



Rules & Policies Agenda for Board Meeting February 9, 2022

- A. Rule Review Update
 - B. Controlled Substance Prescribing Rules
 - C. Licensure Protocols
 - D. Telehealth Discussion
 - E. Legislative Update
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MEMORANDUM

TO: Betty Montgomery, President
Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Update

DATE: February 1, 2022

Attached please find the Rule Schedule and Spreadsheet for February 2022.

Requested Action: No action requested.

Legal Dept. Rules Schedule

As of February 1, 2022

RULES TO FEBRUARY BOARD MEETING

For Final Adoption

None

Pending with CSI

4731-38-01

For Approval - Initial Circulation

4731-11-09 4731-37-01

CSI Update and Circulation

4731-11-03 4731-11-04 4731-11-04.1

RULES FOR REVIEW AT MASSAGE THERAPY

ADVISORY COUNCIL

4731-1-01 4731-1-02 4731-1-03

4731-1-04 4731-1-05 4731-1-07

4731-1-08 4731-1-09 4731-1-10

4731-1-11 4731-1-12 4731-1-15

4731-1-16 4731-1-17 4731-1-18

4731-1-19

RULES FOR REVIEW AT PHYSICIAN ASSISTANT

POLICY COMMITTEE

4731-18-01 4731-18-02 4731-18-03

4731-11-03 4731-11-04 4731-11-04.1

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4730-1-01	Regulation of Physician Assistants - Definitions		06/12/19	07/16/19	11/07/19	06/18/20	No change rule			09/16/20	06/18/25
4730-1-05	Quality Assurance System		06/12/19	07/16/19	11/07/19	06/19/20	No change rule			09/17/20	06/19/25
4730-1-06	Licensure as a physician assistant	03/22/19	06/12/19	12/04/19		06/18/20	07/23/20	08/17/20	09/09/20	12/31/20	09/30/23
4730-1-07	Miscellaneous Provisions	01/25/21	04/14/21	04/26/21	06/04/21	09/22/21	10/29/21	11/08/21	12/08/21	12/31/21	09/30/23
4730-2-01	Physician Delegated Prescriptive Authority - Definitions		06/12/19	07/16/19	11/07/19	06/18/20	No change rule			09/18/20	06/18/25
4730-2-04	Period of on-site supervision of physician-delegated prescriptive authority		06/12/19	07/16/19	11/07/19	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	11/15/23
4730-2-05	Addition of valid prescriber number after initial licensure		06/12/19	07/16/19	11/07/19	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/23
4730-2-07	Standards for Prescribing	01/25/21	04/14/21	04/26/21	06/04/21	09/22/21	10/29/21	11/08/21	12/08/21	12/31/21	09/30/25
4730-2-10	Standards and Procedures for use of OARRS		06/12/19	07/16/19	11/07/19	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/23
4730-4-01	Definitions	05/09/19		11/15/19	05/20/20	06/18/20	07/23/20	08/17/20	10/14/20	10/31/20	04/30/24
4730-4-02	Standards and procedures for withdrawal management for drug or alcohol addiction	05/09/19		11/15/19	05/20/20	06/18/20	07/23/20	08/17/20	10/14/20	10/31/20	10/31/25
4730-4-03	Office Based Treatment for Opioid addiction									04/30/19	04/30/24
4730-4-04	Medication assisted treatment using naltrexone									04/30/19	04/30/24
4730-5-01											
4730-5-02											
4731-1-01	Limited Practitioners - Definition of Terms	06/17/21								03/30/20	03/30/25
4731-1-02	Application of Rules Governing Limited Branches of Medicine or Surgery	06/17/21								07/31/19	07/31/24
4731-1-03	General Prohibitions	06/17/21									08/31/23
4731-1-04	Scope of Practice: Mechanotherapy	06/17/21								12/31/18	12/31/23
4731-1-05	Scope of Practice: Massage Therapy	06/17/21								11/05/19	11/05/24
4731-1-06	Scope of Practice: Naprapathy									08/31/18	08/31/23

