

4731-11-09 Prescribing to persons the physician has never personally examined.

(A) A physician may prescribe, dispense, otherwise provide, or cause to be provided a prescription drug that is not a controlled substance to a person on whom the physician has never previously conducted a medical evaluation, as that term is defined in rule 4731-11-01 of the Administrative Code, and who is at a location remote from the physician, when the physician complies with all of the requirements of this paragraph.

- (1) The physician shall complete and document a medical evaluation and collection of relevant clinical history which meets minimal standards of care as if the evaluation was completed in a face-to-face interaction. commensurate with the presentation of the patient to establish diagnosis and identify underlying conditions and/or contraindications to the treatment recommended or provided;
- (2) The physician shall complete an examination of the patient using appropriate diagnostic medical equipment that meets ~~both of all of~~ the following criteria:
 - (a) The diagnostic medical equipment is capable of transmitting images of the patient's physical condition in real-time;
 - ~~(b) The diagnostic medical equipment is capable of transmitting the patient's physical condition and other relevant physical data or vital signs necessary to establish diagnosis and identify underlying conditions or contraindications to the treatment recommended or provided;~~
 - (c) The diagnostic medical equipment has the ability to be adjusted for better image quality and definition;
- (3) The physician shall document having had dialogue with the patient regarding treatment options and the risks and benefits of treatment, sufficient to permit the patient to provide informed consent to treatment;
- (4) The physician shall maintain a contemporaneous medical record that is readily available to the patient and to the patient's other health care professionals;
- (5) The physician shall include the electronic prescription information as part of the patient medical record; and
- (6) As necessary, the physician shall follow up with the patient to assess the therapeutic outcome.

(B) A physician may prescribe, dispense, otherwise provide, or cause to be provided a prescription drug, including a controlled substance, to a person on whom the physician has never conducted a medical evaluation, as that term is defined in rule 4731-11-01 of the Administrative Code, in the following situations:

- (1) The person is a patient of a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between the physicians;

- (2) The physician is consulting with another physician or health care provider who is authorized to practice in this state and is acting within the scope of their professional license, including having prescriptive authority, when the following requirements are met:
 - (a) The physician shall establish that the other physician or health care provider has an ongoing professional relationship with the patient and has agreed to supervise the patient's use of the drug or drugs to be provided.
 - (b) If the health care provider is a physician assistant, the physician has a supervision agreement with the physician assistant.
 - (c) If the health care provider is an advanced practice [registered](#) nurse, the physician has a written standard care arrangement with the advanced practice [registered](#) nurse.
- (3) The physician is a medical director or hospice physician of a hospice program licensed pursuant to Chapter 3712. of the Revised Code, and the patient to whom the drugs are prescribed, dispensed, or otherwise provided is enrolled in that hospice program.
- (4) The person has been admitted as an inpatient to or is a resident of an institutional facility. For purposes of this rule, "institutional facility" has the same meaning as in rule 4729-17-01 of the Administrative Code.

This paragraph does not authorize or legitimize practices that would violate other applicable standards or legal requirements.

(C) A physician shall not advertise or offer, or permit the physician's name or certificate to be used in an advertisement or offer, to provide any prescription drug in a manner that would violate any provision of this rule.

(D) Except as provided in paragraph (B) of this rule, a physician shall not prescribe, dispense, otherwise provide, or cause to be provided, any controlled substance to a person on whom the physician has never conducted a medical evaluation, as that term is defined in rule 4731-11-01 of the Administrative Code.

(E) Except as provided in paragraphs (A) and (B) of this rule:—a physician shall not prescribe, dispense, otherwise provide, or cause to be provided, any prescription drug that is not a controlled substance to a person—on whom the physician has never conducted a medical evaluation, as that term is defined in rule 4731-11-01 of the Administrative Code.

-(F) Nothing in this rule shall be construed to imply that one in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the course of professional practice.

(G) A violation of any provision of this rule, as determined by the board, shall constitute any or all of the following:

- (1) "Failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code;

(2) "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code; or

(3) "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," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

4731-11-09 Prescribing to persons ~~not seen by the physician~~ HAS NEVER PERSONALLY EXAMINED.

