

Q: How can I obtain a complaint form?

A: You may request a complaint form from the Board's Public Inquiries section by calling (800) 554-7717, or by submitting a request in writing to: Public Inquiries, State Medical Board of Ohio, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6127. You may also download a copy of the form [here](#).

The Board asks that you file your complaint in writing. Doing so may expedite the initial processing of your complaint and provides you with protections found in 4731.22(F)(1), ORC, which says that absent bad faith, an individual who files a signed complaint with the Medical Board is not liable for damages in a civil action.

Please fill out each section. Individual identifying information may be important during the investigation of a complaint. The Board is required to keep the name of complainants confidential unless a signed release form is obtained. You may attach a letter or add pages to this form.

All complaints are reviewed by the Secretary and Supervising Member of the Board. These individuals are charged with overseeing all of the Board's investigations. You will receive notification of the outcome of your complaint. If you have any questions regarding this form or the complaint process please contact the Public Inquiries Section of the State Medical Board.

Q: Will the Medical Board represent me in my dispute with a physician?

A: The Medical Board will investigate any complaint that alleges a violation, but it cannot take sides in a private dispute. The Board cannot award you money damages or obtain restitution from a physician.

Q: May a physician sue me for filing a complaint against him or her?

A: A physician cannot successfully sue you simply because you complain to the Medical Board, so long as the complaint is made in good faith.

Ohio law provides "...In the absence of bad faith, any person who reports such information or testifies before the Board in any adjudication hearing conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of his report or testimony."[(Ohio Revised Code Section 4731.22 (F)(1)] In addition, the Board cannot identify you as the complainant without your permission.

Q: Must the Medical Board investigate every complaint it receives?

A: No. If the complaint would, were it proven to be true, be a violation of the Medical Practices Act, the Board is required to investigate (see section 4731.22(F)(1), ORC). The Board is not required to investigate complaints that do not allege a violation of the Medical Practices Act.

The Medical Board can discipline its licensees for violations of the Medical Practices Act.

Grounds for discipline include:

- impairment of ability to practice due to drug or alcohol abuse, or due to physical or mental illness
- failing to meet minimal standards of care in treating patients
- prescribing drugs in an inappropriate manner or without legitimate reason
- inappropriate sexual conduct
- conviction of a misdemeanor in the course of practice or conviction of a felony
- falsifying information; fraud
- performing duties beyond the scope of a license
- failing to meet continuing medical education requirements

Q: Are there differences in licensure or scope of practice between MDs and DOs?

A: No. MDs and DOs have the same license and scope of practice. Both: have undergraduate degrees, graduated from medical school and have post-graduate training;

- are licensed by the state to diagnose, treat and perform surgery;
- are able to prescribe medicine;
- may pursue a specialty (two or more years of further education/training);

Q: How can I obtain a roster or list of registered physicians, osteopathic physicians and podiatrists?

A: You may call the Board offices or fill out this form and send it to the Board.

Q: How do I obtain an application for licensure?

A: [Click here](#) to complete the application. If you would like a paper application, you must submit a written request to the Board offices. Please be advised that the FCVS application must also be completed.

For an application to take the USMLE Step 3 contact the Federation of State Medical Boards at 1-817-868-4041 or visit their web site at www.fsmb.org.

Q: How long does it take to process an application?

A: Due to the large number of applications we receive, the initial processing takes approximately 10 to 12 weeks after receipt of your application and fee. An incomplete application or any unusual circumstances may delay processing.

Q: Can I get a temporary license while my application is being processed?

A: No. Ohio law does not provide for temporary or provisional licensure while your request for licensure is being processed.

Q: How can I expedite my application?

A: The Board annually processes thousands of physician applications for licensure. In each case, the Board conducts a thorough evaluation of basic medical credentials, employment or work history, malpractice history, and any criminal or disciplinary history. This process takes time, anywhere from a few weeks to several months, depending in large part on how quickly the applicant complies with what is requested and the nature of any problems requiring closer scrutiny. The Board will not accelerate one application at the expense of another, nor will it forego any elements of its screening process.

Q: How can I check on the status of my application?

A: You will be notified by mail within 30 days of receipt of your application and fee if your application is incomplete or contains errors. The Board will periodically send updates to you as needed.

Q: What is the FCVS?

A: FCVS is the Federation Credentials Verification Service operated by the Federation of State Medical Boards located in Euless, Texas. For information on the benefits of the FCVS visit the Federation's website at www.fsmb.org.

Q: How do I get an FCVS application?

A: Visit the Federation's website at www.fsmb.org and follow the links to download the application.

Q: Do I have to complete an FCVS application to get a license in Ohio?

A: Yes. All physicians applying for a license to practice medicine and surgery or osteopathic medicine and surgery in the State of Ohio must complete the FCVS in addition to completing the Ohio Board application.

Q: What is the TOEFL iBT and where can I get information on taking it?

A: The TOEFL Internet-based Test (TOEFL iBT) tests all four language skills that are important for effective communication: speaking, listening, reading and writing and is administered by the Educational Testing Service (ETS). To apply for the TOEFL iBT contact the Educational Testing Service directly. Their website is www.ets.org/.

Q: Can I waive the requirement for taking the TOEFL iBT?

A: Graduates of schools located outside the United States and Canada must take the TOEFL iBT regardless of citizenship or country of birth.

The following are the only exceptions permitted under Ohio law:

- fulfillment of preliminary education requirements (i.e., completion of two years of undergraduate college work) in the U.S.; or
- possession of a current medical license (including temporary licenses, training certificates, etc.) in the U.S. pursuant to which the holder has actively practiced medicine and surgery or osteopathic medicine and surgery, including accredited graduate medical education training, for the last five years (must have been actively practicing medicine in the U.S. for at least nine full months during each of the five years) immediately preceding the date of the application; or
- completion of a Fifth Pathway program; or
- passed the Clinical Skills Assessment examination given by ECFMG on or after 7/1/98.

Please be advised that the TOEFL, TWE and ECFMG's English language proficiency test (taken prior to 7/1/98) are tests of English comprehension, not proficiency in spoken English, and thus do not fulfill the TOEFL iBT requirement. To apply for the TOEFL iBT contact the Educational Testing Service directly. Their website is www.ets.org/.

Q: What is the difference between a telemedicine certificate and a full medical license?

A: With respect to the telemedicine certificate, applicants must complete the same licensure forms and meet the same requirements as applicants for full licensure, with a few notable exceptions. To be eligible for a telemedicine certificate, the applicant must hold a current unrestricted license in other states in which that applicant is already licensed. In addition, to be eligible for licensure renewal, the holder of a telemedicine certificate shall certify to the board compliance with the continuing medical education requirements of the state in which the holder's principal place of practice is located. Please note that if you hold a full license to practice medicine in Ohio, you may practice "telemedicine" without holding a "telemedicine certificate". If you are participating in the care of patients located out-of-state, you may wish to consult that state's medical board with respect to their licensure requirements. For more information about Ohio medical licensure, please contact the licensure department at (614) 466-3934.

Q: How do I apply to take the PMLexis in Ohio?

A: Contact the Board offices at 614-466-3934 to obtain an application.

Q: How do I obtain an application for licensure?

A: By [clicking here](#) you can download the application. Applications may also be obtained by written request or phoning the Board offices at 614-466-3934.

Q: How long does it take to process an application?

A: Due to the large number of applications we receive, the initial processing takes approximately 10 to 12 weeks after receipt of your application and fee. An incomplete application or any unusual circumstances may delay processing.

Q: Can I expedite my application?

A: No! The Board staff makes every effort to process applications in a timely and efficient manner. Applications are processed in the order in which they are received. Any errors or omissions on the application or in documentation will greatly delay processing time. An incomplete application or any unusual circumstances discovered during processing will result in a delay. You will be notified if the application is incomplete or contains errors; or if there is difficulty in obtaining the independently requested recommendations.

Q: How can I check on the status of my application?

A: You will be notified by mail if your application is incomplete or contains errors. The Board will periodically send updates to you as needed.

Q: What date does the Legislation become effective?

A: May 17, 2006

Q: Does the physician still need to see the new patients and existing patients with new conditions?

A: No. The legislation eliminated the requirement that the supervising physician personally see each new patient or each established patient with a new condition prior to treatment being initiated (4730.21).

Q: Is the physician still required to countersign orders prior to treatment being rendered?

A: No. The legislation eliminated the requirement that a supervising physician must countersign every order before the order is carried out (4730.21(E)). The bill retains the requirement that a supervising physician be not more than 60 minutes travel time from the location where the PA is seeing patients, and to be readily available for communication (4730.21(A)). Language was added, requiring the supervising physician to establish a quality assurance system, to maintain documentation of the quality assurance activities, and to provide the documentation to the Board upon request (4730.06(B) and 4730.21(A)(4) and (F)).

Q: Under what circumstances would a PA be required to refer a patient to the supervising physician?

A: Section 4730.16(C) requires the supervisory plan to specify the circumstances under which a PA is required to refer a patient to the supervising physician. This would be subject to rule-making to set outside parameters. Section 4730.42 (B)(2)(d) also allows physicians to establish requirements concerning referring patients to the supervising physician as part of the conditions on which prescriptive authority is granted.

