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H.B. 423
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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Deeter

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SUMMARY

Licensure of surgical assistants

- Prohibits an individual from knowingly practicing as a surgical assistant without holding a State Medical Board-issued license and establishes criminal penalties for violators.
- Delays the surgical assistant licensing requirement for five years.
- Authorizes an individual to practice without a Medical Board-issued license if the individual practices as a surgical assistant only at a hospital or ambulatory surgical facility that has been granted a waiver by the Board.
- Authorizes a licensed surgical assistant to assist a physician in the performance of surgical procedures by engaging in certain activities delegated by, and performed under the supervision of, the physician.
- Coordinates the Medical Board's licensing and regulatory procedures for surgical assistants with those for physicians and other health professionals also regulated by the Board.
- Establishes fees for initial licensure as well as license renewal, reinstatement, and restoration.
- Requires a license holder, as a condition of renewal, to certify to the Board completion of 38 hours of continuing education over the two-year licensure period.

Employment of surgical technologists

- Prohibits an ambulatory surgical facility or hospital from employing an individual as a surgical technologist unless the individual is certified as such by the National Board of Surgical Technology and Surgical Assisting or National Center for Competency Testing.
- Delays the surgical technologist employment conditions for three years.

DETAILED ANALYSIS

Practice of surgical assistants

H.B. 423 prohibits an individual, with certain exceptions, from knowingly practicing as a surgical assistant without holding a license to do so issued by the State Medical Board.¹ The bill specifies that a violation is a first degree misdemeanor on a first offense (punishable by a fine of not more than \$1,000 and a jail term of not more than 180 days) and a fifth degree felony on each subsequent offense (punishable by a fine of not more than \$2,500 and a prison term of not more than six to 12 months).²

Delayed effective date

Note that the bill delays for five years after the bill's effective date its prohibition on knowingly practicing without a surgical assistant license.³

Exceptions to the licensure requirement

The bill exempts the following individuals from its licensure requirements – individuals practicing at hospitals or ambulatory surgical facilities that have been granted waivers by the Medical Board, certified surgical technologists employed by hospitals or ambulatory surgical facilities (see “**Surgical technologists**,” below), but only to the extent of their certification, as well as physicians, podiatrists, physician assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses.⁴

Waivers

An individual may practice as a surgical assistant without holding a Medical Board-issued license if the individual practices only at a hospital or ambulatory surgical facility that has been granted a waiver – on behalf of its current and prospective employees – by the Board.⁵ To be eligible for such a waiver, the hospital or facility must be located in an area of Ohio that experiences special health problems and physician practice patterns that limit access to surgical care. The bill specifies that an individual practicing under such a waiver is subject to the same scope of practice as a surgical assistant licensed by the Medical Board.⁶

Authorized activities

Under a license, a surgical assistant may assist a physician in the performance of surgical procedures by engaging in any of the following activities delegated by the physician:

¹ R.C. 4787.03.

² R.C. 4787.99.

³ Section 3.

⁴ R.C. 4787.03.

⁵ R.C. 4787.18(A) and (B).

⁶ R.C. 4787.18(B).

- Providing exposure;
- Maintaining hemostasis;
- Making incisions;
- Closing or suturing surgical sites;
- Manipulating or removing tissue;
- Implanting surgical devices or drains;
- Suctioning surgical sites;
- Placing catheters;
- Clamping or cauterizing vessels or tissues;
- Applying dressings to surgical sites;
- Any other activity that is delegated by the physician and relates to a surgical procedure.⁷

Physician supervision

Note that a surgical assistant may engage in the foregoing activities only under the supervision of a physician.⁸

Eligibility for licensure

To be eligible for a license to practice as a surgical assistant, an applicant must demonstrate to the Medical Board that the applicant is at least 18 years of age and has attained a high school degree or equivalent.⁹ In addition, an applicant must satisfy one of the following:

- Be certified as a surgical assistant by the National Board of Surgical Technology and Surgical Assistants (NBSTSA) or National Commission for the Certification of Surgical Assistants (NCCSA);
- Have practiced as a surgical assistant at a hospital or ambulatory surgical facility located in Ohio during any part of the six-month period immediately preceding the date on which the application is submitted; however, eligibility for a license on this basis applies only if the application is submitted within five years after the bill's effective date (see “**Delayed effective date**” above); or
- Have successfully completed a surgical assistant training program operated by a branch of the U.S. armed forces.¹⁰

⁷ R.C. 4787.08(A).