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-1-07	<i>Eligibility of Electrologists Licensed by the Ohio State Board of Cosmetology to Obtain Licensure as Cosmetic Therapists Pursuant to Chapter 4731 ORC and Subsequent Limitations</i>	06/17/21								12/31/18	12/31/23
4731-1-08	<i>Continuing Cosmetic Therapy Education Requirements for Registration or Reinstatement of a License to Practice Cosmetic Therapy</i>	06/17/21								09/30/19	09/30/24
4731-1-09	<i>Cosmetic Therapy Curriculum Requirements</i>	06/17/21									08/31/23
4731-1-10	<i>Distance Education</i>	06/17/21								01/31/19	01/31/24
4731-1-11	<i>Application and Certification for certificate to practice cosmetic therapy</i>	06/17/21								03/30/20	03/30/25
4731-1-12	<i>Examination</i>									11/30/16	11/30/21
4731-1-15	<i>Determination of Standing of School, College or Institution</i>	06/17/21								12/31/18	12/31/23
4731-1-16	<i>Massage Therapy curriculum rule (Five year review)</i>	06/17/21								01/31/19	11/30/21
4731-1-17	<i>Instructional Staff</i>	06/17/21								05/31/19	05/31/24
4731-1-18	<i>Grounds for Suspension, Revocation or Denial of Certificate of Good Standing, Hearing Rights</i>	06/17/21								03/30/20	03/30/25
4731-1-19	<i>Probationary Status of a limited branch school</i>	06/17/21								03/30/20	03/30/25
4731-1-24	Massage Therapy Continuing Education	03/09/16		10/26/16	04/24/19	04/29/19	06/05/19				
4731-2-01	Public Notice of Rules Procedure									12/07/17	12/07/22
4731-4-01	Criminal Records Checks - Definitions									09/30/19	09/30/24
4731-4-02	Criminal Records Checks									09/30/19	09/30/24
4731-5-01	Admission to Examinations									06/09/17	06/09/22
4731-5-02	Examination Failure; Inspection and Regrading									06/09/17	06/09/22
4731-5-03	Conduct During Examinations									06/09/17	06/09/22
4731-5-04	Termination of Examinations									06/09/17	06/09/22
4731-6-01	Medical or Osteopathic Licensure: Definitions									07/31/19	07/31/24
4731-6-02	Preliminary Education for Medical and Osteopathic Licensure									07/31/19	07/31/24

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-6-04	Demonstration of proficiency in spoken English									06/09/17	06/09/22
4731-6-05	Format of Medical and Osteopathic Examination		09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	01/31/27
4731-6-14	Examination for physician licensure	09/03/20								07/31/19	07/31/24
4731-6-15	Eligibility for Licensure of National Board Diplomats and Medical Council of Canada Licentiates									07/31/19	07/31/24
4731-6-21	Application Procedures for Certificate Issuance; Investigation; Notice of Hearing Rights									07/31/19	07/31/24
4731-6-22	Abandonment and Withdrawal of Medical and Osteopathic Licensure Applications									07/31/19	07/31/24
4731-6-30	Training Certificates									07/31/19	07/31/24
4731-6-31	Limited Preexamination Registration and Limited Certification									07/31/19	07/31/24
4731-6-33	Special Activity Certificates									07/31/19	07/31/24
4731-6-34	Volunteer's Certificates									07/31/19	07/31/24
4731-7-01	Method of Notice of Meetings									07/31/19	07/31/24
4731-8-01	Personal Information Systems	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26
4731-8-02	Definitions	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26
4731-8-03	Procedures for accessing confidential personal information	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26
4731-8-04	Valid reasons for accessing confidential personal information	04/29/20		10/05/20	11/18/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-8-05	Confidentiality Statutes	04/29/20		10/05/20	11/18/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-8-06	Restricting & Logging access to confidential personal information	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26
4731-9-01	Record of Board Meetings; Recording, Filming, and Photographing of Meetings									09/15/19	06/17/24
4731-10-01	Definitions	10/25/19		05/26/20		Revised filing 11/3/20 10/30/20	12/04/20	12/07/20	05/12/21	05/31/21	05/31/26

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-10-02	Requisite Hours of Continuing Medical Education for License Renewal or Reinstatement	10/25/19		05/26/20		Revised filing 11/3/20 10/30/20	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-10-03	CME Waiver	10/25/19		05/26/20		Revised filings 11/24 & 11/3 - orig 10/30/20	12/04/20	12/07/20	05/12/21	05/31/21	05/31/26
4731-10-04	Continuing Medical Education Requirements for Restoration of a License	10/25/19		05/26/20		Revised filings 11/24 & 11/3 - orig 10/30/20	12/04/20	12/07/20	05/12/21	05/31/21	05/31/26
4371-10-08	Evidence of Continuing Medical Education	10/25/19		05/26/20		Revised filings 11/24 & 11/3 - orig 10/30/20	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-11-01	Controlled substances; General Provisions Definitions				11/14/19	corrected- 7/16/20 6/18/2020	07/23/20	08/17/20	10/14/20	10/31/20	10/31/25
4731-11-02	Controlled Substances - General Provisions	07/26/19	11/13/19	10/05/20		05/27/21			no change		05/27/26
4731-11-03	Schedule II Controlled Substance Stimulants	07/26/19	11/13/19	10/05/20						12/31/15	12/31/20
4731-11-04	Controlled Substances: Utilization for Weight Reduction	07/26/19	11/13/19	10/05/20						02/29/16	02/28/21
4731-11-04.1	Controlled substances: Utilization for chronic weight management	07/26/19	11/13/19	10/05/20						12/31/15	12/31/20
4731-11-07	Research Utilizing Controlled Substances	07/26/19	11/13/19	10/05/20		05/27/21			no change		05/27/26
4731-11-08	Utilizing Controlled Substances for Self and Family Members	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-11-09	Prescribing to persons the physician has never personally examined.									03/23/17	03/23/22
4731-11-11	Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).	07/26/19	11/13/19	10/05/20		05/27/21	06/28/21		09/08/21	09/30/21	09/30/26
4731-11-13	Prescribing of Opioid Analgesics for Acute Pain									08/31/17	08/31/22
4731-11-14	Prescribing for subacute and chronic pain			3/21/19	11/14/19	corrected-7/16/20 6/18/2020	07/23/20	08/17/20	10/14/20	10/31/20	12/23/23
4731-12-01	Preliminary Education for Licensure in Podiatric Medicine and Surgery									06/30/17	06/30/22
4731-12-02	Standing of Colleges of Podiatric Surgery and Medicine									06/30/17	06/30/22
4731-12-03	Eligibility for the Examination in Podiatric Surgery and Medicine (see note below)									04/19/17	04/19/22
4731-12-04	Eligibility of Licensure in Podiatric Medicine and Surgery by Endorsement from Another State									06/30/17	06/30/22
4731-12-05	Application Procedures for Licensure in Podiatric Medicine and Surgery, Investigation, Notice of Hearing Rights.									06/30/17	06/30/22
4731-12-06	Visiting Podiatric Faculty Certificates									06/30/17	06/30/22
4731-12-07	Podiatric Training Certificates									06/30/17	06/30/22
4731-13-01	Conduct of Hearings - Representative; Appearances	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-02	Filing Request for Hearing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	No change				04/12/26
4731-13-03	Authority and Duties of Hearing Examiners	08/26/20	10/14/20	amended filing 1/6/21 10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-04	Consolidation	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-05	Intervention	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-06	Continuance of Hearing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-13-07	Motions	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-07.1	Form and page limitations for briefs and memoranda	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-08	Filing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-09	Service	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-10	Computation and Extension of Time	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-11	Notice of Hearings	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-12	Transcripts	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-13	Subpoenas for Purposes of Hearing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-14	Mileage Reimbursement and Witness Fees	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-15	Reports and Recommendations	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-16	Reinstatement or Restoration of Certificate	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-17	Settlements, Dismissals, and Voluntary Surrenders	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-18	Exchange of Documents and Witness Lists	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-20	Depositions in Lieu of Live Testimony and Transcripts in place of Prior Testimony	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-20.1	Electronic Testimony	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-21	Prior Action by the State Medical Board	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-22	Stipulation of Facts	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-23	Witnesses	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-24	Conviction of a Crime	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-25	Evidence	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-26	Broadcasting and Photographing Administrative Hearings	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26

