall practice only under the direct supervision and in the immediate presence of a physician who is actively and directly engaged in the clinical practice of medicine as an anesthesiologist. An anesthesiologist assistant shall not practice in any location other than a hospital or ambulatory surgical facility. At all times when an anesthesiologist assistant is providing direct patient care, the anesthesiologist assistant shall display in an appropriate manner the title "anesthesiologist assistant" as a means of identifying the individual's authority to practice under this chapter.

Each anesthesiologist who agrees to act as the supervising anesthesiologist of an anesthesiologist assistant shall adopt a written practice protocol that is consistent with section 4760.09 of the Revised Code and delineates the services that the anesthesiologist assistant is authorized to provide and the manner in which the anesthesiologist will supervise the anesthesiologist assistant. The anesthesiologist shall base the provisions of the protocol on consideration of relevant quality assurance standards, including regular review by the anesthesiologist of the medical records of the patients of the anesthesiologist assistant.

The supervising anesthesiologist shall supervise the anesthesiologist assistant in accordance with the terms of the protocol under which the assistant practices and the rules for supervision of anesthesiologist assistants adopted by the state medical board under this chapter and Chapter 4731. of the Revised Code. The board's rules shall include requirements for enhanced supervision of an anesthesiologist assistant during the first four years of practice.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.09. Anesthesia care plan for patient; authorized activities of assistant.

If the practice and supervision requirements of section 4760.08 of the Revised Code are being met, an anesthesiologist assistant may assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient. In providing assistance to the supervising anesthesiologist, an anesthesiologist assistant may do any of the following:

- (A) Obtain a comprehensive patient history and present the history to the supervising anesthesiologist;
- (B) Pretest and calibrate anesthesia delivery systems and monitor and obtain and interpret information from the systems and monitors;
- (C) Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;
- (D) Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support;
- (E) Administer intermittent vasoactive drugs and start and adjust vasoactive infusions;
- (F) Administer anesthetic drugs, adjuvant drugs, and accessory drugs;
- (G) Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures and spinal anesthetic procedures;
- (H) Administer blood, blood products, and supportive fluids.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.10. Additional authorized activities.

In addition to the activities that an anesthesiologist assistant may engage in pursuant to section 4760.09 of the Revised Code, the supervising anesthesiologist of an anesthesiologist assistant may authorize an anesthesiologist assistant to do the following:

- (A) Participate in administrative activities and clinical teaching activities;
- (B) Participate in research activities by performing the same procedures that may be performed pursuant to section 4760.09 of the Revised Code;
- (C) Provide assistance to a cardiopulmonary resuscitation team in response to a life-threatening situation.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.13. Disciplinary authority of state medical board; consent agreement; mental or physical examination.

(A) The state medical board, by an affirmative vote of not fewer than six members, may revoke or may refuse to grant a certificate of registration as an anesthesiologist assistant to a person found by the board to have committed fraud, misrepresentation, or deception in applying for or securing the certificate.

(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 of registration as an anesthesiologist assistant, 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:

- (1) Permitting the holder's name or certificate to be used by another person;
- (2) Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board;
- (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;
- (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;
- (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;
- (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;
- (7) Willfully betraying a professional confidence;
- (8) Making a false, fraudulent, deceptive, or misleading statement in securing or attempting to secure a certificate of registration to practice as an anesthesiologist assistant.

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

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

(10) 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;

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

(12) 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;

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

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

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

(17) Any of the following actions taken by the state agency responsible for regulating the practice of anesthesiologist assistants in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(18) Violation of the conditions placed by the board on a certificate of registration;

(19) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 [4731.05.1] of the Revised Code;

(20) Failure to cooperate in an investigation conducted by the board under section 4760.14 of the Revised Code, 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;

(21) Failure to comply with any code of ethics established by the national commission for the certification of anesthesiologist assistants;

(22) Failure to notify the state medical board of the revocation or failure to maintain certification from the national commission for certification of anesthesiologist assistants.

(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 anesthesiologist assistant or applicant 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.

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

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

(F) For purposes of this division, any individual who holds a certificate of registration issued under this chapter, or applies for a certificate of registration, shall be 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 of registration issued under this chapter or who has applied for a certificate of registration pursuant to this chapter 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 an anesthesiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the anesthesiologist assistant 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 of registration. 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 of registration issued under this chapter or any applicant for a certificate of registration 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 qualified to conduct such examination and 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 an initial, continued, reinstated, or renewed certificate of registration, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the anesthesiologist assistant shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include 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 ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.

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

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

(G) If the secretary and supervising member determine that there is clear

and convincing evidence that an anesthesiologist assistant has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate or registration without a prior hearing. Written allegations shall be prepared for consideration by the board.

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

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the anesthesiologist assistant requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the anesthesiologist assistant requests the hearing, unless otherwise agreed to by both the board and the certificate holder.

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

(H) If the board takes action under division (B)(11), (13), or (14) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, on exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. On receipt of a petition and supporting court documents, the board shall reinstate the certificate of registration. The board may then hold an adjudication under Chapter 119. of the Revised Code

to determine whether the individual committed the act in question. Notice of opportunity for hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act, or if no hearing is requested, it may order any of the sanctions specified in

division (B) of this section.