~~(A) Except in institutional settings, on call situations, cross coverage situations, situations involving new patients, protocol situations, situations involving nurses practicing in accordance with standard care arrangements, and hospice settings, as described in paragraphs (D) and (E) of this rule, a~~ A physician shall ~~not~~ MAY prescribe, dispense, or otherwise provide, or cause to be provided, any A PRESCRIPTION DRUG THAT IS NOT A controlled substance to a person ~~who~~ ON WHOM the physician has never personally physically examined and diagnosed PREVIOUSLY CONDUCTED A MEDICAL EVALUATION, AS THAT TERM IS DEFINED IN RULE 4731-11-01 OF THE ADMINISTRATIVE CODE, AND WHO IS AT A LOCATION REMOTE FROM THE PHYSICIAN, WHEN THE PHYSICIAN COMPLIES WITH ALL OF THE REQUIREMENTS OF THIS PARAGRAPH.

- (1) THE PHYSICIAN SHALL COMPLETE AND DOCUMENT A MEDICAL EVALUATION AND COLLECTION OF RELEVANT CLINICAL HISTORY WHICH MEETS MINIMAL STANDARDS OF CARE AS IF THE EVALUATION WAS COMPLETED IN A FACE-TO-FACE INTERACTION;
- (2) THE PHYSICIAN SHALL COMPLETE AN EXAMINATION OF THE PATIENT USING APPROPRIATE DIAGNOSTIC MEDICAL EQUIPMENT THAT MEETS ALL OF THE FOLLOWING CRITERIA:
 - (a) THE DIAGNOSTIC MEDICAL EQUIPMENT IS CAPABLE OF TRANSMITTING IMAGES OF THE PATIENT'S PHYSICAL CONDITION IN REAL-TIME;
 - (b) THE DIAGNOSTIC MEDICAL EQUIPMENT IS CAPABLE OF TRANSMITTING THE PATIENT'S PHYSICAL CONDITION AND OTHER RELEVANT PHYSICAL DATA OR VITAL SIGNS NECESSARY TO ESTABLISH A DIAGNOSIS AND IDENTIFY UNDERLYING CONDITIONS OR CONTRAINDICATIONS TO THE TREATMENT RECOMMENDED OR PROVIDED; AND
 - (c) THE DIAGNOSTIC MEDICAL EQUIPMENT HAS THE ABILITY TO BE ADJUSTED FOR BETTER IMAGE QUALITY AND DEFINITION.
- (3) THE PHYSICIAN SHALL DOCUMENT HAVING HAD DIALOGUE WITH THE PATIENT REGARDING TREATMENT OPTIONS AND THE RISKS AND BENEFITS OF TREATMENT, SUFFICIENT TO PERMIT THE PATIENT TO PROVIDE INFORMED CONSENT FOR TREATMENT;
- (4) THE PHYSICIAN SHALL MAINTAIN A CONTEMPORANEOUS MEDICAL RECORD THAT IS READILY AVAILABLE TO THE PATIENT AND TO THE PATIENT'S OTHER HEALTH CARE PROFESSIONALS;
- (5) THE PHYSICIAN SHALL INCLUDE THE ELECTRONIC PRESCRIPTION INFORMATION AS PART OF THE PATIENT MEDICAL RECORD; AND
- (6) AS NECESSARY, THE PHYSICIAN SHALL FOLLOW UP WITH THE PATIENT TO ASSESS THE THERAPEUTIC OUTCOME.

~~(B) Except in institutional settings, on call situations, cross coverage situations, situations involving new patients, protocol situations, situations involving nurses practicing in accordance with standard care arrangements, and hospice settings, as described in paragraphs (D) and (E)~~

~~of this rule, a~~ A physician shall ~~not~~ MAY prescribe, dispense, or otherwise provide, or cause to be provided, ~~any dangerous~~ A PRESCRIPTION drug, which is ~~not~~ INCLUDING a controlled substance, to a person ~~_ON~~ WHOM the physician has never personally physically examined and ~~DIAGNOSED~~ CONDUCTED A MEDICAL EVALUATION, AS THAT TERM IS DEFINED IN RULE 4731-11-01 OF THE ADMINISTRATIVE CODE, except in accordance with one of the following requirements SITUATIONS:

~~(1) The physician is providing care in compliance with both of the following:~~

~~(a) The care provided is in consultation with another physician who:~~

~~(i) Has an ongoing professional relationship with the patient; and~~

~~(ii) Has agreed to supervise the patient's use of the drug or drugs to be provided.~~

~~(b) The care provided meets all applicable standards of care and all applicable statutory and regulatory requirements. person is a patient of a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between the physicians;~~

~~(2) The psychiatrist is providing telepsychiatry to one patient per session who is located at the Ohio office of an Ohio licensed physician or a community mental health clinic certified by the Ohio department of mental health, and all of the following requirements are met:~~