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4731-13-27	Sexual Misconduct Evidence	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-28	Supervision of Hearing Examiners	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-30	Prehearing Conference	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-31	Transcripts of Prior Testimony	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-32	Prior Statements of the Respondent	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-33	Physician's Desk Physician	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-13-34	Ex Parte Communication	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-35	Severability	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26
4731-13-36	Disciplinary Actions	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4731-14-01	Pronouncement of Death	01/25/21	03/10/21	03/18/21		05/27/21	06/28/21		09/08/21	09/30/21	09/30/26
4731-15-01	Licensee Reporting Requirement; Exceptions									11/17/17	11/17/22
4731-15-02	Healthcare Facility Reporting Requirement									11/17/17	11/17/22
4731-15-03	Malpractice Reporting Requirement									11/17/17	11/17/22
4731-15-04	Professional Society Reporting									11/17/17	11/17/22
4731-15-05	Liability; Reporting Forms; Confidentially and Disclosure									11/17/17	11/17/22
4731-16-01	Rules governing impaired physicians and approval of treatments programs - Definitions									11/17/17	11/17/22
4731-16-02	General Procedures in Impairment Cases	06/17/21	09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	11/17/22
4731-16-04	Other Violations									11/17/17	11/17/22
4731-16-05	Examinations	06/17/21	09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	11/17/22
4731-16-06	Consent Agreements and Orders for Reinstatement of Impaired Practitioners								01/12/22	01/31/22	11/17/22
4731-16-07	Treatment Provider Program Obligations									11/17/17	11/17/22
4731-16-08	Criteria for Approval	06/17/21	09/08/21	09/24/21	10/27/21	10/29/21	12/03/21			11/17/17	11/17/22
4731-16-09	Procedures for Approval									11/17/17	11/17/22

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4731-16-10	Aftercare Contracts									11/17/17	11/17/22
4731-16-11	Revocation, Suspension, or Denial of Certificate of Good Standing									11/17/17	11/17/22
4731-16-12	Out-of-State Impairment Cases									11/17/17	11/17/22
4731-16-13	Patient Consent; Revocation of Consent									11/17/17	11/17/22
4731-16-14	Caffeine, Nicotine, and Over-The Counter Drugs									11/17/17	11/17/22
4731-16-15	Patient Rights									11/17/17	11/17/22
4731-16-17	Requirements for the one-bite program									01/31/19	01/31/24
4731-16-18	Eligibility for the one-bite program									01/31/19	01/31/24
4731-16-19	Monitoring organization for one-bite program									01/31/19	01/31/24
4731-16-20	Treatment providers in the one-bite program									01/31/19	01/31/24
4731-16-21	Continuing care for the one-bite program									01/31/19	01/31/24
4731-17-01	Exposure-Prone Invasive Procedure Precautions - Definitions	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-17-02	Universal Precautions	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21			no change		02/11/26
4731-17-03	Hand Washing	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21			no change		02/11/26
4731-17-04	Disinfection and Sterilization	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-17-05	Handling and Disposal of Sharps and Wastes	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-17-06	Barrier Techniques	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21			no change		02/11/26
4731-17-07	Violations	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4731-18-01	Definitions	01/10/18	01/20/20	05/12/20	04/05/21	04/09/21	refiled 6-9-21 5/17/2021	06/25/21	07/14/21	07/31/21	07/31/26
4731-18-02	Use of Light Based Medical Devices	01/10/18	01/20/20	05/12/20	04/05/21	04/09/21	refiled 6-9-21 5/17/2021	06/25/21	07/14/21	07/31/21	07/31/26

