

§ 4731.01 State medical board; terms of office.

The governor, with the advice and consent of the senate, shall appoint a state medical board consisting of twelve members, eight of whom shall be physicians and surgeons licensed to practice in Ohio. Seven members of the board shall hold the degree of doctor of medicine. Terms of office of members holding the degree of doctor of medicine shall be for five years, commencing on the nineteenth day of March and ending on the eighteenth day of March, except that upon expiration of the term ending March 18, 1976, the new term which succeeds it shall end on March 18, 1982; upon expiration of the term which ends on March 14, 1977, the new term which succeeds it shall end on March 18, 1983; upon expiration of the term ending June 16, 1978, the new term which succeeds it shall end on March 18, 1985; and upon expiration of the two terms ending on March 18, 1980, one of the terms which succeeds them shall end on March 18, 1986, and the other succeeding term shall end on March 18, 1987. One member shall hold the degree of doctor of podiatric medicine. The first term of office for the member holding the degree of doctor of podiatric medicine shall begin December 28, 1975, and shall be for seven years. Each succeeding term shall be for five years. One member of the board shall hold the degree of doctor of osteopathy. The term of office for the member holding the degree of doctor of osteopathy shall be for five years, commencing on the twenty-sixth day of April and ending on the twenty-fifth day of April.

One member of the board shall represent the interests of consumers. Two additional members shall represent the interests of consumers and shall not be a member of, or associated with, a health care provider or profession. At least one of the consumer members shall be at least sixty years of age. The terms of office for the consumer members shall be for five years, commencing on the first day of August and ending on the thirty-first day of July.

Each member shall hold office of his appointment until the end of the term for which he was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of his term until his successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Effective 7-24-90.

§ 4731.02 Organization.

The state medical board shall organize by the election of a president and a supervising member, who shall be members of the board, and a secretary, who shall be a physician in good standing in his profession. Each of the officers shall serve for a term of one year, and they may administer oaths.

Effective 3-17-87.

§ 4731.03 Compensation of members.

Each member of the state medical board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of his official duties and his necessary expenses.

Effective 8-26-77.

§ 4731.04 Expenses of secretary.

The secretary of the state medical board shall receive his necessary expenses incurred in the performance of his official duties.

Effective 10-1-53.

§ 4731.05 Rules; adjudicative proceedings; executive director; employees; training for investigators.

(A) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter. All adjudicative proceedings of the state medical board shall be conducted in accordance with Chapter 119. of the Revised Code.

(B) The state medical board shall appoint an executive director who shall be in the unclassified service of the state. The board may appoint other employees of the board as are necessary and shall prescribe their titles and duties.

(C) The state medical board shall develop requirements for and provide appropriate initial and continuing training for investigators employed by the board to carry out its duties under Chapter 4731. of the Revised Code. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

Effective 12-2-96.

§ 4731.06 Meetings of board.

The state medical board shall meet in March, June, September, and December of each year, and at such times and places as the board may direct. Six members of the board shall constitute a quorum. The board shall have a seal and shall prescribe rules for its government.

Effective 8-27-82.

§ 4731.07. Records of board.

The state medical board shall keep a record of its proceedings. It shall also keep a register of applicants for certificates of registration issued under this chapter and Chapters 4730. , 4760., and 4762. of the Revised Code. The register shall show the name of applicant, and whether the applicant was granted or refused a certificate. With respect to applicants to practice medicine and surgery or osteopathic medicine and surgery, the register shall show the name of the institution that granted the applicant the degree of doctor of medicine or osteopathic medicine. The books and records of the board shall be prima-facie evidence of matters therein contained.

Effective 8-10-00

§ 4731.08 Application for examination.

Except as provided in sections 4731.29 and 4731.291 to 4731.294 of the Revised Code, and until November 15, 1998, in section 4731.295 of the Revised Code, each person who desires to practice medicine and surgery or osteopathic medicine and surgery in this state shall file with the secretary of the state medical board a written application for admission to the examination conducted by the board under section 4731.13 of the Revised Code. The applicant shall file the application under oath on a form prescribed by the board. The applicant shall furnish evidence satisfactory to the board that the applicant is more than eighteen years of age and of good moral character.

Effective 3-9-99.

§ 4731.09 Entrance examiner to determine sufficiency of preliminary education of applicant; certificate of preliminary examination.