Q: What type of Anesthesia are PA's allowed to administer?

A: Pursuant to Sections 4730.09(A)(36) and 4730.091 PAs will be permitted to administer, monitor or maintain local anesthesia, as defined in 4730.091. Section 4730.091 also prohibits a PA from administering, monitoring or maintaining any other form of anesthesia, including regional anesthesia or any systemic sedation, regardless of the setting.

Q: Who will need to submit a Supervisory plan?

A: A physician supervising a physician assistant in a "health care facility" (HCF) will not need a physician supervisory plan. The HCF will control what services the physician assistant can provide within the facility by its own policies, within any limits contained in statutes. A physician who supervises a physician assistant outside a HCF will need a physician supervisory plan. (See, Section 4730.08.)

Q: Who will need to submit a supervision agreement?

A: In all cases, the supervising physicians and physician assistants must enter into a supervision agreement. (See, Section 4730.18.)

Q: What services are allowed under a physician supervisory plan without specific approval as “special services”?

A: Section 4730.09 lists out the services a physician assistant may perform without specific Board approval as a “special service.” If the supervising physician wants his/her PA to perform a service that is not listed in 4730.09, the supervising physician may request Board approval of additional duties by submitting a special services application.

Q: What services will require a special services application?

A: Any services not included in 4730.089 of the O.R.C., or services that are not covered under a model supervisory plan to be developed at a later date by the Physician Assistant Policy Committee and approved by the State Medical Board Of Ohio.

Q: Can a Registered Nurse or Licensed Practical nurse Execute a PA orders?

A: Section 4730.03 states that a physician assistant may independently order or direct the execution of procedures or techniques by a registered nurse or licensed practical nurse to the extent that the physician assistant is authorized to do so under their supervisory plan or the policies of the health care facility in which they are practicing.

Q: What are the new Education requirements for a certificate to practice as a physician assistant?

A: Beginning January 1, 2008, applicants for a certificate to practice will be required to have a master's or higher degree, unless they hold a current, valid license to practice from another jurisdiction that was issued prior to January 1, 2008 (Section 4730.11).

Q: What is the fee for a certificate to practice as a physician assistant?

A: The initial application fee is \$200 (Section 4730.10); the biennial renewal fee is \$100 (Section 4730.14).

Q: When will I be able to apply for a certificate to prescribe?

A: The Board must promulgate rules regarding prescriptive authority. This process could take up to one year.

Q: What is the fee for a certificate to prescribe as a physician assistant?

A: The physician assistants will apply for a provisional certificate to prescribe (application fee \$100). After passing the provisional period and the supervising physician notifies the Board that the physician assistant has successfully completed the provisional period, then the PA applies for a full certificate to prescribe (application fee \$100). Thereafter, the physician assistant may renew the certificate to prescribe every two years (renewal fee \$50).

Q: If I change practices or supervising physicians do I need a new certificate to prescribe?

A: No. If the physician assistant switches to a new supervising physician, the PA may maintain the certificate to prescribe; the new supervising physician will limit the prescriptive authority as suits his or her practice.

Q: How do I terminate a supervision agreement?

A: Send a letter to the State Medical Board of Ohio indicating the names of the physician assistants to be terminated and the termination date.

Q: How do I add a physician assistant to an existing supervision agreement?

A: Both the physician and the new physician assistant must complete an addendum to the supervision agreement. There is no fee to add a physician assistant to an existing supervision agreement. This is a new form available on the website.

Q: How do I become approved as a supervising physician for physician assistants?

A: If you will be utilizing physician assistants solely in a health care facility, you will need to complete a supervision agreement and pay the fee of \$25.00.

If you will be utilizing physician assistants solely in an office setting, you will need to complete a supervision agreement and a physician supervisory plan and pay the \$25.00 supervision agreement fee. Please note that each supervising physician will need to complete a separate supervisory plan and supervision agreement.

If you will be utilizing physician assistants in a health care facility and an office setting, you will need to complete a supervision agreement and a physician supervisory plan and pay the \$25.00 supervision agreement fee. Please note that each supervising physician will need to complete a separate supervisory plan and supervision agreement.

Q: How will I know when a supervision agreement has been approved?

A: Supervision agreements may be verified at www.med.ohio.gov, under the "Licensee Profile and Status" option.

Q: How must a physician assistant be supervised?

A: Pursuant to 4730.21(A) O.R.C. the supervising physician of a physician assistant exercised supervision, control and direction of the physician assistant. In supervising the physician assistant all of the following apply:

1. except when the on-site supervision requirements specified in 4730.45 of the revised code are applicable, the supervising physician shall be continuously available for direct communication with the physician assistant by either of the following means:
 - a. being physically present at the location where the physician assistant is practicing;
 - b. being readily available to the physician assistant through some means of telecommunication and being in a location that under normal conditions is not more than sixty minutes travel time away from the location where the physician assistant is practicing.
2. the supervising physician shall personally and actively review the physician assistant's professional activities.
3. the supervising physician shall regularly review the condition of the patients treated by the physician assistant.
4. the supervising physician shall ensure that the quality assurance system established pursuant to division (F) of this section is implemented and maintained.
5. the supervising physician shall regularly perform any other reviews of the physician assistant that the supervising physician considers necessary.

Q: Where may I obtain a training certificate application?

A: Applications may be obtained directly from the training program or downloaded from this website. [Click here](#).

Q: Once I submit my application, may I begin training?

A: Upon the Board's receipt of your training certificate application and appropriate fee, an acknowledgment letter will be issued to you via your training program. Once the training program has received that letter, you may participate in the training program. It takes approximately two to three weeks for the Board to issue that acknowledgment letter. The acknowledgment letter will serve as proof that your application has been received by the Board and that you are legally authorized to participate in your training program while your application is being processed. If you have not received a response from the Board within 45 days of submitting your application and fee, notify the Medical Board and your training program director.

Q: When will I be issued my training certificate?

A: You should receive your training certificate within 120 days from the date you begin your training program.

Q: I am presently in a training program out of state. May I participate in a rotation in Ohio without a training certificate or license?

A: No. You must have applied for or currently hold a training certificate to participate in any training program in this state.

Q: What can I do to expedite my application?

A: Applications are processed in the order in which they are received. Anticipating and avoiding the pitfalls that can slow down the review process will help to keep your application moving. Common causes of delay are errors or omissions on the application form itself and/or in the supporting documents; or difficulty in obtaining materials needed to complete the application, such as letters of recommendation. Any unusual circumstances that are discovered during the review process may also cause delay.

Medical Board staff will alert you to errors or omissions in your application, and may request that you intervene if there has been difficulty obtaining any needed documents. Your cooperation and patience are key to getting your application processed and your license issued as quickly as possible.

Q: What happens if I change training programs mid-year?

A: If you change programs at any time during the training year, you must immediately notify the Board in writing. A new application need not be completed; however, acknowledgment by the Board of receipt of a Notification of Change in Program will be required prior to starting the new training program.

Q: I received an application to renew my training certificate, however, I want to apply for an unrestricted license to practice in Ohio. Do I have to renew my training certificate?

A: No. Individuals who are in a training program must either apply for a training certificate or a full, unrestricted license to practice in Ohio. As long as you submit an application for a full license and the appropriate fee before your training certificate expires the Board will mail an acknowledgment letter. That acknowledgment letter will serve as proof that the Board has received the application and that you are entitled to participate in the training program.

Q: I received an application to renew my training certificate, however, I want to apply for an unrestricted license to practice in Ohio. Do I have to renew my training certificate?

A: No. Individuals who are in a training program must either apply for a training certificate or a full, unrestricted license to practice in Ohio. As long as you submit an application for a full license and the appropriate fee before your training certificate expires the Board will mail an acknowledgment letter. That acknowledgment letter will serve as proof that the Board has received the application and that you are entitled to participate in the training program.

Q: What is Graduate Medical Education?

A: As defined in section 4731.091, ORC, Graduate Medical Education means education received through any of the following:

- An internship or residency program conducted in the United States and accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association;
- A clinical fellowship program conducted in the United States at an institution with a residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association that is in a clinical field the same as or related to the clinical field of the fellowship program;
- An internship program conducted in Canada and accredited by the committee on accreditation of preregistration physician training programs of the federation of provincial medical licensing authorities of Canada;
- A residency program conducted in Canada and accredited by either the royal college of physicians and surgeons of Canada or the college of family physicians of Canada.

Q: May a licensed physician in Ohio practice acupuncture and is the practice in any way restricted?

A: Medical Doctors and Doctors of Osteopathic Medicine in Ohio are authorized to use "alternative medical treatment" by section 4731.227 of the Revised Code. That section of the code defines "alternative medical treatment" as "care that is complementary to or different from conventional medical care but is reasonable when the benefits and risks of the alternative medical treatment and the conventional medical care are compared." There is no explicit limitation on the use of any alternative modality by a licensed physician, though a physician must continue to operate within the standard of care as required in 4731.22(B)(6) of the Revised Code. Section 4731.227 of the Revised Code also contains explicit requirements for informed consent regarding the use of alternative modalities. A physician might also want to consider billing issues when using alternative modalities as 5101:3-13-05 of the Ohio Administrative Code lists acupuncture as a "noncovered service" for purposes of reimbursement in the Medicaid system. Finally, while chapter 4762. of the Revised Code licenses acupuncturists and limits the practice of acupuncture in Ohio to those who hold an acupuncture license from the State Medical Board, section 4762.02(B) specifically exempts licensed physicians from that requirement.