~~(a) The psychiatrist has reviewed records from a physical examination of the patient that was conducted by a physician licensed under Chapter 4731. of the Revised Code within a reasonable period of time prior to the telepsychiatry visit;~~

~~(b) A licensed healthcare professional is available during the telepsychiatry visit to provide various physical findings in accordance with the licensed healthcare professional's scope of practice that the psychiatrist may need to complete an adequate assessment;~~

~~(c) The psychiatrist agrees to do both of the following:~~

~~(i) Be available to consult with another physician who IS CONSULTING WITH ANOTHER PHYSICIAN OR HEALTH CARE PROVIDER WHO IS AUTHORIZED TO PRACTICE IN THIS STATE AND IS ACTING WITHIN THE SCOPE OF THEIR PROFESSIONAL LICENSE, INCLUDING HAVING PRESCRIPTIVE AUTHORITY, WHEN THE FOLLOWING REQUIREMENTS ARE MET:~~

~~(a) HAS THE PHYSICIAN SHALL ESTABLISH THAT THE OTHER PHYSICIAN OR HEALTH CARE PROVIDER HAS an ongoing professional relationship with the patient; and~~

~~(ii) Supervise HAS AGREED TO SUPERVISE the patient's use of the drug or drugs TO BE provided PROVIDED;~~

~~(b) IF THE HEALTH CARE PROVIDER IS A PHYSICIAN ASSISTANT, THE PHYSICIAN HAS A SUPERVISION AGREEMENT WITH THE PHYSICIAN ASSISTANT.~~

~~(C) IF THE HEALTH CARE PROVIDER IS AN ADVANCED PRACTICE REGISTERED NURSE, THE PHYSICIAN HAS A WRITTEN STANDARD CARE ARRANGEMENT WITH THE ADVANCED PRACTICE REGISTERED NURSE.~~

~~(d) The psychiatrist's care of the patient meets all applicable standards of care and all applicable statutory and regulatory requirements.~~

- (3) THE PHYSICIAN IS A MEDICAL DIRECTOR OR HOSPICE PHYSICIAN OF A HOSPICE PROGRAM LICENSED PURSUANT TO CHAPTER 3712. OF THE REVISED CODE, AND THE PATIENT TO WHOM THE DRUGS ARE PRESCRIBED, DISPENSED, OR OTHERWISE PROVIDED IS ENROLLED IN THAT HOSPICE PROGRAM.
- (4) THE PERSON HAS BEEN ADMITTED AS AN INPATIENT TO OR IS A RESIDENT OF AN INSTITUTIONAL FACILITY. FOR PURPOSES OF THIS RULE, "INSTITUTIONAL FACILITY" HAS THE SAME MEANING AS IN RULE 4729-17-01 OF THE ADMINISTRATIVE CODE.

THIS PARAGRAPH DOES NOT AUTHORIZE OR LEGITIMIZE PRACTICES THAT WOULD VIOLATE OTHER APPLICABLE STANDARDS OR LEGAL REQUIREMENTS.

(C) A physician shall not advertise or offer, or permit the physician's name or certificate to be used in an advertisement or offer, to provide any ~~dangerous~~ PRESCRIPTION drug in a manner that would violate ~~paragraph (A) or paragraph (B)~~ ANY PROVISION of this rule.

~~(D) Paragraphs (A) and (B) of this rule do not apply to or prohibit the provision of drugs to a person who is admitted as an inpatient to or is a resident of an institutional facility. For purposes of this rule, "institutional facility" has the same meaning as in rule 4729-17-01 of the Administrative Code. This paragraph does not authorize or legitimize practices that would violate other applicable standards or legal requirements. A PHYSICIAN SHALL NOT PRESCRIBE, DISPENSE, OTHERWISE PROVIDE, OR CAUSE TO BE PROVIDED, ANY CONTROLLED SUBSTANCE TO A PERSON ON WHOM THE PHYSICIAN HAS NEVER CONDUCTED A MEDICAL EVALUATION, AS THAT TERM IS DEFINED IN RULE 4731-11-01 OF THE ADMINISTRATIVE CODE.~~

~~(E) Paragraphs (A) and (B) of this rule do not apply to or prohibit:~~

~~(1) The provision of controlled substances or dangerous drugs by a physician to a person who is a patient of a colleague of the physician, if the drugs are provided pursuant to an on-call or cross coverage arrangement between the physicians;~~

~~(2) The provision of controlled substances or dangerous drugs by a physician to a person who the physician has accepted as a patient, if the physician has scheduled or is in the process of scheduling an appointment to examine the patient and the drugs are intended to be used pending that appointment;~~