The state medical board shall appoint an entrance examiner who shall not be directly or indirectly connected with a medical school and who shall determine the sufficiency of the preliminary education, other than medical education, of an applicant for admission to the examination conducted by the board under section 4731.13 of the Revised Code. The minimum requirement shall be two years of undergraduate work in a college of arts and sciences approved by the board in addition to a high school diploma, or the equivalent of such education as determined by the board. In the absence of the foregoing qualifications, the entrance examiner may examine the applicant to overcome deficiencies. When the entrance examiner finds the preliminary education of the applicant sufficient, the entrance examiner shall issue a certificate of preliminary examination upon the payment to the treasurer of the board of a fee of thirty-five dollars. Such certificate shall be attested by the secretary.

Effective 9-29-97.

§ 4731.10 Certification of application for licensure in another state.

Upon the request of a person licensed to practice in this state pursuant to Chapter 4731. of the Revised Code, the state medical board shall certify an application for licensure in another state. The fee for such certification shall be fifty dollars.

Effective 9-29-97.

§ 4731.11 Evidence and affidavit to be submitted with application.

At the time of his application for examination as provided in section 4731.08 of the Revised Code, the applicant shall present evidence satisfactory to the state medical board that he meets the educational requirements established under sections 4731.09 and 4731.091 of the Revised Code, with his affidavit that he is the person named in the evidence and is the lawful possessor thereof, stating his age, residence, the schools at which he obtained his medical education, the time spent in each, the time spent in the study of medicine or osteopathic medicine, and such other facts as the state medical board requires. If the applicant has practiced medicine and surgery or osteopathic medicine and surgery in another state or country, the affidavit shall state the period during which and the place where he has practiced.

Effective 4-30-92.

§ 4731.12 Admission to examination.

Except as otherwise provided in this section, the state medical board shall admit to the examination it conducts under section 4731.13 of the Revised Code an applicant who meets the age, moral character, and educational requirements set forth in sections 4731.08, 4731.09, and 4731.091 of the Revised Code and pays the examination fee.

The board shall establish a fee for the examination of an amount determined by the board to be sufficient to cover the costs it incurs in procuring, administering, and grading the examination. The fee shall not be returned, regardless of whether the applicant passes or fails the examination.

The board may deny admission to its examination if it determines that the school at which the applicant obtained his medical education has engaged in fraud in the awarding of diplomas, certification of graduates, or credentialing of faculty members.

If the board, pursuant to section 4731.13 of the Revised Code, uses as its examination a part of a standard medical licensing examination established for purposes of determining the competence of individuals to practice medicine and surgery or osteopathic medicine and surgery in the United States, the board shall not admit an applicant to its examination unless the applicant submits evidence satisfactory to the board that he has successfully completed all other parts of the standard examination or the equivalent of any of those parts. The board shall specify the other parts of the standard examination that must be successfully completed and shall determine what constitutes the equivalent of any of those parts.

Effective 12-22-92.

§ 4731.13 Examinations for certificates.

Except as provided in sections 4731.29 and 4731.291 to 4731.294 of the Revised Code, and until November 15, 1998, in section 4731.295 of the Revised Code, the state medical board shall examine each individual who desires to practice medicine and surgery or osteopathic medicine and surgery in this state. The board shall conduct the examination of these individuals in accordance with rules the board shall adopt. Each individual shall be examined in such subjects as the board requires. The board shall examine in subjects pertinent to current medical educational standards.

The board may use as its examination all or part of a standard medical licensing examination established for purposes of determining the competence of individuals to practice medicine and surgery or osteopathic medicine and surgery in the United States.

Effective 3-9-99.

§ 4731.14 Issuance and display of certificate.