Q: Does an Ohio acupuncture license allow me to practice Chinese herbal medicine or as a Doctor of Oriental Medicine?

A: H.B. 341 of the 123rd General Assembly created licensure for the practice of acupuncture. Acupuncture is defined in Section 4762.01(A) of the Ohio Revised Code (ORC) as “a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the body.” Moxibustion is defined in paragraph (B) of that same section as “the use of an herbal heat source on one or more acupuncture points.” The scope of practice of an Ohio licensed acupuncturist is thus limited. In addition, ORC Section 4762.08 specifically limits the ways in which a licensed acupuncturist may hold himself or herself out to the public. That section states in part that “(t)he person shall not use other titles, initials, or abbreviations in conjunction with the person’s practice of acupuncture, including the title ‘doctor’.”

ORC Section 4731.34 defines the unlicensed practice of medicine. This definition includes language again related to how someone holds themselves out to the public. In addition, the section includes language describing a person who “examines or diagnoses” and who “prescribes, advises, recommends, administers, or dispenses... a drug or medicine, ...or treatment, of whatever nature.” A person needs a medical license or some other license with specific statutory authority to practice in this manner. Unlicensed practice is a felony in Ohio and grounds for discipline for a Board licensee (please see ORC Sections 4731.41 and 4731.99).

Clearly, Ohio has excluded the use of Chinese herbal medicine from the acupuncture scope of practice with the exception of the limited use of moxibustion in conjunction with acupuncture. Furthermore, Chinese herbal medicine is considered the practice of medicine in Ohio and is therefore within the scope of practice of licensed physicians.

Q: May a chiropractor refer patients for acupuncture?

A: No. Section 4762.10(A) of the Revised Code explicitly states an acupuncturist "shall perform acupuncture for a patient only if the patient has received a physician's written referral or prescription for acupuncture." Further, Ohio law makes clear in 4762.01(C) of the Revised Code that "physician" in this context means an MD, DO or DPM licensed by the Medical Board, not a Doctor of Chiropractic.

Anesthesiologist Assistants

FAQ's

Q: May I practice as an Anesthesiologist Assistant while I am waiting for my NCCAA certification?

A: No. The Board must receive an application, certification from NCCAA, and approve registration before you begin practicing as an Anesthesiologist Assistant.

Q: How long does the licensure process take?

A: The usual time is 60 days (2 months). All applicants must be approved at a monthly Board meeting and all documentation completed before a registration can be issued.

Q: Do I need a recommendation letter from my program if I am a new graduate?

A: Yes. New graduates can submit a letter from a physician who worked with them in their Anesthesiologist Assistant program, and Anesthesiologist Assistants who are currently employed may submit a letter from their employer.

Q: Where may I find the International Guild of Hair Removal Specialists, Inc. (IGHRS)?

A: [Click here](#) to find the Code of Ethics of the International Guild of Professional Electrologists (IGPE).

Q: Where may I find the Standards of Ethical Practice for Cosmetic Therapists?

A: [Click here](#) to find the Standards of Ethical Practice for Cosmetic Therapists.

Q: Why are cosmetic therapists being taxed?

A: The Legislature, in consultation with the Department of Taxation, expanded the base of "taxable events" for purposes of the state sales tax. Language was included in House Bill 95 (the Budget Bill) to expand the tax base to cover "personal services," including hair removal "and other similar services." The relevant statute, Ohio Revised Code Section 5739.01(B)(3)(r), adds to the definition of taxable events for purposes of the state sales tax: "On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. 'Personal care service' does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair."

Q: When does the sales tax on cosmetic therapy services take effect?

A: Cosmetic therapists must be in compliance with the sales tax by August 1, 2003.

Q: What is considered a “taxable event” covered by the sales tax?

A: A taxable event is when there is an actual sale of cosmetic therapy services. If you perform a treatment on a patient who is not seeing you on a doctor’s order, and the patient or a third party pays you, you must collect and report that tax. Where service providers barter for services from one another, the sales tax still applies because the payment by service is a form of compensation.

Q: As a cosmetic therapist, what are my responsibilities under the new law?

A: If you are a cosmetic therapist and perform hair removal that is subject to the sales tax, you have two overarching responsibilities: you must collect the tax from your clients, and you must report and remit the tax to the state. Additionally, to claim any exemption, cosmetic therapists must rely, in good faith, upon the physician's order.

Q: Will insurance companies reimburse providers for the amount of the sales tax?

A: Depending on the circumstances, an insurance company that will cover cosmetic therapy services may or may not also pay for the sales tax. Whether or not a third party payer will reimburse for the sales tax, the cosmetic therapist is required to collect and remit the tax.

Q: Will a cosmetic therapist now be required to obtain a vendor's license?

A: Yes, a cosmetic therapist will be required to obtain one of two types of vendor's licenses. The type you need depends on your practice. If a cosmetic therapist operates out of a fixed location, the cosmetic therapist must obtain a vendor's license through the county auditor in the county where the business is located. Information on contacting county auditors can be found at <http://www.caa.org/DIRECTORY/index.htm>

If a cosmetic therapist does not operate out of any specific location but rather provides services at different locations, the cosmetic therapist should obtain a transient vendor's license from the State Department of Taxation. The forms are available at http://www.state.oh.us/tax/business_forms_Sales.html

A vendor's license through the county auditor's office costs \$25.00. The transient vendor's license through the Department of Taxation also costs \$25.00.

Q: Is a cosmetic therapist responsible for obtaining a vendor's license if he/she works out of a physician's office?

A: Physical co-location with a physician does not confer an automatic exemption from the sales tax. Only when providing cosmetic therapy services on the order of a physician or as an employee of the physician, is the cosmetic therapist exempt from the taxation requirement and the need for a vendor's license. The physician does, however, need a vendor's license and must collect and remit the tax on any hair removal services not covered by a physician's order.

Q: What is the statutory requirement for the posting of a vendor's license?

A: There is no requirement to display a regular county vendor's license. On the other hand, Ohio Revised Code Section 5739.17(E) requires every holder of a transient vendor's license to display the license or a copy of it, "prominently, in plain view, at every place of business of the transient vendor."

Q: Are there any exemptions for cosmetic therapy services being taxed?

A: Yes, according to Ohio Revised Code Section 5739.01(B)(3)(r), a cosmetic therapy service performed on the order of a physician is exempt from taxation. Although there is no specific language in the statute, the order should specify cosmetic therapy services and be patient specific. There is no requirement that the order be written, but should there be a Department of Taxation audit, written orders may help a cosmetic therapist document the exemptions. In addition, the fact that a third party payer may reimburse for a cosmetic therapy service does not exempt the procedure from the sales tax, nor does employment in a physician's office provide a blanket exemption.

Q: Who is encompassed within the definition of “physician”?

A: Ohio Revised Code Section 5739.01(B)(3)(r), uses the terms "physician" and "chiropractor." The Department of Taxation has indicated that the term is meant, in this context, to include MDs, DOs, podiatrists and dentists, in addition to chiropractors.

Q: Do cosmetic therapy services provided at clinics associated with cosmetic therapy schools qualify as "taxable events" under the new law?

A: Whether a school clinic is subject to the tax depends on whether the school is a government entity, which under other sections of the code enjoys exemption from taxation. State cosmetic therapy schools are not required to collect and remit the sales tax for services rendered in their clinics. Proprietary schools are still responsible for the tax.

Q: What records should be kept to prove compliance with the sales tax?

A: Department of Taxation auditors would likely look at primary business records, i.e., invoices (which must include the taxable amount), account records, and records of the physician's order. Normal prudent business practices should be followed to best comply with the sales tax. The statute of limitations is four years, but the most cautious avenue is to keep business records for a longer period.

Q: How often must cosmetic therapists file taxes to be in compliance with the sales tax law?

A: Generally, the deadline for filing and remitting sales taxes is the 23rd of each month, however certain types of business may be required to file more or less frequently. The amount that is collected in taxes determines the times at which the taxes must be remitted. The following page from the Ohio Department of Taxation's Annual Report sets out the schedule for remittance:
http://www.state.oh.us/tax/Publications/2001_Annual%20Report/26-sales.pdf

Q: What are the penalties for failing to comply with the new sales tax?

A: The penalty could be up to 50% of the total of taxes due, in addition to the original tax amount. The criminal penalty is up to \$1000. For “allowable ignorance,” that is, cases in which a therapist did not comply with the law simply due to a lack of understanding of his or her responsibilities, there may be a 15% penalty.

Q: What are my responsibilities regarding the sales tax when a gift certificate is purchased for cosmetic therapy services?

A: If the certificate is for the performance of a specified service (i.e. a certificate for one or more treatments) you need not collect tax from the recipient when that service is performed. Such certificates sold on and after August 1, 2003 are subject to sales tax when the certificate is sold. Any additional amount you charge the recipient for additional services would be taxable.