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-18-03	Delegation of the Use of Light Based Medical Devices	01/10/18	01/20/20	05/12/20	04/05/21	04/09/21	refiled 6-9-21 5/17/2021	06/25/21	07/14/21	07/31/21	07/31/26
4731-18-04	Delegation of phototherapy and photodynamic therapy	01/10/18	01/20/20	05/12/20	04/05/21	04/09/21	refiled 6-9-21 5/17/2021	06/25/21	07/14/21	07/31/21	07/31/26
4731-20-01	Surgery Privileges of Podiatrist - Definition of Foot									05/31/18	05/31/23
4731-20-02	Surgery: Ankle Joint									05/31/18	05/31/23
4731-22-01	Emeritus Registration - Definitions									08/31/17	08/31/22
4731-22-02	Application									08/31/17	08/31/22
4731-22-03	Status of Registrant									05/12/17	05/12/22
4731-22-04	Continuing Education Requirements									05/12/17	05/12/22
4731-22-06	Renewal of Cycle of Fees									05/12/17	05/12/22
4731-22-07	Change to Active Status	06/17/21	09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	08/31/22
4731-22-08	Cancellation of or Refusal to Issue an Emeritus Registration									05/12/17	05/12/22
4731-23-01	Delegation of Medical Tasks - Definitions	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26
4731-23-02	Delegation of Medical Tasks	01/25/21	03/10/21	03/18/21	04/23/21	refiled 7/14/21 5/27/2021	06/28/21		09/08/21	09/30/21	09/30/26
4731-23-03	Delegation of Medical Tasks: Prohibitions	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26
4731-23-04	Violations	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26
4731-24-01	Anesthesiologist Assistants - Definitions									07/31/19	07/31/24
4731-24-02	Anesthesiologist Assistants; Supervision									07/31/19	07/31/24
4731-24-03	Anesthesiologist Assistants; Enhanced Supervision									07/31/19	07/31/24
4731-25-01	Office-Based Surgery - Definition of Terms										03/01/23
4731-25-02	General Provisions									05/31/18	05/31/23

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-25-03	Standards for Surgery Using Moderate Sedation/Analgesia									05/31/18	08/31/23
4731-25-04	Standards for Surgery Using Anesthesia Services									05/31/18	05/31/23
4731-25-05	Liposuction in the Office Setting									03/01/18	03/01/23
4731-25-07	Accreditation of Office Settings									05/31/18	05/31/23
4731-25-08	Standards for Surgery									09/30/19	09/30/24
4731-26-01	Sexual Misconduct - Definitions	01/25/21	03/10/21	03/18/21	04/23/21	refiled 7/14/21 5/27/2021	06/28/21		09/08/21	09/30/21	09/30/26
4731-26-02	Prohibitions	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21	06/28/21		09/08/21	09/30/21	09/30/26
4731-26-03	Violations; Miscellaneous	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21	06/28/21		09/08/21	09/30/21	09/30/26
4731-27-01	Definitions									02/04/19	02/02/24
4731-27-02	Dismissing a patient from the medical practice									05/31/19	05/31/24
4731-27-03	Notice of termination of physician employment or physician leaving a practice, selling a practice, or retiring from the practice of medicine									05/31/19	05/31/24
4731-28-01	Mental or Physical Impairment									08/31/17	08/31/22
4731-28-02	Eligibility for confidential monitoring program									08/31/18	08/31/23
4731-28-03	Participation in the confidential monitoring program									08/31/18	08/31/23
4731-28-04	Disqualification from continued participation in the confidential monitoring program									08/31/18	08/31/23
4731-28-05	Termination of the participation agreement for the confidential monitoring program									08/31/18	08/31/23
4731-29-01	Standards and procedures for operation of a pain management clinic.									06/30/17	06/30/22
4731-30-01	Internal Management Definitions									09/23/18	09/23/23
4731-30-02	Internal Management Board Metrics	07/26/19								09/23/18	09/23/23
4731-30-03	Approval of Licensure Applications	06/17/21				refiled 11-4-21 5/7/2020			01/12/22	01/31/22	10/17/24