- (A) As used in this section, “graduate medical education” has the same meaning as in section 4731.091 of the Revised Code.
- (B) The state medical board shall issue its certificate to practice medicine and surgery or osteopathic medicine and surgery as follows:
 - (1) The board shall issue its certificate to each individual who was admitted to the board’s examination by meeting the educational requirements specified in division (B)(1) or (3) of section 4731.091 of the Revised Code if the individual passes the examination, pays a certificate issuance fee of three hundred dollars, and submits evidence satisfactory to the board that the individual has successfully completed not less than twelve months of graduate medical education or its equivalent as determined by the board.
 - (2) Except as provided in section 4731.142 of the Revised Code, the board shall issue its certificate to each individual who was admitted to the board’s examination by meeting the educational requirements specified in division (B)(2) of section 4731.091 of the Revised Code if the individual passes the examination, pays a certificate issuance fee of three hundred dollars, submits evidence satisfactory to the board that the individual has successfully completed not less than twenty-four months of graduate medical education through the second-year level of graduate medical education or its equivalent as determined by the board, and, if the individual passed the examination prior to completing twenty-four months of graduate medical education or its equivalent, the individual continues to meet the moral character requirements for admission to the board’s examination.
- (C) Each certificate issued by the board shall be signed by its president and secretary, and attested by its seal. The certificate shall be on a form prescribed by the board and shall indicate the medical degree held by the individual to whom the certificate is issued. If the individual holds the degree of doctor of medicine, the certificate shall state that the individual is authorized to practice medicine and surgery pursuant to the laws of this state. If the individual holds the degree of doctor of osteopathic medicine, the certificate shall state that the individual is authorized to practice osteopathic medicine and surgery pursuant to the laws of this state. If the individual holds a medical degree other than the degree of doctor of medicine or doctor of osteopathic medicine, the certificate shall indicate the diploma, degree, or other document issued by the medical school or institution the individual attended and shall state that the individual is authorized to practice medicine and surgery pursuant to the laws of this state.
- (D) The certificate shall be prominently displayed in the certificate holder’s office or place where a major portion of the certificate holder’s practice is conducted and shall entitle the holder to practice either medicine and surgery or osteopathic

medicine and surgery provided the certificate holder maintains current registration as required by section 4731.281 of the Revised Code and provided further that such certificate has not been revoked, suspended, or limited by action of the state medical board pursuant to this chapter.

- (E) An affirmative vote of not less than six members of the board is required for the issuance of a certificate.

Effective 9-5-01

§ 4731.15 Regulation of limited branches of medicine; certificates.

(A)(1) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(2) As used in this chapter, "cosmetic therapy" means the permanent removal of hair from the human body through the use of electric modalities approved by the board for use in cosmetic therapy, and additionally may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.

(B) All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board, whether residents of this state or not, shall on or before the first day of June of each odd-numbered year, register with the state medical board on a form prescribed by the board and shall pay at such time a biennial registration fee of fifty dollars. At least one month in advance of the date of registration, a written notice that the biennial registration fee is due on or before the first day of June shall be sent to each holder of a certificate to practice a limited branch of medicine, at the person's last known address. All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board shall provide the board written notice of any change of address.

A certificate to practice a limited branch of medicine shall be automatically suspended if the fee is not paid by the first day of September of the year it is due. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code. Subject to section 4731.222 of the Revised Code, the board shall reinstate a certificate to practice suspended for failure to register on an applicant's payment of the biennial registration fee and the applicable monetary penalty. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty for reinstatement shall be twenty-five dollars if the certificate has been suspended for two years or less and fifty dollars if the certificate has been suspended for more than two years.

Effective 3-9-99.

§ 4731.16 Examinations.

The state medical board shall conduct examinations of applicants for certification to practice the limited branches of medicine of massage therapy and cosmetic therapy. The examinations shall be conducted under rules adopted by the board and at such times and places as the board may determine. The fee for either examination is two hundred fifty dollars.

For the purpose of conducting examinations, the board may call to its aid any person of established reputation and known ability in the limited branch of medicine for which the examination is being held. A person called to assist in an examination shall be reimbursed for the person's services. Reimbursement shall be not more than one hundred dollars per day and an amount fixed and allowed by the board for the person's actual and necessary expenses.

Each examination shall be given in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis, and any other subjects appropriate to the limited branch of medicine for which certification is requested as the board may require, except that applicants for certificates to practice massage therapy shall not be examined in pathology.

If an applicant fails an examination more than twice, in whole or in part, the board may require that the applicant obtain additional training as a condition of being eligible for further examination.

Effective 3-9-99.

§ 4731.17 Issuance of certificate.

If an applicant passes the examination to practice massage therapy or cosmetic therapy conducted under section 4731.16 of the Revised Code and has paid the fee required under that section, the state medical board shall issue to the applicant the appropriate certificate to practice. Such certificate shall authorize the holder thereof to practice the limited branch of medicine specified therein, but shall not permit the holder to practice any other limited branch of medicine, nor shall it permit the holder to treat infectious, contagious, or venereal diseases, to prescribe or administer drugs, or to perform surgery or practice medicine in any other form.

Effective 3-9-99.

§ 4731.18 Board may dispense with examination.

The state medical board may dispense with the examination of applicants for certificates to practice the limited branches of medicine of massage therapy and cosmetic therapy in the same manner that certificates are issued under section 4731.29 of the Revised Code to individuals to practice medicine and surgery or osteopathic medicine and surgery. The board may recognize any national examining boards of the limited branches of medicine.