If the certificate is for a specified dollar value (i. e. fifty dollars toward any product or service at a salon), the certificate is treated the same as cash. When such a certificate is used to purchase taxable property or services, tax should be charged on the full price of the property or service.

Q: What can be done about unlicensed persons or licensed cosmetic therapists who are not complying with the new tax requirements?

A: The Ohio Department of Taxation will investigate if it has knowledge of non-compliance. If you know of a person you believe to be not in compliance, you may report via e-mail, regular mail or by phone. By entering the Ohio Department of Taxation's website, www.state.oh.us/tax/, the form may be accessed by clicking on "Contact Us" and then clicking on an option called "E-mail US Suspected Tax Fraud." The form may be printed out and sent in or e-mailed to the Department of Taxation. The Ohio Tax Fraud Hotline is reached by calling 800-757-6091.

Q: May a massage therapy student who completes more than 600 hours of classroom instruction over a period of more than one year, but who has not yet graduated from the MT program, sit for the State licensing exam?

A: No, a student must complete the course of instruction prior to sitting for the exam. Section 4731.19, ORC, requires the examinee to hold a diploma or certificate from an MT school in good standing.

Q: Where may I find the Standards of Practice of the American Massage Therapy Association (AMTA)?

A: [Click here](#) to find the Standards of Practice of the American Massage Therapy Association (AMTA).

Q: Where may I find the AMTA Code of Ethics?

A: [Click here](#) to find the American Massage Therapy Association Code of Ethics.

Q: Is it appropriate for a licensed massage therapist (LMT) to advertise using the word "rehabilitation"?

A: Although there is no prohibition per se, the Medical Board discourages an LMT's use of the word rehabilitation when advertising services. According to the Merriam-Webster Online Dictionary, rehabilitation, in part, is "to restore or bring to a condition of health or useful and constructive activity." The practice of massage therapy as the "treatment of disorders of the human body" seems to fit within the popular definition of rehabilitation. However, there is a more technical meaning of rehabilitation within the healthcare community, which encompasses, among other tasks, the establishment of a problem list, a comprehensive care plan and the structuring of therapeutic goals. The more technical definition falls within the scopes of practice of such professionals as physicians, physical therapists, speech pathologists, athletic trainers and occupational therapists. Furthermore, a prohibition included in the recently passed scope of practice for LMTs is "[t]he prescription of therapeutic exercise for the purpose of rehabilitation or remediation of a disorder of the human body," Ohio Administrative Code Section 4731-1-05 (F)(5). For the aforementioned reasons, use of the word rehabilitation by an LMT may be misleading in the context of the healthcare profession.

Q: Why are massage therapists being taxed?

A: The Legislature, in consultation with the Department of Taxation expanded the base of "taxable events" for purposes of the state sales tax. Language was included in House Bill 95 (the Budget Bill) to expand the tax base to cover "personal services," including massage "and other similar services." The relevant statute, Ohio Revised Code Section 5739.01(B)(3)(r), adds to the definition of taxable events for purposes of the State sales tax: "On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair."

Q: What is considered a “taxable event” covered by the sales tax?

A: A taxable event is when there is an actual sale of massage services, including massage therapy. If you perform a treatment on a patient who is not seeing you on a doctor’s order, and the patient or a third party pays you, you must collect and report that tax. Where service providers barter for services from one another, the sales tax still applies because the payment by service is a form of compensation.

Q: As a massage therapist, what are my responsibilities under the new law?

A: If you are a massage therapist and perform massage that is subject to the sales tax, you have two overarching responsibilities: you must collect the tax from your clients, and you must report and remit the tax to the state. Additionally, to claim any exemption, massage therapist must rely, in good faith, upon the physician's order.

Q: Are alternative massage modalities subject to the sales tax?

A: The law states that massage services or other similar services are subject to the tax. The Department of Taxation will define "other similar services," though relaxation massage and bodywork are to be included. The Medical Board, with the assistance of the Massage Therapy Advisory Committee, will provide counsel to the Department of Taxation regarding the nature of alternative modalities.

Q: Will insurance companies reimburse providers for the amount of the sales tax?

A: Depending on the circumstances, an insurance company that will cover massage therapy may or may not also pay for the sales tax. Whether or not a third party payer will reimburse for the sales tax, the massage therapist is required to collect and remit the tax.

Q: Will a massage therapist now be required to obtain a vendor's license?

A: Yes, a massage therapist will be required to obtain one of two types of vendor's licenses. The type you need depends on your practice. If a massage therapist operates out of a fixed location, the massage therapist must obtain a vendor's license through the county auditor in the county where the business is located. Information on contacting county auditors can be found at <http://www.caa.org/DIRECTORY/index.htm>

If a massage therapist does not operate out of any specific location but rather provides services at different locations, the massage therapist should obtain a transient vendor's license from the State Department of Taxation. The forms are available at http://www.state.oh.us/tax/business_forms_Sales.html

A vendor's license through the county auditor's office costs \$25.00. The transient vendor's license through the Department of Taxation also costs \$25.00.

Q: Is a massage therapist responsible for obtaining a vendor's license if he/she works out of a physician's office?

A: Physical co-location with a physician does not confer an automatic exemption from the sales tax. Only when providing massage therapy services on the order of a physician or as an employee of the physician, is the massage therapist exempt from the taxation requirement and the need for a vendor's license. The physician does, however, need a vendor's license and must collect and remit the tax on any massage services not covered by a physician's order.

Q: Are there any exemptions for massage therapy services being taxed?

A: Yes, according to Ohio Revised Code Section 5739.01(B)(3)(r), a massage therapy procedure performed on the order of a physician is exempt from taxation. Although there is no specific language in the statute, the order should specify massage therapy services and be patient specific. There is no requirement that the order be written, but should there be a Department of Taxation audit, written orders may help a massage therapist document the exemptions. In addition, the fact that a third party payer may reimburse for a massage therapy procedure does not exempt the procedure from the sales tax, nor does employment in a physician's office provide a blanket exemption.

Q: Who is encompassed within the definition of "physician"?

A: Ohio Revised Code Section 5739.01(B)(3)(r), uses the terms "physician" and "chiropractor." The Department of Taxation has indicated that the term is meant, in this context, to include MDs, DOs, podiatrists and dentists, in addition to chiropractors.

Q: Do massage services provided at clinics associated with massage therapy schools qualify as "taxable events" under the new law?

A: Whether a school clinic is subject to the tax depends on whether the school is a government entity, which under other sections of the code enjoys exemption from taxation. State massage therapy schools are not required to collect and remit the sales tax for services rendered in their clinics. Proprietary schools are still responsible for the tax.

Q: What records should be kept to prove compliance with the sales tax?

A: Department of Taxation auditors would likely look at primary business records, i.e., invoices (which must include the taxable amount), account records, and records of the physician's order. Normal prudent business practices should be followed to best comply with the sales tax. The statute of limitations is four years, but the most cautious avenue is to keep business records for a longer period.

Q: How often must massage therapists file taxes to be in compliance with the sales tax law?

A: Generally, the deadline for filing and remitting sales taxes is the 23rd of each month, however certain types of business may be required to file more or less frequently. The amount that is collected in taxes determines the times at which the taxes must be remitted. The following page from the Ohio Department of Taxation's Annual Report sets out the schedule for remittance: http://www.state.oh.us/tax/Publications/2001_Annual%20Report/26-sales.pdf

Q: What is the statutory requirement for the posting of a vendor's license?

A: There is no requirement to display a regular county vendor's license. On the other hand, Ohio Revised Code Section 5739.17(E) requires every holder of a transient vendor's license to display the license or a copy of it, "prominently, in plain view, at every place of business of the transient vendor."

Q: What are the penalties for failing to comply with the new sales tax?

A: The penalty could be up to 50% of the total of taxes due, in addition to the original tax amount. The criminal penalty is up to \$1000. For “allowable ignorance,” that is, cases in which a therapist did not comply with the law simply due to a lack of understanding of his or her responsibilities, there may be a 15% penalty.

Q: What are my responsibilities regarding the sales tax when a gift certificate is purchased for massage therapy services?

A: If the certificate is for the performance of a specified service (i.e. a certificate for a manicure or a one-hour massage) you need not collect tax from the recipient when that service is performed. Such certificates sold on and after August 1, 2003 are subject to sales tax when the certificate is sold. Any additional amount you charge the recipient for additional services would be taxable.

If the certificate is for a specified dollar value (i. e. fifty dollars toward any product or service at a salon), the certificate is treated the same as cash. When such a certificate is used to purchase taxable property or services, tax should be charged on the full price of the property or service.

Q: What can be done about unlicensed persons or licensed massage therapists who are not complying with the new tax requirements?

A: The Ohio Department of Taxation will investigate if it has knowledge of non-compliance. If you know of a person you believe to be not in compliance, you may report via e-mail, regular mail or by phone. By entering the Ohio Department of Taxation's website, www.state.oh.us/tax/, the form may be accessed by clicking on "Contact Us" and then clicking on an option called "E-mail US Suspected Tax Fraud." The form may be printed out and sent in or e-mailed to the Department of Taxation. The Ohio Tax Fraud Hotline is reached by calling 800-757-6091.