~~(3) The provision of controlled substances or dangerous drugs by emergency medical squad personnel, nurses, or other appropriately trained and licensed individuals, in accordance with protocols approved by the state board of pharmacy pursuant to rule 4729-5-01 of the Administrative Code; or~~

~~(4) The provision of controlled substances or dangerous drugs by a nurse practicing in accordance with a standard care arrangement that meets the requirements of Chapter 4723. of the Revised Code and rules promulgated by the board of nursing pursuant thereto.~~

~~(5) The provision of controlled substances or dangerous drugs by a physician who is a medical director or hospice physician of a hospice program licensed pursuant to Chapter 3712. of the Revised Code, to a patient who is enrolled in that hospice program.~~

~~This paragraph does not authorize or legitimize practices that would violate other applicable standards or legal requirements. EXCEPT AS PROVIDED IN PARAGRAPHS (A) AND (B) OF THE RULE, A PHYSICIAN SHALL NOT PRESCRIBE, DISPENSE, OTHERWISE PROVIDE, OR CAUSE TO BE PROVIDED, ANY PRESCRIPTION DRUG THAT IS NOT A CONTROLLED SUBSTANCE TO A PERSON ON WHOM THE PHYSICIAN HAS NEVER CONDUCTED A MEDICAL EVALUATION, AS THAT TERM IS DEFINED IN RULE 4731-11-01 OF THE ADMINISTRATIVE CODE.~~

~~(F) For purposes of this rule, "controlled substance" has the same meaning as in section [3719.01](#) of the Revised Code. NOTHING IN THIS RULE SHALL BE CONSTRUED TO IMPLY THAT ONE IN-PERSON MEDICAL EVALUATION DEMONSTRATES THAT A PRESCRIPTION HAS BEEN ISSUED FOR A LEGITIMATE MEDICAL PURPOSE WITHIN THE COURSE OF PROFESSIONAL PRACTICE.~~

~~(G) For purposes of this rule, "dangerous drug" has the same meaning as in section [4729.01](#) of the Revised Code.~~

~~(H) A violation of any provision of this rule, as determined by the board, shall constitute "failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section [4731.22](#) of the Revised Code; "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section [4731.22](#) of the Revised Code; and "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," as that clause is used in division (B)(6) of section [4731.22](#) of the Revised Code.—ANY OR ALL OF THE FOLLOWING:~~

- ~~(1) "FAILURE TO MAINTAIN MINIMAL STANDARDS APPLICABLE TO THE SELECTION OR ADMINISTRATION OF DRUGS," AS THAT CLAUSE IS USED IN DIVISION (B)(2) OF SECTION 4731.22 OF THE REVISED CODE;~~
- ~~(2) "SELLING, PRESCRIBING, GIVING AWAY, OR ADMINISTERING DRUGS FOR OTHER THAN LEGAL AND LEGITIMATE THERAPEUTIC PURPOSES," AS THAT CLAUSE IS USED IN DIVISION (B)(3) OF SECTION 4731.22 OF THE REVISED CODE; OR~~
- ~~(3) "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," AS THAT CLAUSE IS USED IN DIVISION (B)(6) OF SECTION 4731.22 OF THE REVISED CODE.~~

~~(I) For purposes of this rule:~~

~~(1) "Licensed healthcare professional" means any of the following:~~

~~(a) An individual licensed under Chapter 4731. of the Revised Code to practice allopathic medicine and surgery or osteopathic medicine and surgery;~~

~~(b) A physician assistant licensed under Chapter 4730. of the Revised Code who is practicing in compliance with all applicable statutory and rule requirements; and~~

~~(c) A nurse licensed under Chapter 4723. of the Revised Code who is practicing in compliance with all applicable statutory and rule requirements.~~

~~(2) "Psychiatrist" means an individual licensed under Chapter 4731. of the Revised Code to practice allopathic medicine and surgery or osteopathic medicine and surgery who has successfully completed an approved psychiatry training program, as specified in the accreditation requirements that must be met to qualify as graduate medical education under section [4731.091](#) of the Revised Code.~~

~~(3) "Telepsychiatry" means the provision of psychiatric care via real time, adequate resolution audio and video telecommunications when all of the following requirements are met:~~

~~(a) Videoconferencing picture resolution, at a minimum, shall have a data rate of 30 frames per second (fps), with each frame containing 288 lines and 352 pixels per line.~~

~~(b) Systems shall have a minimum of 384 kilobytes per second (Kbps) of bandwidth, and the provider site shall have the capacity to zoom and to follow the patient at the remote site.~~