Effective 3-9-99.

§ 4731.19 Board to determine standing of school, college or institution; requirements for admission to examination.

The state medical board shall determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy. If there shall at any time be such schools, colleges, or institutions giving instruction in such limited branches, the applicant for a certificate to practice a limited branch of medicine shall, as a condition of admission to the examination, produce a diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction.

The entrance examiner of the board shall determine the sufficiency of the preliminary education of applicants for a certificate to practice massage therapy or cosmetic therapy in the same manner that sufficiency of preliminary education is determined under section 4731.09 of the Revised Code, except that the board may adopt rules defining and establishing for the limited branch of medicine preliminary educational requirements that are less exacting than those prescribed by such section, as the nature of the case may require.

Effective 3-9-99.

§ 4731.20 Powers and duties of board.

The powers and duties conferred by this chapter on the state medical board, including all of the board's officers, for purposes of regulating the practices of medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery, shall apply in the same manner, with any modifications the board considers necessary, for purposes of regulating the practices of limited branches of medicine, including the power of the board to take disciplinary actions under section 4731.22 of the Revised Code.

Effective 4-10-2001.

§ 4731.21 Limitations prescribed.

Sections 4731.15 to 4731.20, inclusive, of the Revised Code do not amend sections 4731.34, 4731.36, and 4731.41 of the Revised Code or limit their application unless otherwise specifically provided.

Effective 10-1-53.

§4731.22 Grounds for discipline; investigations; reinstatement; withdrawal of application; quality intervention program.

(A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

- (1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;
- (2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;
- (3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;
- (4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports to a child fatality review board under sections 307.621 [307.62.1] to 307.629 [307.62.9] of the Revised Code and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

- (5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine

and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 [4731.22.6] of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition

for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except when civil penalties are imposed under section 4731.225 [4731.22.5] or 4731.281 [4731.28.1] of the Revised Code, and subject to section 4731.226 [4731.22.6] of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of any abortion rule adopted by the public health council pursuant to section 3701.341 [3701.34.1] of the Revised Code;

(22) Any of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether

those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for certification to practice suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 [4731.05.1] of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 [4731.14.3] of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's file;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist;

(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant;

(37) Assisting suicide as defined in section 3795.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute

the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 [2919.12.3] of the Revised Code, the disciplinary action shall consist of a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(4) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 [2305.25.2] of the Revised Code.

(5) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (a) The case number assigned to the complaint or alleged violation;
- (b) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (c) A description of the allegations contained in the complaint;
- (d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(G) If the secretary and supervising member determine that there is clear and convincing evidence that an individual has violated division (B) of this section and that the individual's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the individual's certificate to practice without a prior hearing. Written allegations shall be prepared for consideration by the board.

The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual

committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 [2919.12.3] of the Revised Code, or the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a certificate.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 [2919.12.3] of the Revised Code, the board shall enter an order suspending the individual's certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B)

of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

Eff. 4-7-05

§ 4731.23. Attorney hearing examiner; decision by board.

(A) The state medical board shall designate an attorney at law who has been admitted to the practice of law, and who is classified as either an administrative law attorney examiner or as an administrative law attorney examiner administrator under the state job classification plan adopted under section 124.14 of the Revised Code, as a hearing examiner, subject to Chapter 119. of the Revised Code, to conduct any hearing which the medical board is empowered to hold or undertake pursuant to Chapter 119. of the Revised Code. Such hearing examiner shall hear and consider the oral and documented evidence introduced by the parties and issue in writing proposed findings of fact and conclusions of law to the board for their consideration within thirty days following the close of the hearing.

(B) The board shall be given copies of the transcript of the record hearing and all exhibits and documents presented by the parties at the hearing.

(C) The board shall, upon the favorable vote of three members, allow the parties or their counsel the opportunity to present oral arguments on the proposed findings of fact and conclusions of law of the hearing examiner prior to the board's final action.

(D) The board shall render a decision and take action within sixty days following the receipt of the hearing examiner's proposed findings of fact and conclusions of law or within any longer period mutually agreed upon by the board and the certificate holder.

(E) The final decision of the board in any hearing which the board is empowered to undertake shall be in writing and contain findings of fact and conclusions of law. Copies of the decision shall be delivered to the parties personally or by certified mail. The decision shall be final upon delivery or mailing, except that the certificate holder may appeal in the manner provided by Chapter 119. of the Revised Code.