Q: Does the application of endermologie to the human body require a license in Ohio?

A: Yes. Endermologie is the practice of medicine and within the limited branch of massage therapy.

§4731.34(A)(3)(b) of the Ohio Revised Code defines the practice of medicine, in part, as the examination or diagnosis for compensation of any kind, direct or indirect; or prescribing, advising, recommending, administering, or dispensing for compensation of any kind, direct or indirect, a drug or medicine, appliance, mold or cast, application, operation, or treatment, of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease.

Rule 4731-1-05 of the Ohio Administrative Code defines the scope of practice of massage therapy as the “treatment of disorders of the human body by the systematic external application of touch, stroking, friction, vibration, percussion, kneading, stretching, compression, and passive joint movements within the normal physiologic range of motion; and adjunctive thereto, the external application of water, heat, cold, topical preparations, and mechanical devices.” It further defines mechanical devices as “any tool or device which mimics or enhances the actions possible by the hands.”

The endermologie machine mimics the rolling, fulling and kneading techniques employed by massage therapists. Endermologie is a procedure intended to dissipate cellulite, increase circulation, restore collagen function and expel toxins and abnormal water buildup. Endermologie, then, is the practice of medicine and within the scope of practice of massage therapists. Section 4731.41 of the Revised Code requires persons practicing medicine and surgery or one of its limited branches to be licensed.

Q: Is any special training required to use an endermologie device?

A: All licensed health care professionals are required to meet minimal standards of care to help ensure the safety of patients and the effectiveness of treatments. One must have sufficient education and training to ensure the ability to perform the procedure within minimal standards of care. In the case of endermologie, instruction in techniques as well as in physiological effect, pathologies and contraindications would be important for any practitioner. Accordingly, a massage therapist is permitted to perform endermologie, provided that he or she is trained in the proper techniques and understands the contraindications.

Q: Are endermologie devices medical devices?

A: Yes. The FDA stated in a letter to the manufacturer of endermologie devices: "Under a United States Federal law, the Federal Food, Drug, and Cosmetic Act, the ES 1 [endermologie machine] is considered to be a medical device because it is being used to diagnose or treat a medical condition or to affect the structure or function of the body." The FDA's complete definition of a medical device can be found here:

<http://www.fda.gov/cdrh/devadvice/312.html>.

Q: May a physician delegate the use of an endermologie device to an unlicensed person?

A: No. Endermologie is the practice of medicine as defined in Section 4731.34 of the Revised Code; Section 4731.41 of the Revised Code indicates that unlicensed persons cannot practice medicine in Ohio. There are exceptions to that prohibition, spelled out in law, which state that certain components of the practice of medicine may be performed by persons other than those licensed as physicians. There is no such specific authorization regarding endermologie.

Physicians also have a more general delegatory authority found in Section 4731.053 of the Revised Code. Under 4731.053, physicians have the authority to delegate the performance of medical tasks to persons "not licensed or otherwise authorized by the Revised Code to perform the task." But there are limits on what may be delegated, spelled out in 4731.053 and also in Chapter 4731-23 of the Administrative Code, known as the delegation rules. Rule 4731-23-03 (A) states that "A physician shall not delegate the practice of medicine as defined in section 4731.34 of the Revised Code unless specifically authorized to do so..." Physicians have no specific authorization to delegate the performance of endermologie. The rule goes on to specify that the class of tasks eligible for delegation are those that are self-contained, discrete tasks that do not require continuing assessment or medical judgments. Endermologie requires the practitioner to determine where and how to apply the treatment and to assess on an ongoing basis the physiological effects of the treatment and fails, therefore, to meet that standard.

Q: May massage therapists delegate the use of an endermologie device?

A: No, massage therapists are never allowed to delegate their duties, including the use of endermologie devices. Delegation falls outside of the scope of practice for massage therapists. Pursuant to Section 4731.053 of the Revised Code, only physicians may delegate medical tasks

Q: May endermologie be performed in salons and spas?

A: Yes, endermologie may be performed in spas and salons under the proper circumstances. The individual performing the procedure must be authorized to do so, such as a physician or licensed massage therapist. In addition, however, when done in a spa or salon, a practitioner must meet the requirements of the Board of Cosmetology. According to Section 4713.14 of the Revised Code, in order for a salon to provide massage services, the person giving the massage must have a valid state license to perform massages, and the room in which the massage is given must be compliant with Section 4713.14(A) of the Revised Code.

Q: How long will it take to receive my new wallet identification card once I have submitted my renewal application and fees?

A: Licenses are updated upon receipt of fees and a complete application. If everything is signed and completed correctly, a new wallet card is issued and mailed within a short period of time.

Q: May I pay for my renewal with a credit card?

A: Not at this time, but the Board continues to explore credit card payment. Check back for updates!

Q: May I fax my renewal application to the Board?

A: No. In order to process your renewal, the Board must have your original signature on the completed application form.

Q: When must I have the required number of continuing education hours completed in order to renew my license?

A: You must meet the CME requirement prior to filing your application for renewal. You will be required to sign a certification on your renewal form that you have met the continuing education requirements. Falsification on the renewal form is a violation of law and may subject you to disciplinary action. Please refer to the [CME Renewal Chart](#) to check specific dates for your renewal group.

Q: Am I required to send in evidence of my continuing education hours at the time I renew?

A: No. The Board will randomly select licensees for a post-renewal audit. If selected, you would be notified by mail that documentation is required and given a reasonable time frame within which to comply.

Q: Do I have to obtain the full 100 hours of CME if I am newly licensed during the renewal period?

A: No. Please refer to the [chart](#) of prorated hours for those practitioners newly licensed within the renewal period. Find your renewal group, and the chart will tell you how many hours in Category 1 and Category 2 you need to complete.

Q: Does Ohio have an inactive license status?

A: No. Unless you apply for and obtain an Emeritus certificate, you must either renew your license, completing all the CME required, or allow your license to lapse for non-renewal.

Q: What happens if I allow my license to lapse for non-renewal, and later decide to reactivate it?

A: Within two years of the expiration date, you may reinstate your lapsed license by submitting a renewal application and by paying the current renewal fee (\$305), plus a \$50 late renewal fee. You must have completed the CME requirements for that renewal period before your reinstatement application will be considered complete. If your license has been in a lapsed status for more than two years, you will need to restore your license. This involves completing a more detailed restoration application and submitting it with the \$405 fee. Processing of a restoration application is similar to that of an initial license application and may take 10-12 weeks. If you have not been engaged in the active practice of medicine for more than two years prior to applying for restoration, the Board may impose requirements to assure your professional competency, such as requiring you to pass a special purpose examination to test clinical competency.

Q: Do I have to give up my license when I retire?

A: Ohio does not offer an "inactive" or "retired" status for physicians who retire from the practice of medicine. If you wish to cease practicing but would like to retain your license, you will continue to be responsible for completing Continuing Medical Education requirements and abiding by all of the laws governing medical practice in this state.

If you no longer wish to retain your medical license, simply allow it to lapse by not returning the renewal application that the Medical Board sends you for the next licensure period. If you do not renew, no further applications will be sent to you.

Ohio does offer an Emeritus registration that permits a physician who has been licensed in the state for at least ten years to retain status as a physician, provided that he/she does not practice medicine or hold himself/herself out as being permitted to do so. A physician who holds an Emeritus registration is not subject to renewal fees and is not required to complete Continuing Medical Education.

For more information about Emeritus registration, see Chapter 4731-22 of the Ohio Administrative Code on the Medical Board's website.

Q: If I am retired and want to keep my license current, must I complete all the CME hours required?

A: Yes. Anyone who wants to hold a current Ohio license must complete the CME hours required and pay the renewal fees.

Q: What if I am now retired and don't want to obtain continuing education hours but don't want to give up my license?

A: You may want to apply for an Emeritus certificate. Being registered as Emeritus will not subject you to the biennial renewal cycle, CME requirements or renewal fees. However, the Emeritus certificate prohibits practicing in Ohio. If you should desire to change back to active status, you may reinstate the license within a two year period.

Q: Does a physician have to let a patient see his/her medical records if asked?

A: Yes, a physician is required to permit a patient or a representative to examine his/her medical records without charge, so long as the patient has signed and submitted a request. The request must be dated no more than sixty days prior to the date that it is submitted. One exception: If the physician has determined for clearly stated treatment reasons that allowing access to the records is likely to have an adverse effect on the patient, the physician may instead provide the record to another physician of the patient's choosing.

Q: May the physician charge a patient a fee if the patient wishes to obtain a copy of his/her medical record?

A: Yes, with a couple of exceptions. Ohio law provides that a physician must provide one copy of a medical record, without charge, to the Bureau of Workers' Compensation, the Industrial Commission, and the Department of Job & Family Services. The physician must also provide one free copy of the record to the patient or the patient's representative for the purpose of supporting a claim for Social Security disability benefits, so long as the request is accompanied by documentation that the claim has been filed. Otherwise, the physician may charge not more than the sum of the following:

1. An initial fee of \$15, which compensates for the records search.
2. With respect to data recorded on paper, \$1 per page for the first 10 pages; \$.50 per page for pages 11-50; and \$.20 per page thereafter.
3. With respect to data recorded other than on paper, the actual cost of making the copy.
4. The actual cost of any related postage incurred.

