



# Ohio Legislative Service Commission

## Bill Analysis

Elizabeth Molnar

### H.B. 531

130th General Assembly  
(As Introduced)

**Reps.** Gonzales, DeVitis

---

### BILL SUMMARY

- Generally authorizes the State Medical Board to impose a fine of not more than \$20,000 when a professional regulated by the Board violates the law governing professional practice.
- Repeals provisions that automatically suspend a certificate to practice for failure to renew or register the certificate, including failure to fulfill mandatory continuing education hours, and instead permits the Board to suspend the certificate.
- Authorizes the Board to require that a practitioner's skills be assessed before restoring or issuing certain certificates to practice.
- Authorizes the Board to require that certain applicants pass an examination or obtain additional training before issuing a certificate to practice a limited branch of medicine.
- Provides that an adjudication hearing under the Administrative Procedure Act is not required if the Board imposes a fine for failure to complete continuing education hours but does not impose any other penalty.

---

\* The corrected version reflects that the bill increases the fees associated with restoring or reinstating a physician's certificate to practice.

---

## CONTENT AND OPERATION

### Fines imposed by the State Medical Board

The bill generally authorizes the State Medical Board to impose a civil penalty of not more than \$20,000 when a professional it regulates violates the law (including rules the Board adopts) administered by the Board. (See "**Exceptions**," below). These professionals include: physicians, podiatrists, physician assistants, massage therapists, cosmetic therapists, naprapaths, mechanotherapists, anesthesiology assistants, oriental medicine practitioners, acupuncturists, radiologist assistants, and genetic counselors.<sup>1</sup> Current law authorizes the Board to limit, revoke, or suspend an individual's certificate to practice, refuse to register the individual, refuse to reinstate a certificate, or reprimand or place on probation a certificate holder for such violations but does not authorize a fine. The bill specifies that the fine may be in addition to any other penalty authorized by current law.

The fine authorized by the bill may be imposed pursuant to an adjudication under the Administrative Procedure Act (R.C. Chapter 119.) and an affirmative vote of at least six Board members. It further provides that any fines must be deposited by the Board in the state treasury to the credit of the existing State Medical Board Operating Fund.<sup>2</sup>

### Exceptions

There are two exceptions to the Board's authority to impose a fine of up to \$20,000. Both exceptions involve circumstances in which a fine is already specified in existing law.

#### Failure to complete mandatory continuing education

If the Board finds that a professional it regulates has failed to complete the continuing education hours required by the Board, current law permits the Board to impose a fine of not more than \$5,000, in addition to or instead of any other authorized penalty. The bill maintains this fine and specifies that, if the Board imposes only a fine for failure to complete continuing education requirements and no other penalty, it cannot conduct an adjudication under the Administrative Procedure Act.<sup>3</sup>

---

<sup>1</sup> R.C. 4730.252, 4731.225, 4760.133, 4762.133, 4774.133, and 4778.141.

<sup>2</sup> R.C. 4730.252 and 4731.225.

<sup>3</sup> R.C. 4730.14 and 4731.281.



### **Prohibited referrals**

Current law prohibits a physician (including a podiatrist) from referring a patient to a person for a designated health service if the physician, or a member of the physician's immediate family, has certain financial relationships with the person. A physician who violates this prohibition is subject to a fine of not more than \$5,000 for an initial violation and up to \$20,000 for subsequent violations.<sup>4</sup> The bill maintains existing law.

### **Suspension of certificate to practice for failure to renew or register a certificate**

Under current law, the certificate to practice of a physician (including a podiatrist) or a physician assistant who fails to renew or register the certificate is automatically suspended. The law specifies procedures to reactivate the certificate that vary depending on whether the certificate has been suspended for two years or less (which is referred to as reinstatement) or for more than two years (which is referred to as restoration).<sup>5</sup> The bill eliminates this automatic suspension and instead authorizes the Board to suspend a certificate for a failure to renew or register. In general, the bill permits the Board to reinstate or restore a certificate under the same terms and conditions as existing law, except that, in the case of a physician (including a podiatrist), the bill increases the reinstatement fee from \$50 to \$100 and the restoration fee from \$100 to \$200. The fees for a physician assistant remain the same.<sup>6</sup>

### **Board's authority to impose additional requirements before restoring or issuing certain certificates**

Under existing law, the Board may restore a certificate to practice that has been in a suspended or inactive state for more than two years. The Board may also issue a certificate to practice to any of the following persons who for more than two years have not been engaged in practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine: an out-of-state physician (including a podiatrist), a podiatrist who has passed the written examination of a recognized national certifying agency, a retired volunteer physician (other than a podiatrist), a cosmetic or massage therapist, a naprapath, or a mechanotherapist.

---

<sup>4</sup> R.C. 4731.225(A).

<sup>5</sup> R.C. 4730.14 and 4731.281.

<sup>6</sup> R.C. 4730.14 and 4731.281.

Before restoring or issuing the certificate, the Board may impose certain terms and conditions on the applicant, including requiring the applicant to pass an examination and obtain additional training.<sup>7</sup> The bill extends the Board's authority to impose these terms and conditions on cosmetic and massage therapists, naprapaths, and mechanotherapists.

The bill also specifies that the Board may impose the following additional terms and conditions when restoring or issuing any of these certificates:

(1) Requiring an assessment of the applicant's physical skills for purposes of determining whether the applicant's coordination, fine motor skills, and dexterity are sufficient for performing medical evaluations and procedures in a manner that meets the minimal standards of care;

(2) Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;

(3) Requiring the applicant to undergo a comprehensive physical examination, which may include an assessment of physical abilities, evaluation of sensory capabilities, or screening for the presence of neurological disorders.<sup>8</sup>

---

## HISTORY

ACTION	DATE
Introduced	04-30-14

H0531-I-corrected-130.docx/emr

---

<sup>7</sup> R.C. 4731.222.

<sup>8</sup> R.C. 4731.222.