Effective 3-17-87.

§ 4731.24. Deposit of receipts.

Except as provided in sections 4731.281 [4731.28.1] and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. Until July 1, 1998, the funds shall be deposited to the credit of the occupational licensing and regulatory fund. On and after July 1, 1998, the funds shall be deposited to the credit of the state medical board operating fund, which is hereby created on July 1, 1998. All funds deposited into the state treasury under this section shall be used solely for the administration and enforcement of this chapter and Chapters 4730., 4760., and 4762. of the Revised Code by the board.

Effective 8-10-2000.

§ 4731.25. Treatment providers for impaired practitioners.

The state medical board, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend and rescind rules establishing standards for approval of physicians and facilities as treatment providers for impaired practitioners who are regulated under this chapter or Chapter 4730., 4760., or 4762. of the Revised Code. The rules shall include standards for both inpatient and outpatient treatment. The rules shall provide that in order to be approved, a treatment provider must have the capability of making an initial examination to determine what type of treatment an impaired practitioner requires. Subject to the rules, the board shall review and approve treatment providers on a regular basis. The board, at its discretion, may withdraw or deny approval subject to the rules.

An approved impaired practitioner treatment provider shall:

(A) Report to the board the name of any practitioner suffering or showing evidence of suffering impairment as described in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, or division (B)(6) of section 4762.13 of the Revised Code who fails to comply within one week with a referral for examination;

(B) Report to the board the name of any impaired practitioner who fails to enter treatment within forty-eight hours following the provider's determination that the practitioner needs treatment;

(C) Require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare;

(D) Require a practitioner to suspend practice upon entry into any required inpatient treatment;

(E) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare;

(F) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care;

(G) Require a practitioner who resumes practice after completion of

treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for approval of treatment providers;

(H) Report the identity of any practitioner practicing under the terms of an aftercare contract to hospital administrators, medical chiefs of staff, and chairpersons of impaired practitioner committees of all health care institutions at which the practitioner holds clinical privileges or otherwise practices. If the practitioner does not hold clinical privileges at any health care institution, the treatment provider shall report the practitioner's identity to the impaired practitioner committee of the county medical society, osteopathic academy, or podiatric medical association in every county in which the practitioner practices. If there are no impaired practitioner committees in the county, the treatment provider shall report the practitioner's identity to the president or other designated member of the county medical society, osteopathic academy, or podiatric medical association.

(I) Report to the board the identity of any practitioner who suffers a relapse at any time during or following aftercare.

Any individual authorized to practice under this chapter who enters into treatment by an approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

In the absence of fraud or bad faith, no person or organization that conducts an approved impaired practitioner treatment program, no member of such an organization, and no employee, representative, or agent of the treatment provider shall be held liable in damages to any person by reason of actions taken or recommendations made by the treatment provider or its employees, representatives, or agents.

Effective 8-10-2000.

§ 4731.26. Duplicate certificates.

Upon application the state medical board shall issue a duplicate certificate to replace one missing or damaged, reflect a name change, or for any other reasonable cause. The fee for such duplicate certificate shall be thirty-five dollars.

Effective 9-29-97.

§ 4731.27. Standard care arrangement with collaborating certificated nurse.

(A) As used in this section, "collaboration," "physician," "standard care arrangement," and "supervision" have the same meanings as in section 4723.01 of the Revised Code.

(B) Except as provided in division (D)(1) of section 4723.431 [4723.43.1] of the Revised Code, a physician or podiatrist shall enter into a standard care arrangement with each clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration. The collaborating physician or podiatrist shall fulfill the responsibilities of collaboration, as specified in the arrangement and in accordance with division (A) of section 4723.431 [4723.43.1] of the Revised Code. A copy of the standard care arrangement shall be retained on file at each site where the nurse practices. Prior approval of the standard care arrangement by the state medical board is not required, but the board may periodically review it.

Nothing in this division prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital.

(C) With respect to a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner participating in an externship pursuant to an initial certificate to prescribe issued under section 4723.48 of the Revised Code, the physician responsible for evaluating the externship shall provide the state medical board with the name of the nurse. If the externship is terminated for any reason, the physician shall notify the board.

(D) A physician or podiatrist shall cooperate with the board of nursing in any investigation the board conducts with respect to a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who collaborates with the physician or podiatrist or with respect to a certified registered nurse anesthetist who practices with the supervision of the physician or podiatrist.

Effective 9-26-03.