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-38-01	Licenses Issued or Renewed Under the Interstate Medical Licensure Compact			01/14/22							
4759-2-01	Definitions									11/30/19	11/30/24
4759-4-01	Applications									11/30/19	11/30/24
4759-4-02	Preprofessional experience										08/28/24
4759-4-03	Examination									11/30/19	11/30/24
4759-4-04	Continuing Education	08/27/19		11/10/20	04/02/21	04/09/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4759-4-08	Limited permit	8/27/19 4/19/18	07/11/18	11/10/20	04/02/21	04/09/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26
4759-4-09	License certificates and permits	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24
4759-5-01	Supervision of persons claiming exemption									08/28/19	08/28/24
4759-5-02	Student practice exemption									11/30/19	11/30/24
4759-5-03	Plan of treatment exemption									11/30/19	11/30/24
4759-5-04	Additional nutritional activities exemption										07/01/24
4759-5-05	Distribution of literature exemption										07/01/24
4759-5-06	Weight control program exemption										07/01/24
4759-6-01	Standards of practice innutrition care									11/30/19	11/30/24
4759-6-02	Standards of professional performance	04/19/18	07/11/18	11/10/20	04/02/21	refiled 6/9/21 4/9/2021	05/17/21	06/25/21	07/14/21	07/31/21	07/31/26
4759-6-03	Interpretation of standards									11/30/19	11/30/24
4759-9-01	Severability									11/30/19	11/30/24
4759-11-01	Miscellaneous Provisions									11/30/19	11/30/24
4761-2-03	Board Records									02/28/19	02/28/24
4761-3-01	Definition of terms									02/28/19	02/28/24
4761-4-01	Approval of educational programs									02/28/19	02/28/24
4761-4-02	Monitoring of Ohio respiratory care educational programs									02/28/19	02/28/24
4761-5-01	Waiver of licensing requirements pursuant to division (B) of section 4761.04 or the Revised Code	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25
4761-5-02	Admission to the Ohio credentialing examination	04/23/19	06/12/19	11/06/19	01/10/20	06/19/20	No change rule			09/19/20	06/19/25
4761-5-04	License application procedure	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4761-5-06	Respiratory care practice by polysomnographic technologists	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	No change rule			09/18/20	06/18/25
4761-6-01	Limited permit application procedure	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	02/28/24
4761-7-01	Original license or permit, identification card or electronic license verification									02/28/19	02/28/24
4761-7-03	Scope of respiratory care defined										11/15/23
4761-7-04	Supervision			11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25
4761-7-05	Administration of medicines										11/15/23
4761-8-01	Renewal of license or permits	03/22/19	06/12/19	12/05/19	09/11/20	09/25/20	10/27/20	11/16/20	12/09/20	12/31/20	12/31/25
4761-9-01	Definition of respiratory care continuing education			11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	02/28/24
4761-9-02	General RCCE requirements and reporting mechanism	03/22/19	06/12/19	12/05/19	09/11/20	09/25/20	10/27/20	11/16/20	12/09/20	12/31/20	12/31/25
4761-9-03	Activities which do not meet the Ohio RCCE requirements									02/28/19	02/28/24
4761-9-04	Ohio respiratory care law and professional ethics course criteria			11/06/19	01/10/20	Refiled 8/24/20 6/18/2020	9/24/20 7/23/2020	08/17/20	11/10/20		02/28/24
4761-9-05	Approved sources of RCCE			11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	02/28/24
4761-9-07	Auditing for compliance with RCCE requirements			11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25
4761-10-01	Ethical and professional conduct									02/28/19	02/28/24
4761-10-02	Proper use of credentials										11/15/23
4761-10-03	Providing information to the Board	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25
4761-15-01	Miscellaneous Provisions									02/28/19	02/28/24
4774-1-01	Definitions	04/29/20	10/14/20	10/23/20	11/24/20	02/11/21			no change	02/11/21	02/11/26
4774-1-02	Application for Certificate to Practice	04/29/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4774-1-03	Renewal of Certificate to Practice	04/29/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26
4774-1-04	Miscellaneous Provisions	04/29/20	10/14/20	10/23/20	11/24/20	02/11/21			no change	02/11/21	02/11/26
4778-1-01	Definition									01/29/19	01/24/24
4778-1-02	Application									04/30/19	04/30/24
4778-1-03	Special Activity License									01/24/19	01/24/24

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4778-1-05	Collaboration Agreement									04/30/19	04/30/24
4778-1-06	Miscellaneous Provisions									04/30/19	04/30/24



MEMORANDUM

TO: Betty Montgomery, President
Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Controlled Substance Prescribing Rules- 4731-11-03, 4731-11-04, 4731-11-04.1

DATE: February 3, 2022

The above referenced rules were discussed at the January Board meeting and the Board recommended obtaining feedback on the weight loss rules from the Board of Pharmacy and the PAPC. The rules are scheduled to be reviewed by the PAPC on February 4, 2022 and a verbal update will be provided to the Board.

The draft 4731-11-04 was provided to the Board of Pharmacy and the comments are attached and have been incorporated into the draft rule. Specifically, the word, “dispensing” has been replaced with “personally furnishing” in paragraphs (C)(2), (3), and (4). The personal furnishing limits contained in Section 4729.291, Ohio Revised Code, have been incorporated into paragraph (C)(2), and the definition of “dosage unit” from Rule 4729:5-19-01, Ohio Administrative Code has been included in paragraph (C)(2).

Although the rules are pending at CSI, the changes proposed are significant. I recommend withdrawing the current rules from CSI and sending the draft rules for initial review with stakeholders.

Recommended Action: Circulate the draft rules for initial review by stakeholders to obtain comments.