Q: When responding to a request for medical records, should copies of records received from another physician be included?

A: Once a physician accepts a person as a patient, medical records received by the physician from prior or concurrent treating physicians become part of the patient's medical record in that practice. In most instances, physicians may redisclose records that originated with another physician if the patient consents for that information to be transferred. Further, although patient records released by a hospital or another physician may be stamped with a statement to the effect that such records may not be disclosed, redisclosure is permissible with an appropriate release from the patient.

The Medical Board, for its part, encourages physicians to take a reasonable approach, keeping in mind the difficulty a patient could encounter trying to track down other treating physicians every time a pertinent portion of their medical record is needed.

Q: If a physician only sees a patient once and the medical record consists almost entirely of information obtained from prior treating physicians, may the physician forward the entire record to the patient's new physician without keeping a copy?

A: Even if the physician's involvement with the patient was minimal, the physician should not part with the only copy of the patient's record. Even before the enactment of Section 3701.74, Ohio Revised Code, the Medical Board's rules required physicians to maintain a complete medical record on each patient. That complete record includes all information presented to the physician concerning prior treatment. Parting with the only copy of the patient's record would put the physician in violation of those rules. In addition, the physician might have difficulty defending him- or herself should the patient later decide to file a complaint with the Medical Board or bring a malpractice action.

Judging from the number of concerns about records access that are brought to the Board's attention, the new law would be worth review by Ohio's practicing physicians.

Q: Rather than personally signing each prescription, may a physician delegate authority to sign to a nurse or other assistant, or authorize use of a signature stamp?

A: No. The law requires that the physician manually sign each prescription in the same manner as he/she would sign a check or legal document.

Q: Is a physician prohibited from issuing a prescription for more than a thirty day supply of a schedule two controlled substance?

A: No. Although many physicians, and even some pharmacists, believe that no more than a thirty day supply of a schedule 2 controlled substance may be provided at one time, a physician may generally prescribe any quantity of drugs so long as the physician conforms to appropriate standards of care. A physician is prohibited from prescribing more than a thirty day supply of a Schedule 3 or 4 controlled substance for purposes of weight reduction. See Rule 4731-11-04, Ohio Administrative Code. Please note that a physician may not issue prescriptions for schedule 2 controlled substances with refills. Federal law prohibits refills of schedule 2 drugs.

Q: May a physician prescribe a controlled substance for his/her own use?

A: No. Rule 4731-11-08 of the Ohio Administrative Code and applicable federal laws prohibit a physician from prescribing controlled substances for him/herself under any circumstances.

Q: May a physician prescribe a prescription drug that is not a controlled substance for his/her own use?

A: While the law does not expressly prohibit self-prescribing, the practice is discouraged by the Medical Board because of its inherent complications. Recognized standards of care require an examination, diagnosis and creation of an appropriate patient record when prescribing drugs. The physician must exercise detached professional judgment, which is virtually impossible in situations of self-prescribing. It is almost never appropriate for a physician to self-manage a serious or chronic condition, or to self-treat with psychiatric drugs, such as anxiolytics and mood stabilizers.

Q: When may a physician prescribe a controlled substance to a family member?

A: Under Rule 4731-11-08 of the Ohio Administrative Code, a physician may prescribe a controlled substance to a family member only in a bona fide emergency. The physician must perform an adequate examination, formulate an appropriate diagnosis, and create a patient record in conjunction with the prescribing.

Q: What standards apply to treating family members with prescription drugs that are not controlled substances?

A: The family member becomes a patient for purposes of receiving the prescription, and the physician must meet the same standards he or she is held to in treating other patients. There must be an appropriate examination and diagnosis, creation of a patient record, and follow-up when appropriate. As with self-treating, it is almost always a bad idea to treat a family member's chronic condition, serious illness, or psychiatric/emotional problems.

Q: How is "family member" defined?

A: For purposes of Rule 4731-11-08 of the Ohio Administrative Code, a family member is a spouse, parent, child, sibling or anyone in relation to whom the doctor's personal or emotional involvement may render the doctor unable to exercise detached professional judgment.

Q: When is it appropriate to use protocols?

A: A protocol may only be used in a true emergency, or for biologicals or vaccines administered to individuals for the purpose of preventing diseases. For all other situations, all orders must be patient-specific with well defined parameters for administration, and authorized by the prescriber prior to implementation. The parameters to be used include: (1) description of the intended recipients, (2) drug name and strength, (3) specific instructions of how to administer the drug, (4) dosage, (4) frequency, and (5) a signature of the authorized prescriber. The administration of drugs that are not patient-specific or authorized by the prescriber prior to implementation would be the unauthorized practice of medicine, which is a felony in this state.

Enforcing the appropriate use of protocols as described above is not intended to address or limit the practice of Certified Registered Nurse Anesthetists or Anesthesiologist Assistants administering anesthesia in accordance with statute and rule. This information is also not meant to disrupt the consultative agreement between pharmacist, physician and patient.

Q. What is an example of a "true emergency?"

A: For purposes of this rule, examples of "true emergencies" would be cases such as heart attacks, severe burns, cyanide poisonings, electrocutions, or severe asthmatic attacks. Examples of non-emergencies would be earaches, stomachaches, or infections.

Q. What is an example of a biological or vaccine administered to an individual for the purpose of preventing disease?

A: For purposes of this rule, examples of biologicals or vaccines administered to individuals for the purpose of preventing diseases would be flu vaccines, tetanus toxoids, hepatitis B vaccines, or PPD tuberculosis tests. Note that vaccines such as typhoid oral vaccine that must be taken over a several day time period cannot be dispensed by a nurse who is not authorized to prescribe. These drugs must be dispensed by an authorized prescriber to his or her own patients or by a pharmacist pursuant to a prescription.

Q: How should protocols be written?

A: The protocol from the authorized prescriber must:

- Specifically define the intended audience;
- List the drug name and strength of the product; and
- For the purposes of emergency protocols, give specific instructions on how to administer the drug, how much to administer, and how often the drug should be administered; for purposes of biologicals or vaccines, give specific instructions for the use of the drug.

In addition, the authorized prescriber must sign the protocol. The authorized prescriber may have a more detailed protocol or may word the protocol any way the authorized prescriber wishes as long as it contains the required details noted above.

For example, a protocol to be used in an emergency situation might be:

"EPINEPHRINE 1:1000. When a patient has a severe allergic reaction or goes into anaphylactic shock as a result of an insect sting or a drug reaction, inject 0.3 ml SC. If necessary, may repeat this dose every 10-15 minutes no more than two times until appropriate medical care can be sought or until symptoms subside."

An example of a protocol to be used for biologicals or vaccines might be:

"FLU VACCINE. All patients, or patients at risk, will be offered the opportunity to receive this year's flu vaccine. The patient will first read and sign an information sheet which will be placed in the medical record. Once the document is understood and signed, the patient will receive an injection 0.5ml IM of the flu vaccine. All injections will be given in accordance with CDC guidelines."

Q: How does a non-prescriber adjust or initiate medications in an inpatient setting?

A: Pharmacy Board Rule 4729-5-01 O.A.C. addresses the adjustment or initiation of medications in inpatient settings through use of preprinted orders. A preprinted order is defined as a patient-specific, definitive set of drug treatment directives to be administered to an individual patient who has been examined by a prescriber and for whom the prescriber has determined that the drug therapy is appropriate and safe when used pursuant to the conditions set forth in the order. Preprinted orders may be used only for inpatients. Because the preprinted order is patient-specific and is prescribed by an authorized prescriber who has examined the patient, these are not protocols and are therefore appropriate for use in an inpatient facility.

Q: What is the difference between "dispense" and "administer"?

A: The Pharmacy Board defines "dispense" as "the final association of a drug with a particular patient pursuant to the prescription, drug order, or other lawful order of a prescriber and the professional judgment of and the responsibility for: interpreting, preparing, compounding, labeling, and packaging a specific drug." (4729-5-01 (B) O.A.C.) "Administer" is defined in the Revised Code as "the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal." (3719.01(A) O.R.C.) To easily remember the difference between the two in practice, you may use this simplified distinction: "Administration" means "here's a dose, take it NOW." "Dispensing" means "here's a dose, take it LATER." "Dispensing" is limited to pharmacists and authorized prescribers. "Administration" may be performed by a nurse pursuant to the order of an authorized prescriber.

Q. May an authorized prescriber have certain drugs regularly available to give to a particular patient, employee or student?

A: Yes, an authorized prescriber may have stock drugs available for his or her use only, or to have available to give a direct order to a health care professional for administration to a particular patient, employee, or student, including prescription drugs. This occurs often in an occupational health or school setting. These drugs must be documented on a list. Prescription drugs in this list may include such items as antibiotics, non-steroidal anti-inflammatories (e.g. Naprosyn), and any other drug the authorized prescriber wishes to have available. No prescription drug may be purchased or stored at a site unless it is on this drug list. To store a drug at a site, an individual must be licensed to do so by the state Pharmacy Board.

Q. How should this list of drugs to be regularly stored on the premises be written?

A: A qualifying statement must precede the list and the list must be signed and notarized by an authorized prescriber.