§ 4731.29. Admission of persons licensed in another state, by national board or by Canada.

(A) When a person licensed to practice medicine and surgery or osteopathic medicine and surgery by the licensing department of another state, a diplomate of the national board of medical examiners or the national board of examiners for osteopathic physicians and surgeons, or a licentiate of the medical council of Canada wishes to remove to this state to practice, the person shall file an application with the state medical board. The board may, in its discretion, by an affirmative vote of not less than six of its members, issue its certificate to practice medicine and surgery or osteopathic medicine and surgery without requiring the applicant to submit to examination, provided the applicant submits evidence satisfactory to the board of meeting the same age, moral character, and educational requirements individuals must meet under sections 4731.08, 4731.09, 4731.091 [4731.09.1], and 4731.14 of the Revised Code and, if applicable, demonstrates proficiency in spoken English in accordance with division (E) of this section.

(B) The state medical board shall issue or deny its certificate to practice within sixty days after the receipt of a complete application under division (A) of this section. Within thirty days after receipt of an application, the state medical board shall provide the applicant with written notice of any information required before an application can be considered complete for purposes of this section.

(C) If an applicant is under investigation pursuant to section 4731.22 of the Revised Code, the state medical board shall conclude the investigation within ninety days of receipt of a complete application unless extended by written consent of the applicant or unless the board determines that a substantial question of a violation of this chapter or the rules adopted under it exists and the board has notified the applicant in writing of the reasons for the continuation of the investigation. If the board determines that the applicant is not in violation, it shall issue a certificate within forty-five days of that determination.

(D) A fee of three hundred dollars shall be submitted with each application for certification under this section.

(E) (1) Except as provided in division (E)(2) of this section, an applicant licensed to practice medicine and surgery or osteopathic medicine and surgery by the licensing department of another state who received that license based in part on certification from the educational commission for foreign medical graduates shall demonstrate proficiency in spoken English if the applicant fulfilled the undergraduate requirements for a certificate issued under this section at an institution outside the

United States. The applicant may demonstrate such proficiency only in the manner described in section 4731.142 [4731.14.2] of the Revised Code for individuals attempting to receive certificates issued under section 4731.14 of the Revised Code.

(2) An applicant described in division (E)(1) of this section is not required to demonstrate proficiency in spoken English if either of the following apply:

(a) During the five years immediately preceding the date of application, the applicant's license has been unrestricted and the applicant has been actively practicing medicine and surgery or osteopathic medicine and surgery in the United States.

(b) At the beginning of the five-year period preceding the date of application under this section, the applicant was participating in graduate medical education, as defined in section 4731.091 [4731.09.1] of the Revised Code, and since completing that education has held an unrestricted license and has been actively practicing medicine and surgery or osteopathic medicine and surgery in the United States.

(c) The applicant was required to demonstrate such proficiency as a condition of receiving certification from the educational commission for foreign medical graduates.

Effective 4-10-2001.

§ 4731.31. Employment of physician by rural hospital.

(A) As used in this section:

(1) "Rural hospital" means a hospital agency, as defined in section 140.01 of the Revised Code, that meets all of the following criteria:

(a) Is in compliance with section 3727.02 of the Revised Code and the registration requirement of division (A) of section 3701.07 of the Revised Code;

(b) Is located in a county that has a population of less than one hundred twenty-five thousand.

(2) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(B) Subject to division (C) of this section, a rural hospital or a health care facility that is owned or operated by a rural hospital may employ a physician. A hospital or facility that employs a physician in accordance with this section is not engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in violation of section 4731.41, 4731.43, or 4731.60 of the Revised Code.

(C) No rural hospital or health care facility owned or operated by a rural hospital shall do either of the following:

(1) Control the professional clinical judgment exercised within accepted and prevailing standards of practice of a physician employed pursuant to this section in rendering care, treatment, or professional advice to an individual patient;

(2) Require that a physician be employed by the hospital or facility as a condition of granting the physician privileges to practice within the hospital or facility.

Effective 4-10-2001.

§ 4731.34. Unauthorized practice of medicine, surgery or podiatry.

(A) A person shall be regarded as practicing medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, within the meaning of this chapter, who does any of the following:

(1) Uses the words or letters, "Dr.," "Doctor," "M.D.," "physician," "D.O.," "D.P.M.," or any other title in connection with the person's name in any way that represents the person as engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches;

(2) Advertises, solicits, or represents in any way that the person is practicing medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches;

(3) In person or, regardless of the person's location, through the use of any communication, including oral, written, or electronic communication, does any of the following:

(a) Examines or diagnoses for compensation of any kind, direct or indirect;

(b) Prescribes, advises, recommends, administers, or dispenses 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.