4731-11-03

Utilization of anabolic steroids, schedule II controlled substance cocaine hydrochloride, and schedule II controlled substance stimulants.

(A) A physician shall not:

- (1) Utilize anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin ("HCG"), or other hormones for the purpose of enhancing athletic ability.
- (2) Utilize the schedule II controlled substance cocaine hydrochloride for a purpose other than one of the following:
 - (a) As a topical anesthetic in situations in which it is properly indicated; or
 - (b) For in-office diagnostic testing for pupillary disorders.
- (3) Utilize a schedule II controlled substance stimulant in any of the following circumstances:
 - (a) For purposes of weight reduction or control;
 - (b) When the physician knows or has reason to believe that a recognized contra-indication to its use exists; or
 - (c) In the treatment of a patient who the physician knows or should know is pregnant, except if the following criteria are met:
 - (i) After the physician's medical assessment the physician and patient determine that the benefits of treating the patient with a schedule II controlled substance stimulant outweigh the risks, and
 - (ii) The basis for the determination is documented in the patient record.

(B) Utilizing a schedule II controlled ~~substance~~substance stimulant:

- (1) Before initiating treatment utilizing a schedule II controlled substance stimulant, the physician shall perform all of the following:
 - (a) Obtain a thorough history;

- (b) Perform an appropriate physical examination and mental status examination of the patient; and
 - (c) Rule out the existence of any recognized contra-indications to the use of the controlled ~~substance~~substance stimulant to be utilized.
- (2) A physician may utilize a schedule II controlled substance stimulant only for one of the following purposes:
- (a) The treatment of narcolepsy, idiopathic hypersomnia, and hypersomnias due to medical conditions known to cause excessive sleepiness;
 - (b) The treatment of ~~abnormal behavioral syndrome~~ (attention deficit hyperactivity disorder; ~~hyperkinetic syndrome~~), and/or related disorders;
 - (c) The treatment of major or mild neurocognitive disorder due to traumatic brain injury or substance/medication-induced major or mild neurocognitive disorder; ~~drug induced or trauma induced brain dysfunction~~;
 - ~~(d) The differential diagnostic psychiatric evaluation of depression;~~
 - ~~(e)~~(d) The treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as antidepressants;
 - ~~(f)~~(e) As adjunctive therapy in the treatment of the chronic pain, as defined in rule 4731-11-01 of the administrative code.~~following:~~
 - ~~(i) Chronic severe pain;~~
 - ~~(ii) Closed head injuries;~~
 - ~~(iii) Cancer related fatigue;~~
 - ~~(iv) Fatigue experienced during the terminal stages of disease;~~
 - ~~(v) Depression experienced during the terminal stages of disease; or~~
 - ~~(vi) Intractable pain, as defined in rule 4731 21 01 of the Administrative Code.~~

~~(g)~~(f) The treatment of binge eating disorder.

- (3) Upon ascertaining or having reason to believe that the patient has a history of or shows a propensity for alcohol or drug abuse, or that the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions, the physician shall perform both of the following;
 - (a) Reappraise the desirability of continued utilization of schedule II controlled substance stimulants and shall document in the patient record the factors weighed in deciding to continue their use; and
 - (b) Actively monitor such patient for signs and symptoms of drug abuse and drug dependency.
- (C) A violation of any provision of this rule, as determined by the board, shall constitute any or all of the following:
- (1) "Failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code;
 - (2) "Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code;
 - (3) "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

From: [Dehner, Nicole](#)
To: [Anderson, Kimberly](#); [Mcnamee, Cameron](#)
Cc: [Loucka, Stephanie](#); [Schierholt, Steven](#)
Subject: RE: Weight Loss Rules
Date: Tuesday, January 25, 2022 1:24:01 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)

Kim,

Thanks for the opportunity to provide input on this. Just to follow up on our brief discussion yesterday, the items we are proposing would be to swap the “personal furnishing” where it references “dispensing” by a prescriber, edit to remove conflicts with 4729.291 and the prescribing limitations set forth in that statute. The recommendation was to specifically reference the provisions of 4729.291 to alleviate a need for the prescriber to cross-reference by hand, or at a minimum incorporate the statutory reference. A final recommendation would be to reference the definition of “dosage unit” and incorporate it into the personal furnishing restrictions so it is also expressly stated without need for additional research. That definition can be found in (D) of [OAC 4729:5-19-01](#):

(D) "Dosage unit" means any of the following:

- (1) A single pill, capsule, ampule, or tablet;
- (2) In the case of a liquid solution, one milliliter;
- (3) In the case of a cream, lotion or gel, one gram; or
- (4) Any other form of administration available as a single unit.

We did not have any concern or input with the other provisions of the rule as drafted. Compliance is compiling some short synopses of the situations they have encountered during inspections at IV-Hydration clinics, and questions that have come in from those entity types as well as other ‘medical spas.’ It hasn’t been as part of case investigations necessarily, but from a variety of encounters, so it may take a little longer to get you that, but they are working on it.

Let us know if you have any questions or need anything additional.

Thanks!