(I) The certificate of registration of an anesthesiologist assistant and the assistant's practice in this state are automatically suspended as of the date the anesthesiologist assistant pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment of intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after the suspension shall be considered practicing without a certificate.

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

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

(K) Any action taken by the board under division (B) of this section resulting in a suspension shall be accompanied by a written statement of the conditions under which the anesthesiologist assistant's certificate may be reinstated. The board shall adopt rules in accordance with Chapter 119. of the Revised Code governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate of registration as an anesthesiologist assistant to an applicant, revokes an individual's certificate of registration, refuses to renew a certificate of registration, or refuses to reinstate an individual's certificate of registration, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever

thereafter ineligible to hold a certificate of registration as an anesthesiologist assistant and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

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

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

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

(3) Failure by an individual to renew a certificate of registration in accordance with section 4760.06 of the Revised Code shall not remove or limit the board's jurisdiction to take disciplinary action under this section against the individual.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.131. Effect of child support default.

On receipt of a notice pursuant to section 2301.373 [2301.37.3] of the Revised Code, the state medical board shall comply with that section with respect to a certificate of registration issued pursuant to this chapter.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.132. Mentally ill or incompetent certificate holders.

If the state medical board has reason to believe that any person who has been granted a certificate of registration as an anesthesiologist assistant under this chapter is mentally ill or mentally incompetent, it may file in the probate court of the county in which the person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the board secretary or a member of the board secretary's staff, whereupon the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general may represent the board in any proceeding commenced under this section.

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

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.14. Investigations.

(A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules 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 4760.15 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, 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 the rules 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 an

anesthesiologist assistant, 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.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 [2305.25.2] of the Revised Code.

(E) 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.

The board may share any information it receives pursuant to an investigation, including patient records and patient record 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;
- (2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

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

HISTORY: 148 v S 278 (Eff 5-31-2000); 149 v S 179. Eff 4-9-2003.

§ 4760.15. Prosecutor to report certain convictions and other dispositions.

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

(B) Whenever any person holding a valid certificate issued pursuant to this chapter pleads guilty to, is subject to a judicial finding of guilt of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction for a violation of Chapter 2907., 2925., or 3719. of the Revised Code or of any substantively comparable ordinance of a municipal corporation in connection with the person's practice, the prosecutor in the case, on forms prescribed and provided by the state medical board, shall promptly notify the board of the conviction. Within thirty days of receipt of that information, the board shall initiate action in accordance with Chapter 119. of the Revised Code to determine whether to suspend or revoke the certificate under section 4760.13 of the Revised Code.

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

(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;

(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;

(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.

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.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.16. Health care facilities, practitioners, professional associations and insurers to report misconduct; investigations.

(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 an insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid certificate of registration as an anesthesiologist assistant, 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 copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an anesthesiologist assistant.

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

(B) An anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an anesthesiologist assistant participating in treatment or aftercare for substance abuse as long as the anesthesiologist assistant maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to believe that the anesthesiologist assistant has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of anesthesiologist assistants to provide peer assistance to anesthesiologist assistants with

substance abuse problems with respect to an anesthesiologist assistant who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the anesthesiologist assistant cooperates with the referral for examination and with any determination that the anesthesiologist assistant should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the anesthesiologist assistant has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.

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

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

(D) Any insurer providing professional liability insurance to any person holding a valid certificate of registration as an anesthesiologist assistant or any other entity that seeks to indemnify the professional liability of an anesthesiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(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 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 anesthesiologist assistant.

(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 an anesthesiologist assistant, supervising physician, or health care 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 anesthesiologist assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.

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 an anesthesiologist assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

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

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

(I) In the absence of fraud or bad faith, a professional association or society of anesthesiologist assistants that sponsors a committee or program to provide peer assistance to an anesthesiologist assistant with

substance abuse problems, a representative or agent of such a committee or program, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an anesthesiologist assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.17. Secretary of board to enforce laws; prosecutions.

The secretary of the state medical board shall enforce the laws relating to the practice of anesthesiologist assistants. If the secretary has knowledge or notice of a violation of this chapter or the rules adopted under it, the secretary shall investigate the matter, and, upon probable cause appearing, file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county shall take charge of and conduct the prosecution.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.18. Injunction against unlawful practice.

The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in practicing as an anesthesiologist assistant without having first obtained a certificate of registration pursuant to this chapter, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in unlawfully practicing as an anesthesiologist assistant by applying for an injunction in any court of competent jurisdiction.

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

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.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.19. Rules.

The state medical board may adopt any rules necessary to govern the practice of anesthesiologist assistants, the supervisory relationship between anesthesiologist assistants and supervising anesthesiologists, and the administration and enforcement of this chapter. Rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.20. Excess fees; deposit of receipts.

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.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.21. Immunity of officials; request for defense.

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.

HISTORY: 148 v S 278. Eff 5-31-2000.

§ 4760.99. Penalties.

(A) Whoever violates section 4760.02 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

(B) Whoever violates division (A), (B), (C), or (D) of section 4760.16 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

HISTORY: 148 v S 278. Eff 5-31-2000.