(B) The treatment of human ills through prayer alone by a practitioner of the Christian Science church, in accordance with the tenets and creed of such church, shall not be regarded as the practice of medicine, provided that sanitary and public health laws shall be complied with, no practices shall be used that may be dangerous or detrimental to life or health, and no person shall be denied the benefits of accepted medical and surgical practices.

(C) The use of words, letters, or titles in any connection or under any circumstances as to induce the belief that the person who uses them is engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches, is prima-facie evidence of the intent of such person to represent the person as engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches.

Effective 4-10-2001.

§ 4731.35. Nurse anesthetist and anesthesiologist assistant exempted.

(A) This chapter does not apply to or prohibit in any way the administration of anesthesia by a certified registered nurse anesthetist under the direction of and in the immediate presence of an individual authorized by this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(B) This chapter does not prohibit an individual from practicing as an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code.

Effective 4-10-2001.

§ 4731.36. Exemptions to provisions.

(A) Sections 4731.01 to 4731.47 of the Revised Code shall not prohibit service in case of emergency, domestic administration of family remedies, or provision of assistance to another individual who is self-administering drugs.

§ 4731.38. Vouchers.

All vouchers of the state medical board shall be approved by the board president or executive secretary, or both, as authorized by the board.

Effective 9-29-97.

§ 4731.39. Secretary of board shall enforce laws.

The secretary of the state medical board shall enforce the laws relating to the practice of medicine and surgery. If he has knowledge or notice of a violation, he shall investigate the matter, and, upon probable cause appearing, file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county shall take charge of and conduct such prosecution.

§ 4731.40. Distribution of fines collected.

All fines collected for violation of sections 4731.41 to 4731.43 of the Revised Code shall be distributed as follows: one half to the state medical board for deposit in accordance with section 4731.24 of the Revised Code and one half to the treasury of the county or municipal corporation in which the offense was committed.

Effective 9-29-97.

§ 4731.41. Practice of medicine or surgery without certificate.

No person shall practice medicine and surgery, or any of its branches, without the appropriate certificate from the state medical board to engage in the practice. No person shall advertise or claim to the public to be a practitioner of medicine and surgery, or any of its branches, without a certificate from the board. No person shall open or conduct an office or other place for such practice without a certificate from the board. No person shall conduct an office in the name of some person who has a certificate to practice medicine and surgery, or any of its branches. No person shall practice medicine and surgery, or any of its branches, after the person's certificate has been revoked, or, if suspended, during the time of such suspension.

A certificate signed by the secretary of the board to which is affixed the official seal of the board to the effect that it appears from the records of the board that no such certificate to practice medicine and surgery, or any of its branches, in this state has been issued to the person specified therein, or that a certificate to practice, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record of the board in any court or before any officer of the state.

Effective 3-9-99.

§ 4731.43. Practicing osteopathy without certificate.

No person shall announce or advertise himself as an osteopathic physician and surgeon, or shall practice as such, without a certificate from the state medical board or without complying with all the provisions of law relating to such practice, or shall practice after such certificate has been revoked, or if suspended, during the time of such suspension.

A certificate certified by the secretary, under the official seal of the said board to the effect that it appears from the records of the board that no certificate to practice osteopathic medicine and surgery has been issued to any person specified therein, or that a certificate, if issued, has been revoked or suspended shall be received as prima-facie evidence of the record in any court or before any officer of the state.

Effective 8-27-82.

§ 4731.44. Patient to receive copy of prescription; recommending evaluation of contact lens fitting; right to advertise.

(A) As used in this section, "supplier" has the same meaning as in section 4725.28 of the Revised Code.

(B) An individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery, on completion of a vision examination and diagnosis, shall give each patient for whom the individual prescribes any vision correcting item, device, or procedure, one copy of the prescription, without additional charge to the patient. The prescription shall include the following:

(1) The date of its issuance;

(2) Sufficient information to enable the patient to obtain from the supplier of the patient's choice, the vision correcting item, device, or procedure that has been prescribed.

(C) Any supplier who fills a prescription for contact lenses furnished by an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery shall furnish the patient with written recommendations to return to the prescribing doctor for evaluation of the contact lens fitting.