Nicole

From: Anderson, Kimberly <Kimberly.Anderson@med.ohio.gov>
Sent: Wednesday, January 19, 2022 2:59 PM
To: Dehner, Nicole <Nicole.Dehner@pharmacy.ohio.gov>; Mcnamee, Cameron <Cameron.McNamee@pharmacy.ohio.gov>
Cc: Loucka, Stephanie <Stephanie.Loucka@med.ohio.gov>
Subject: Weight Loss Rules

Nicole & Cameron,

The Medical Board's weight loss rules have been pending at CSI while the Board has been reviewing information received from bariatric physicians. The physicians have been especially concerned with the strict FDA labeling requirements that prevent phentermine prescribing after 12 weeks. According to information provided by the physicians, the 12 week limitation no longer meets the standard of care for the treatment of obesity.

Recently, the Board asked me to draft a version of 4731-11-04 which would allow for phentermine prescribing beyond 12 weeks with provisions that would prevent overprescribing, abuse, and diversion of the medication. Attached please find a first draft of the revised weight loss rule which eliminates the 12 week prescribing limit and the requirement to strictly follow the FDA labeling requirement. It also includes provisions so that physician assistants could prescribe, combined the short term and chronic weight management rules, allowed for flexibility for telehealth visits, and added some interim requirements when the prescribing extends past 3 months. Rule 4731-11-04.1 is proposed to be rescinded since it will no longer be necessary.

The Board reviewed this draft at its meeting last week, and requested that I send this draft to your agency for comments. We are also soliciting comments from the Board's Physician Assistant Policy Committee.

The Board has appreciated the support of the Board of Pharmacy with respect to these rules and would like your input at the beginning of this process. We have not yet sent this draft to our stakeholders as we would first like to address any comments or concerns that you may have. Please let me know if you would like to discuss or if you need additional information.

Thank you.

Kim

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Ohio Revised Code

Section 4729.291 Drugs personally furnished by prescriber.

Effective: April 12, 2021

Legislation: Senate Bill 260 - 133rd General Assembly

(A) Except when provided under section 4731.97 of the Revised Code, when a licensed health professional authorized to prescribe drugs personally furnishes drugs to a patient pursuant to division (B) of section 4729.29 of the Revised Code, the prescriber shall ensure that the drugs are labeled and packaged in accordance with state and federal drug laws and any rules and regulations adopted pursuant to those laws. Records of purchase and disposition of all drugs personally furnished to patients shall be maintained by the prescriber in accordance with state and federal drug statutes and any rules adopted pursuant to those statutes.

(B) When personally furnishing to a patient RU-486 (mifepristone), a prescriber is subject to sections 2919.123 and 2919.124 of the Revised Code.

(C)(1) Except as provided in divisions (D) and (E) of this section, no prescriber shall do either of the following:

(a) In any thirty-day period, personally furnish to or for patients, taken as a whole, controlled substances in an amount that exceeds a total of two thousand five hundred dosage units;

(b) In any seventy-two-hour period, personally furnish to or for a patient an amount of a controlled substance that exceeds the amount necessary for the patient's use in a seventy-two-hour period.

(2) The state board of pharmacy may impose a fine of not more than five thousand dollars on a prescriber who fails to comply with the limits established under division (C)(1) of this section. A separate fine may be imposed for each instance of failing to comply with the limits. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.

(D) None of the following shall be counted in determining whether the amounts specified in division (C)(1) of this section have been exceeded:



- (1) Methadone personally furnished to patients for the purpose of treating drug dependence or addiction, if the prescriber meets the conditions specified in 21 C.F.R. 1306.07;
 - (2) Buprenorphine personally furnished to patients for the purpose of treating drug dependence or addiction as part of an opioid treatment program licensed under section 5119.37 of the Revised Code.
 - (3) Controlled substances personally furnished to research subjects by a facility conducting clinical research in studies approved by a hospital-based institutional review board or an institutional review board accredited by the association for the accreditation of human research protection programs.
- (E) Division (C)(1) of this section does not apply to a prescriber who is a veterinarian.

4731-11-04

Controlled substances for the treatment of obesity.

(A) A prescriber may utilize a schedule III or IV controlled substance for the treatment of obesity only if it has an F.D.A approved indication for this purpose and then only in accordance with all of the provisions of this rule.

(B) Before initiating treatment for obesity utilizing any schedule III or IV controlled substance, the prescriber shall complete all of the following requirements:

(1) The prescriber shall review the prescriber's own records of prior treatment or review the records of prior treatment by another treating physician, prescriber, dietitian, or weight-loss program to determine the patient's past efforts to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, intensive behavioral therapy, and exercise, without the utilization of controlled substances, and that the treatment has been ineffective

(2) The prescriber shall complete and document the findings of all of the following:

(a) Obtain a thorough history;

(b) Perform an appropriate examination of the patient;

(c) Determine the patient's BMI;

(d) Rule out the existence of any recognized contraindications to the use of the controlled substance to be utilized;

(e) Assess and document the patient's freedom from signs of drug or alcohol abuse, and the presence or absence of contraindications and adverse side effects.

(f) Access OARRS for the patient's prescription history during the preceding twelve month period and document in the patient's record the receipt and assessment of the report received; and

(g) Develop and record in the patient record a treatment plan that includes, at a minimum, a diet and exercise program for weight loss.