An example of documentation of a list of drugs to be regularly kept on the premises might be:

"The drugs listed below will be purchased and stored at this facility for my use only or for use when I give a direct order to a health care professional to administer such drug to a specific patient."

<u>number</u> <u>Drug Name</u>	<u>Strength</u>	<u>Dosage Form</u>	<u>NDC</u> <u>(on drug container)</u>
Amoxil	500 mg	capsule	000029-6007
Atarax	10 mg	tablet	000049-5600
Bacteriostatic Sodium Chloride		solution	0333-08
Heparin Lock Flush		solution	0008-523
Naprosyn	500 mg	tablet	018930-0277
Neosporin Ophthalmic		ointment	000081-0732
Otobiotic Otic		solution	000085-0847

Q. Can the drugs on a list of drugs to be regularly stored on the premises be administered using protocols?

A. No, these drugs may not be administered using protocols, unless their use falls within one of the exceptions listed above. The administration must be patient-specific and authorized by the prescriber prior to implementation. To administer a listed drug using protocols would be the unauthorized practice of medicine, which is a felony in this state.

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Q: What is a Medical Board "Position Statement?"

A: Unlike a statute or rule, upon which the Board may rely as an independent basis for initiating disciplinary action, a position statement does not have the force and effect of law. Position statements are most often used to announce Medical Board policy, promote certain minimum guidelines, and highlight safety concerns. Through a position statement, the Board can also put the public and the profession on notice of what it considers to be the appropriate standard of care.

Q: Can a licensee be disciplined for failing to follow a Medical Board Position Statement?

A: Unlike a statute or rule, a position statement does not have the force and effect of law. For that reason, the Medical Board cannot initiate disciplinary action solely for a licensee's failure to comply with a stated Board position. However, the Board does have statutory authority under Chapters 4730.25, 4731.22, 4760.13 and 4762.13, Ohio Revised Code, to pursue individual disciplinary actions, and may also adopt rules to which members of the licensed professions must legally adhere.

Q. What may I do during the suspension period of my Board Order/Consent Agreement?

A. The Board Order/Consent Agreement suspended your license to practice medicine and surgery (including osteopathic medicine and surgery, podiatric medicine and surgery, or any of the other branches or limited branches of medicine) in the State of Ohio for a minimum or specific period of time. While your license is suspended, you may not hold yourself out as a licensed practitioner and you may not receive payment for the performance of any service that would require holding a license. The Board has adopted a position paper on this subject which is available on our website at www.med.ohio.gov; click on "Policies and Positions" under the heading "Policies, Rules and Statutes." If you have found an employment opportunity and would like to know if it would be considered practicing without a license, feel free to contact Danielle Bickers, Compliance Officer, (614-644-9085) for assistance.

Q. Will I be notified when documentation required by the Board Order/Consent Agreement is due?

A. Unless you are late in submitting documentation, we will not contact you. It is suggested that you set up a calendar, or tickler file, to remind you when you need to send in reports to the Board. Plan on sending that paperwork around the end of the month prior to when it is due in the Board's office. You should have received a list of due dates for all of your reports, as well as documents needed for compliance, when you were sent the copy of the signed consent agreement; however, additional copies are also available on the website listed above.

- Q. I am a chemically impaired practitioner. Am I permitted to consume any alcohol or medication during the period of my probation?
- A. You may not take any medications that may be mood-altering unless a practitioner who has full knowledge of your chemical dependency history has prescribed them to you. It is your responsibility to inform any practitioner with whom you seek treatment, of your dependency history. Most over-the-counter medications are prohibited, as they contain mood-altering compounds, including cold medications and cough suppressants. You may take aspirin, Tylenol or ibuprofen. If you are prescribed a controlled substance, or other prescription drugs, inform your supervising physician and the Board, or provide copies of the prescriptions, to avoid any concerns over the results of your drug and alcohol screens. You shall abstain completely from the personal use of alcohol. You shall also abstain from the consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

- Q. Where do I get consent forms for the release of reports, summaries, and records, for any treatment related to the Consent Agreement.
- A. The releases are not provided by the Board, but rather by each provider. You must sign release forms with your treating physicians or treatment programs so that the Board may monitor your progress and speak freely with your treating physicians. Be aware that some of the releases expire. So make sure there is always a current release on file. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

Q. What is a Declaration of Compliance, and is there a form?

A. The Declaration of Compliance is just that - a declaration that you have complied with the terms of the Board Order/Consent Agreement during the previous quarter. Failure to submit the required Declaration is a violation of the Consent Agreement and is grounds for further discipline. Submitting a Declaration that is false is also grounds for further discipline and may result in criminal prosecution. If you are not in compliance with a term of the Agreement, you must indicate the reason on the form in the area above your signature, or attach a signed statement. Copies of the Declaration, and any other document needed for compliance, are available on the website listed above.

Q. Before whom do I make my personal appearances?

A. Your first appearance is typically scheduled before the full Board. Unless there are issues concerning your compliance, subsequent conferences will be before the Secretary or Supervising Member and members of staff until the completion of your probation.

Q. Am I notified when I am scheduled to appear?

A. You should receive notification from the Board when your appearances are scheduled; however, it is your responsibility to know when your appearances will occur. If you do not receive a scheduling letter from the Board by the first of the month in which you are to make your appearance, please contact Danielle Bickers, Compliance Officer, (614-644-9085) immediately.

Q. What should I do if circumstances prevent me from appearing as scheduled?

A. If you have an emergency that prevents you from making your personal appearance, contact Danielle Bickers, Compliance Officer, (614-644-9085) immediately by telephone and follow up in writing. The Board may undertake certain steps to verify the reason that you were not able to attend. For example, if you are too ill to appear for an office conference, be prepared to provide a physician's excuse.

If your appearance is rescheduled for whatever reason, another appearance date will be scheduled for the following month. Subsequent appearances will not be bumped forward. You will be brought back in as was originally planned in the Agreement. Failure to attend a scheduled personal appearance without proper notice is a violation of the Consent Agreement, and may result in further discipline.

- Q. How do I go about finding a supervising physician and what are our individual responsibilities to the Board?
- A. You might choose the Ohio Physicians Health Program (OPHP) to serve as your supervising physician. The Board has a Memorandum of Understanding with OPHP that whomever they choose as your "monitor" will be an appropriate person; therefore, you will not need to seek separate Board approval, but you will be required to notify the Board of your choice. If, however, you are not being supervised by OPHP, you will need to submit for Board approval the name of a physician who will be willing to supervise your drug and alcohol screens and submit reports to the Board on a quarterly basis. You will also need to submit a copy of that physician's curriculum vitae so that the Board can assess his/her suitability to serve in that capacity.

The supervising physician will make quarterly reports to the Board certifying that the urine screens have been conducted according to the terms of the Consent Agreement. The supervising physician will also forward a copy of the actual laboratory report to the Board. Those reports are due the same months as referenced above.

It is your responsibility to assure that the supervising physician is fulfilling these responsibilities. If you become aware that the supervising physician is not fulfilling the requirements under the Consent Agreement, or is unable to serve in that capacity, you must notify the Board immediately and make arrangements for another supervising physician.

Q. What are my responsibilities concerning drug and alcohol screening?

A. If you are required to submit to drug and alcohol urine screens as part of your probation, the screens must be conducted on a random basis. This means that you may be contacted at any time of day, on any day of the week, to submit a specimen. The screens need to be witnessed. If that is not happening, contact Danielle Bickers, Compliance Officer, (614-644-9085) immediately. [To view the Board's discussion paper on Biological Fluid Testing to assist you in your submission to urine screenings, click here.](#)

If you do not receive a call to submit a specimen as required by the Board Order/Consent Agreement, contact the supervising physician and the Board immediately. It is your responsibility to ensure that the screen is done.

In the event that you should relapse, you must notify the Board immediately.

The Board retains the right to require you to submit a blood or urine specimen at any time and at your expense. Your refusal to submit a blood or urine specimen upon the Board's request shall result in a minimum of one-year actual license suspension.

Q. My primary drug of choice is alcohol. Is there any other type of screening acceptable to the Board?

A. In addition to the random urine screens, you may be required to submit to random saliva screenings for alcohol. The specific type of testing devices and the ranges must be acceptable to the Secretary of the Board.

The saliva specimens are obtained on a random basis, and the collection will need to be witnessed by a reliable person. The supervising physician, as nominated and approved to collect the urine specimens, will report the results to the Board on a quarterly basis.

In the event of a positive screening result, you shall immediately submit to a blood screening for alcohol.

- Q. What is the process for obtaining Board approval of an assessing/treating/monitoring psychiatrist/physician?
- A. You will need to submit the name and curriculum vitae of a psychiatrist/physician of your choice, within thirty days of the effective date of the Board Order/Consent Agreement. Those materials are received in the Board offices, they will be presented to the Board for approval on the next available agenda. The psychiatrist/physician will forward quarterly reports to the Board stating whether you have complied with your psychiatric/medical treatment plan, whether any changes have been made to that plan, your current mental status and progress made in treatment, and the results of any laboratory studies.

