



**Am. Sub. H.B. 527**  
123rd General Assembly  
(As Passed by the House)

**Reps. Buchy, Terwilleger, Willamowski, Brading, Van Vyven, Jordan, Williams, Tiberi, Roman, Householder, Buehrer, Trakas, Calvert, Grendell, Taylor, Schuring, Vesper, Mottley, Widener, Young, Luebbers, Harris, Clancy, Cates, Callender, Jolivette, Flannery, Amstutz, Schuler, Krebs, Austria, Aslanides, Distel, Stapleton, DePiero, Kilbane, Coughlin, Jacobson, Hoops, Netzley, A. Core, Verich**

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**BILL SUMMARY**

- Requires the State Medical Board to discipline a physician who performs any surgery, including abortion, in an ambulatory surgical facility that is operating without a license from the Director of Health.
- Requires the Board to discipline a physician for knowingly engaging in a transaction that the physician knows is dependent on or related to the harvesting, collection, or delivery of any product of human conception that is aborted.

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**CONTENT AND OPERATION**

**Background**

The State Medical Board is authorized to impose administrative sanctions against a physician, including a podiatrist, or applicant to practice as a physician. The disciplinary actions the Board may take are limiting, revoking, or suspending the person's certificate to practice; refusing to register the person; refusing to reinstate the person's certificate; reprimanding the person; or placing the person on probation. The Board must follow the Administrative Procedure Act when taking disciplinary action unless the Board enters into a consent agreement with the person to resolve the allegation against the person. For disciplinary action to occur, there must be an affirmative vote of not fewer than six of the Board's 12 members.

The bill creates additional reasons for which the Board may impose sanctions against a physician or applicant to practice as a physician. One pertains to

performing surgery, including abortion, in an unlicensed ambulatory surgical facility; the other to receiving compensation or some other thing of value for any product of human conception that is aborted.

**Performing surgery in an unlicensed ambulatory surgical facility**

(sec. 4731.22(B)(37))

Under current law, no person may operate an ambulatory surgical facility without a license issued by the Director of Health. An ambulatory surgical facility is a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which inpatient care is provided and to which any of the following apply:

(1) Outpatient surgery is routinely performed in the facility and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists;

(2) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists;

(3) The facility applies to be certified by the United States Health Care Financing Administration (HCFA) as an ambulatory surgical center for purposes of reimbursement under the Medicare program;

(4) The facility applies to be certified by a national accrediting body approved by HCFA for purposes of deemed compliance with the conditions for participating in the Medicare program as an ambulatory surgical center;

(5) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services;

(6) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.

A hospital emergency department is not an ambulatory surgical facility.

The bill requires the State Medical Board to discipline a physician who performs any surgery, including abortion, in an ambulatory surgical facility that is operating without a license.

**Engaging in transactions involving material that is aborted**

(secs. 2919.14 (not in the bill) and 4731.22(B)(38))

Current law prohibits a person from experimenting upon or selling the "product of human conception" that is aborted. A person who violates this prohibition is guilty of abortion trafficking, a misdemeanor of the first degree. In the case of interstate commerce, federal law prohibits transactions involving the purchase of human fetal tissue or the solicitation or acceptance of tissue as a directed donation for use in transplantation (42 United States Code 289g-2).

The bill requires the Board to discipline a physician for knowingly paying, charging, receiving, collecting, or accepting any compensation, fee, rental, discount, remuneration, or other thing of value that the physician knows is dependent on or related to allowing, participating in, assisting in, or aiding in the harvesting, collection, or delivery of any product of human conception that is aborted. The bill specifies, however, that this provision does not prohibit payment for legitimate costs for any of the following:

- (1) Humanely disposing of the product of human conception that is aborted;
- (2) Complying with any governmental requirement, regulation, or order;
- (3) Collecting or delivering the product of human conception that is aborted for the sole purpose of obtaining an autopsy or a similar determination of the presence or absence of any disease or abnormality.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	12-28-99	p. 1471
Reported, H. Health, Retirement & Aging	03-15-00	pp. 1648-1649
Passed House (96-1)	05-17-00	pp. 1981-1984

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