⁸ R.C. 4787.08(B).

⁹ R.C. 4787.04.

¹⁰ R.C. 4787.04.

The applicant also must complete a criminal records check.¹¹

License application and renewal procedures

An applicant seeking to practice as a surgical assistant must file an application with the Medical Board in a manner prescribed by the Board and must submit a fee of \$200.¹² No part of the fee is to be returned to the applicant or transferred for purposes of another application. After reviewing the application, if the Board determines that the applicant meets the bill's eligibility requirements, the Secretary of the Board must issue a license to the applicant.¹³

A license is valid for two years, unless revoked or suspended, expires on the date that is two years after the issuance date, and may be renewed for additional two-year periods.¹⁴ The Board is required under the bill to provide renewal notices to license holders at least one month prior to the expiration date.¹⁵

Renewals

To renew a license, a license holder must apply to the Medical Board in a manner prescribed by the Board and submit a \$200 renewal fee.¹⁶ In addition, the applicant for renewal must report any criminal offense 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 license to practice.

An applicant seeking renewal who obtained an initial license by demonstrating certification by NBSTSA or NCCSA must certify to the Board that the applicant has maintained this certification. Each renewal applicant also must certify the completion of at least 38 hours of continuing education approved by the NBSTSA or NCCSA.¹⁷ If the applicant submits a renewal application that the Board considers complete, the Board must issue a renewed license to practice as a surgical assistant.¹⁸

Certification status and continuing education samples

The bill authorizes the Medical Board to require a random sample of surgical assistants to submit materials documenting that their NBSTSA or NCCSA certification status has been maintained and that the number of hours of continuing education has been completed. If the Board, through the random sample, finds that an individual who certified completion of the

¹¹ R.C. 4787.05. See also R.C. 4776.01 to 4776.04, portions not in the bill.

¹² R.C. 4787.04 and 4787.14.

¹³ R.C. 4787.04 and 4787.06.

¹⁴ R.C. 4787.06.

¹⁵ R.C. 4787.07.

¹⁶ R.C. 4787.07 and 4787.14.

¹⁷ R.C. 4787.07(B).

¹⁸ R.C. 4787.07(C).

continuing education required to renew, reinstate, or restore a license to practice did not complete the requisite continuing education, the Board may do either of the following:

- Take disciplinary action against the individual, impose a civil penalty, or both;
- Permit the individual to agree in writing to complete the continuing education and pay a civil penalty.¹⁹

Note that the bill does not provide for these penalties if it finds that an applicant did not maintain his or her NBSTSA or NCCSA certification status.

The bill also specifies that the Board's finding in any disciplinary action related to the completion of continuing education must be made pursuant to an adjudication and by an affirmative vote of at least six of its members. It also limits the civil penalty to an amount not more than \$5,000.²⁰

Automatic suspension and license restoration and reinstatement

A license to practice as a surgical assistant that is not renewed on or before its expiration date is automatically suspended on that date.²¹ The bill specifies that continued practice after the automatic suspension is unlawful and subject to the same criminal penalties as described above.

Reinstatement

In the case of a license that has been suspended for two years or less, the Medical Board may reinstate the license if the applicant submits a complete renewal application and pays the \$225 reinstatement fee.

Restoration

And if a license has been suspended for more than two years, the Medical Board may restore the license if the applicant submits a complete restoration application and pays the \$250 restoration fee. The applicant also must complete a criminal records check. The Board may not restore the license unless it decides, in its discretion, that the results of the criminal records check do not make the applicant ineligible for licensure.

Other terms and conditions

In the case of an applicant seeking either (1) restoration of a license that has been suspended or inactive for any cause for more than two years or (2) issuance of a license after having not been engaged in practice as a surgical assistant for more than two years, the Board may impose terms and conditions on the applicant before issuing or restoring the license.²² These include any of the following:

¹⁹ R.C. 4787.07(D).

²⁰ R.C. 4787.07(E).

²¹ R.C. 4787.15.

²² R.C. 4787.16.

- Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice;
- Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;
- 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 evaluations and procedures in a manner that meets the minimal standards of care;
- Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;
- 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;
- Restricting or limiting the extent, scope, or type of practice of the applicant.

The Medical Board must consider the applicant's moral background and activities during the period of suspension or inactivity.