It remains your responsibility to ensure that the quarterly reports are forwarded to the Board at the same time as your quarterly Declarations. Those reports are due the same months as referenced above.

- Q. My Board Order/Consent agreement requires me to participate in an alcohol and drug rehabilitation program. If I want to attend a meeting that may not be nationally recognized, may I? Does it matter how I accrue the required number of meetings? How do I document my attendance?
- A. Probationers required to undertake and maintain participation in an alcohol and drug rehabilitation program, generally choose programs such as A.A., N.A., C.A., or Caduceus. If you would like to substitute another program, you must seek the Board's approval prior to your attendance. Aftercare meetings do not count as one of the required meetings. "Averaging" is also not permitted. For example, if you're required to attend three meetings a week, you cannot attend four meetings one week but only two the next.

You must submit a record of your attendance at the same time that you submit your quarterly Declaration. We encourage you to use the log form with which you were provided when first contacted by Danielle Bickers, Compliance Officer, (614-644-9085). The log must be actually signed by the secretary or chair of the meeting. The original log must be submitted at the same time you submit your quarterly Declaration.

Q. How soon may I begin doing the things necessary for reinstatement of my license, if my license has been suspended?

A. You do not need to wait until the term of suspension is completed before you start the process of reinstatement. In fact, it is suggested that you contact the Board approximately three to four months prior to your eligibility for reinstatement. Keep in mind; however, that any reports generated following an assessment must be based on an assessment performed not more than three months prior to your reinstatement.

When you are ready to apply for reinstatement, you will need to submit a letter to Barbara A. Jacobs, Public Services Administrator. You will receive a written response from Ms. Jacobs outlining the steps you will need to take in order to reinstate your license. Ms. Jacobs can be contacted directly at (614) 387-0794.

In order to expedite the reinstatement process, please provide a copy of the two-year aftercare contract that you had entered into with the Board-approved treatment provider.

Q. I've completed all the terms of my Step I consent agreement. What happens next?

A. When you meet all of the terms required for reinstatement, an Enforcement Coordinator will contact you to negotiate the terms of your Step II Consent Agreement. Please be aware that any terms established by the Step II Consent Agreement will remain in place for a minimum of one year. So make sure that those requirements are things that you can work with for at least a year.

Q. Who do I need to notify about my Board action?

- A. The Board Order/Consent Agreement requires that you provide a copy of the actual Board Order/Consent Agreement to all employers, hospitals where you have privileges, and entities with which you are under contract to provide healthcare services within thirty days of the effective date of the Agreement. This requirement includes insurance companies, such as HMOs, etc.

You are further required to send a copy to all states in which you currently hold a license or certificate. This notice must be sent by certified mail and a copy of the return receipt needs to be returned to Danielle Bickers, Compliance Officer, (614-644-9085). Remember to put your last name on the green card for identification purposes.

Q. Can I go on vacation or leave the state during my probation?

A. If you make travel plans that will necessitate a request to waive certain portions of the Consent Agreement, such as drug and alcohol rehabilitation meetings or urine screens while you are gone, you must request in writing that the specific provision be waived and receive approval before ceasing any of the requirements under the Agreement. Failure to provide sufficient time to consider your request may result in a denial.

If you plan on living or practicing outside of Ohio, you would need to request approval from the Board to continue with the terms of the Order, and you will need to establish monitoring while outside of the state. For example, you may need to find a new *supervising physician or monitoring physician* for Board approval. If you do not get approval from the Board, the Order essentially gets put on hold. You may find that if you return to Ohio several years later, your license would still be in a probationary status. If you plan on leaving Ohio, contact Danielle Bickers, Compliance Officer, (614-644-9085) for assistance in fulfilling this requirement.

If you move and change your address, you must send written notification to the Board within thirty days of the date of your move. This is to ensure that all notices are sent to the correct address and that you will receive any further communications from the Board in a timely fashion.

Q. **Who has access to the information contained in my Board Order/Consent Agreement?**

A. The Board Order/Consent Agreement is a matter of public record and may be reported to appropriate organizations, data banks and governmental bodies. A summary of the action and a copy of the actual Consent Agreement are also available on the Board's website.

- Q. My Board Order/Consent Agreement includes a requirement that I “Obey all federal, state, and local laws, and all laws governing the practice of medicine.” What happens if I get a parking ticket?
- A. Generally speaking, a parking violation won’t necessarily result in further Board action; however, other traffic citations, or any other violation of law that may not normally bring you to the attention of the Board, may be grounds for possible discipline while under the Order/Agreement. Rules governing the practice of medicine in the State of Ohio are available on the above referenced website.

Q. After my license is reinstated, must I continue with my Aftercare/Physician Health Program?

A. You shall maintain continued compliance with the terms of the aftercare contract entered into with your treatment provider and with the advocacy contract entered into with the Ohio Physicians Effectiveness Program. If you choose to work with another physician's health program, you would need to submit a written request to the Board, for their approval.

- Q. My Board Order/Consent Agreement requires that I get Board approval of a practice plan before I can initiate practice. How do I go about this?
- A. You provide a copy of a detailed practice plan to Danielle Bickers, Compliance Officer, (614-644-9085), who will, in turn, present the plan to the Board at the earliest possible meeting. Approval from the Board must be received for any medical practice or employment related to the health care fields. The Board will consider things like the adequacy of supervision and the feasibility of restricted access to controlled substances.

You will need to obtain the Board's prior approval for any alteration of the practice plan.

Q. How do I proceed if my Board Order/Consent Agreement requires me to have a monitoring physician?

A. Before engaging in any medical practice, you must submit the name and curriculum vitae of a monitoring physician who practices in the same locale and is engaged in the same or similar practice specialty. That information will be presented to the Secretary and Supervising Member for approval. You are not to begin actively treating patients until the monitoring physician is approved.

The monitoring physician must be willing to review your patient charts and report to the Board on a quarterly basis. The Board will determine the frequency and number of charts to be reviewed on the next available agenda; so in making your request, be specific about the types of practice you and your monitor have and how many patients you may see so the Board can approve a reasonable amount of charts to be reviewed.

The monitoring physician's reports will be due the same months as referenced before and can be submitted on his/her letterhead. The report should reference the review of patient charts, to include whether the history/examinations were appropriate; whether impressions are cohesive; and whether the selected treatment appears reasonable.

The report is also to include his/her observation of your adherence to the terms of the Order, and evaluation of your recovery and job performance.

It is your responsibility to assure that the monitoring physician is fulfilling these responsibilities. If you become aware that the monitoring physician is not fulfilling the requirements under the Order, or is unable to serve in that capacity, you must notify the Board immediately and make arrangements for another monitoring physician.

Q. What are the requirements for maintenance of a log of controlled substances

A. The controlled substances log must be submitted to the Board thirty days prior to the other required documentation. On the log, you must legibly document all controlled substances you have prescribed. You shall not administer, personally furnish, or possess any controlled substances, without prior Board approval. If you have not prescribed any controlled substances in the last quarter, simply indicate that on your declaration of compliance.

Q. What happens if I fail to comply with my probationary terms?

A. If the Board notifies you in writing that you have failed to comply with any term of the Board Order, the probationary clock stops running until you have brought yourself back into compliance. Further, after giving you notice and opportunity to be heard, the Board may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of your certificate.

Q. What do I do if I want a change in my probationary terms?

A. You will be under the terms of this Board Order/Consent Agreement for a minimum of one year. After one year, however, there are various terms that may be modified by the Board. For example, at some point you would be eligible to request that the frequency of appearances be reduced from three months to six months.

When you near the end of the first year of probation, staff will discuss the possibility of any term revisions.

Q: How do I make an address change?

A. Address changes can be made online or in writing. The online form can be found [here](#). A downloadable form can be found in the "Download Forms" section of the website which you may complete and fax to the Board.

Q: How do I make a name change?

A: To obtain a duplicate wall certificate and duplicate wallet card printed with the new name you must complete an affidavit before a Notary Public and return it to this office with a money order or check made payable to the Ohio Medical Board for \$35.00 for the wall certificate. THIS FEE IS NOT REFUNDABLE. [The affidavit form can be downloaded here.](#)

You must also submit your original wall certificate and wallet card directly to the Ohio Medical Board at 77 South High Street, 17th Floor, Columbus, Ohio 43215-6127.

Include a certified copy of the name change document (i.e., marriage certificate, divorce decree, etc) to this office so we may change our records to reflect the name change.

Processing of a duplicate wall certificate takes approximately four weeks. If you have any other questions, please contact Debby Jones at Debby.Jones@med.state.oh.us.

Q: What is your fax number?

A: The Records Department fax number is 614-644-1464.

Q: How do I verify my license to another state board or jurisdiction?

A: Verification to another state board or jurisdiction that you hold a valid Ohio license requires a written or faxed request to the board office. Most state verification will be no charge, but if a fee is required, you will be notified.

Q: How do I obtain a receipt for payment of my medical license or registration?

A: Send an e-mail that includes your name, license number and date payment was sent to our office. To send an e-mail, [click here](#). You will receive a written letter of receipt within a week via e-mail. If you prefer, you may telephone the fiscal office at 614-728-3675 with the same information, but include your telephone number so we may call you if we have questions and your mailing address to send the receipt via postal service.