(D) Any supplier, including an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery who is a supplier, may advertise to inform the general public of the price that the supplier charges for any vision correcting item, device, or procedure. An advertisement of that nature shall specify the following:

(1) Whether the price includes an eye examination;

(2) In the case of lenses, whether the price applies to single-vision or multifocal lenses;

(3) In the case of contact lenses, whether the price applies to rigid or soft lenses and whether there is an additional charge related to the fitting and determination of the type of contact lenses to be worn that is not included in the price of the eye examination.

(E) The state medical board shall not adopt any rule that restricts the right to advertise as permitted by division (D) of this section.

(F) Any municipal corporation code, ordinance, or regulation or any township resolution that conflicts with a supplier's right to advertise as

permitted by division (D) of this section is superseded by division (D) of this section and is invalid. A municipal corporation code, ordinance, or regulation or a township resolution conflicts with division (D) of this section if it restricts a supplier's right to advertise as permitted by division (D) of this section.

Effective 3-9-99.

§ 4731.46. Issuing false medical diploma.

No person shall make, issue, publish, or cause to be made, issued, or published, for the purpose of sale, barter, or gift, a diploma, certificate, or writing representing the holder thereof to be a graduate of a medical school, college, or educational institution of medicine, unless such holder has attended a complete course of instruction therein, equal to the average course of instruction in other such schools, colleges, or institutions in good standing in this state.

Effective 10-1-53.

§ 4731.47. Selling false medical diploma.

No person shall make, issue, or publish, for the purpose of sale, barter, or gift, a certificate, diploma, or other writing or document falsely representing the holder or receiver thereof to be a graduate of a medical school, college, or educational institution of medicine and entitled to the powers, privileges, or degrees thereby pretended to be conferred, or sell or dispose of, or offer to sell or dispose of such diploma, certificate, writing, or document containing such false representation or use his name, or permit it to be used, as a subscriber to such false and fictitious diploma, certificate, writing, or document or engage in the practice of medicine and surgery under and by virtue of such fraudulent diploma, certificate, writing, or document.

Effective 10-1-53.

§ 4731.48. Physician giving false certificate of disability.

No surgeon or physician shall knowingly give to a person liable to be enrolled in the militia a false certificate of disability.

Effective 10-1-53.

§ 4731.49. Physician making an unlawful prescription for intoxicating liquor.

No physician shall issue a prescription for intoxicating liquor not in writing, or shall issue a written prescription therefor knowing such liquor is to be used as a beverage, or not containing the name and quantity of liquor prescribed, the name of the person for whom prescribed, and the date on which such prescription is written, and direction for the use of such liquor.

Effective 10-1-53.

§ 4731.50. Further punishment of physician so convicted.

No practicing physician who has been convicted of issuing a verbal prescription for intoxicating liquor, or issuing a prescription therefor in a form which does not comply with law, or issuing a prescription, knowing such liquor to be for use as a beverage, shall issue a prescription for intoxicating liquor within two years from the date of such conviction.

Effective 10-1-53.

§ 4731.051 Rules for universal blood and body fluid precautions.

The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing universal blood and body fluid precautions that shall be used by each person who performs exposure prone invasive procedures and is authorized to practice by this chapter or Chapter 4730. or 4762. of the Revised Code. The rules shall define and establish requirements for universal blood and body fluid precautions that include the following:

- (A) Appropriate use of hand washing;
- (B) Disinfection and sterilization of equipment;
- (C) Handling and disposal of needles and other sharp instruments;
- (D) Wearing and disposal of gloves and other protective garments and devices.

Effective 8-10-00

PODIATRIC MEDICINE AND SURGERY

§ 4731.51. Practice of podiatric medicine and surgery.

The practice of podiatric medicine and surgery consists of the medical, mechanical, and surgical treatment of ailments of the foot, the muscles and tendons of the leg governing the functions of the foot; and superficial lesions of the hand other than those associated with trauma. Podiatrists are permitted the use of such preparations, medicines, and drugs as may be necessary for the treatment of such ailments. The podiatrist may treat the local manifestations of systemic diseases as they appear in the hand and foot, but the patient shall be concurrently referred to a doctor of medicine or a doctor of osteopathic medicine and surgery for the treatment of the systemic disease itself. General anaesthetics may be used under this section only in colleges of podiatric medicine and surgery approved by the medical board pursuant to section 4731.53 of the Revised Code and in hospitals approved by the joint commission on the accreditation of hospitals, or the American osteopathic association. The use of x-ray or radium for therapeutic purposes is not permitted.

Effective 4-10-2001.