Licensure fees

In addition to the \$200 initial application fee, \$200 renewal fee, \$225 reinstatement fee, and \$250 restoration fee the bill specifies, it also establishes a \$35 fee for a duplicate license and a \$50 fee for license verification.²³

Medical Board regulation

The bill coordinates the Medical Board's licensing and regulatory procedures for surgical assistants with those for physicians and other health professionals also regulated by the Board. In doing so, the bill addresses several topics, including the following: Board investigations; reporting misconduct; criminal records checks; child support default; treatment of impaired practitioners; retired status; notice of criminal prosecution; injunctive relief for practicing without a license; and compliance with human trafficking sanctions.²⁴

Board discipline

Similar to the other health professionals regulated by the Medical Board, the bill requires the Board to limit, revoke, or suspend a license to practice as a surgical assistant, refuse to issue a license, refuse to renew or reinstate a license, or reprimand or place on probation a license holder for one of several grounds, including the following:

²³ R.C. 4787.14 and 4787.15.

²⁴ R.C. 109.572; 4731.224, 4731.2210, 4731.25, 4731.251, 4776.01, 4787.02, 4787.12, 4787.13, 4787.17, 4787.19, 4787.20, 4787.21, 4787.22, and 4787.99.

- Failure to comply with the bill's requirements;
- A departure from, or failure to conform to, minimal standards of care of similar practitioners;
- Impairment of ability to practice because of habitual or excessive drug, alcohol, or other substance use;
- Commission of a felony;
- A guilty plea;
- Failure to maintain one's status as an NBSTSA- or NCCSA-certified surgical assistant or to notify the Board that the certification has not been maintained;
- Failure to comply with the profession's code of ethics.²⁵

As with the other Medical Board-regulated professionals, an affirmative vote of six Board members is required before discipline may be imposed on a surgical assistant. The bill also establishes for surgical assistants the same standards and procedures for discipline used when imposing discipline on other professionals, including the holding of administrative hearings.

Civil penalties

The bill authorizes the Medical Board to impose a civil penalty in the event of a violation and requires the Board to adopt guidelines regarding the amounts of civil penalties to be imposed, with no civil penalty amount to exceed \$20,000.²⁶ This authority is the same as the Board's authority to impose civil penalties on other health professionals.

Rulemaking

The bill requires the Medical Board to adopt rules establishing standards and procedures for the regulation of surgical assistants, including rules that do the following:

- Establish application procedures for the licensure of surgical assistants;
- Establish license renewal procedures, including procedures for reporting the completion of continuing education;
- Establish procedures for reporting to the Board license holder misconduct.

The bill also authorizes the Medical Board to adopt any other rules it considers necessary to implement and administer the bill's provisions.

When adopting rules required or authorized by the bill, the Medical Board must do so in accordance with Ohio's Administrative Procedure Act.²⁷

²⁵ R.C. 4787.10(B).

²⁶ R.C. 4787.11.

²⁷ R.C. 4787.09; see R.C. Chapter 119, not in the bill.

Surgical technologists

Conditions of employment

The bill prohibits a hospital that offers surgical services and an ambulatory surgical facility from employing, or continuing to employ, an individual as a surgical technologist unless the individual demonstrates to the hospital or facility that the individual is certified, or has maintained certification, as a surgical technologist by the National Board of Surgical Technology and Surgical Assisting or National Center for Competency Testing.²⁸

If the Director of Health finds that a hospital or facility violates the bill's prohibition, the Director may take disciplinary action against the hospital's or facility's license, including revocation or imposition of a civil penalty.²⁹

The bill authorizes the Director of Health to adopt any rules the Director considers necessary to implement the foregoing prohibition.³⁰ It further requires such rules to be adopted in accordance with Ohio's Administrative Procedure Act.³¹

Delayed effective date

Note that the bill delays for three years after the bill's effective date its prohibition on employment of surgical technologists without certification.³²

HISTORY

Action	Date
Introduced	08-25-25

ANHB0423IN-136/sb

²⁸ R.C. 3702.3013(B) and 3727.26(B).

²⁹ R.C. 3702.3013(C); R.C. 3702.32(D) and 3722.07(B), not in the bill; R.C. 3727.26(C).

³⁰ R.C. 3702.3013(D) and 3727.26(D).

³¹ See R.C. Chapter 119, not in the bill.

³² Section 3.