(3) The prescriber shall not initiate treatment utilizing a controlled substance for the treatment of obesity upon ascertaining or having reason to believe any one or more of the following:

(a) The patient has a history of or shows a propensity for alcohol or drug abuse, or has made any false or misleading statement to the prescriber physician related to the patient's use of drugs or alcohol;

(b) The patient has consumed or disposed of any controlled substance other

than in strict compliance with the treating prescriber's directions:

(c) The prescriber knows or should know the patient is pregnant;

(d) The patient has a BMI of less than thirty, unless the patient has a BMI of at least twenty seven with comorbid factors, including Type 2 diabetes, cardio vascular disease, hypertension, hyperlipidemia, obstructive sleep apnea, nonalcoholic fatty liver disease, osteoarthritis, or major depression;

(e) The patient has any condition that would contraindicate the use of the controlled substance to be utilized;

(f) The review of the prescriber's own records of prior treatment or review of records of prior treatment provided by another physician, prescriber, dietitian, or weight-loss program indicate that the patient made less than a substantial good faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, intensive behavioral therapy, and exercise without the utilization of controlled substances.

(C) A prescriber may utilize a schedule III or IV controlled substance that bears appropriate F.D.A. approved labeling for weight loss, in the treatment of obesity as an adjunct, in a regimen of weight reduction based on caloric restriction, provided that:

(1) The prescriber shall assess the patient, at a minimum, every thirty days for the first three months of utilization of controlled substances for weight reduction, and shall record in the patient record information demonstrating the patient's continuing efforts to lose weight, the patient's dedication to the treatment program and response to treatment, and the presence or absence of contraindications, adverse effects, and indicators of possible substance abuse that would necessitate cessation of treatment utilizing controlled substances.

(2) The prescriber shall not personally furnish or prescribe more than a 30-day supply of controlled substances, at one time, for weight reduction or chronic weight management. For any controlled substance that is personally furnished, the prescriber shall not exceed a total of two thousand five hundred dosage units in any thirty-day period and shall not in any seventy-two hour period, personally furnish an amount that exceeds the amount necessary for the patient's use in a seventy-two hour period. Dosage unit means any of the following:

(a) A single pill, capsule, ampule, or tablet;

(b) In the case of a liquid solution, one milliliter;

- (c) In the case of a cream, lotion or gel, one gram; or
 - (d) Any other form of administration available as a single unit.
- (3) The prescriber shall not personally furnish or prescribe additional controlled substances to treat obesity for a patient who has not achieved a weight loss of at least 5% of the patient's initial weight, during the initial three months of treatment using controlled substances to treat obesity.
- (4) The prescriber may personally furnish or prescribe controlled substances to treat obesity when the prescriber observes and records that the patient significantly benefits from the controlled substances and has no serious adverse effects related to the drug regimen. A patient significantly benefits from the controlled substances when weight is reduced or when weight loss is maintained and any existing co-morbidity is reduced.
 - (a) The prescriber shall assess the patient at least once every three months and shall check the patient's weight, blood pressure, pulse, heart and lungs. The findings shall be entered in the patient's record.
 - (b) For the continuation of Schedule III or IV controlled substances designated as FDA short term use controlled substances beyond three months, the patient must continue to lose weight during the active weight reduction treatment or maintain goal weight. The prescriber shall document the patient's weight loss or maintenance in the record.
 - (c) The prescriber shall document the patient's progress with the treatment plan.
 - (d) The prescriber shall access OARRS in accordance with rules 4731-11-11 and 4730-2-10 of the Administrative Code.
- (5) The prescriber shall discontinue utilizing all controlled substances for purposes of weight reduction immediately upon ascertaining or having reason to believe:
 - (a) That the patient has made any false or misleading statement to the prescriber relating to the patient's use of drugs or alcohol;
 - (b) That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions;
 - (c) That the patient has failed to lose weight while under treatment with a controlled substance or controlled substances for weight reduction over a period of thirty days during the current course of treatment, which determination shall be made by weighing the patient at least every

thirtieth day, except that a patient who has never before received treatment for obesity utilizing any controlled substance who fails to lose weight during the first thirty days of the first such treatment attempt may be treated for an additional thirty days;

(d) That the patient has repeatedly failed to comply with the prescriber's treatment recommendations;

(e) That the patient demonstrates any signs that the controlled substance is not safe for or well tolerated by the patient; or

(f) That the prescriber knows or should know the patient is pregnant.

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

(1) For a physician:

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

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

(c) "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

(2) For a physician assistant:

(a) "A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established," as that clause is used in division (B)(19) of section 4730.25 of the Revised Code;

(b) "Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board," as that clause is used in division (B)(2) of section 4730.25 of the Revised Code; and

(c) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the

board," as that clause is used in division (B)(3) of section 4730.25 of the Revised Code.

4731-11-04

Controlled substances: Utilization of short term anorexiant for weight reduction.

- (A) A physician shall utilize a schedule III or IV controlled substance short term anorexiant for purposes of weight reduction only if it has an F.D.A. approved indication for this purpose and then only in accordance with all of the provisions of this rule.
- (B) Before initiating treatment for weight reduction utilizing any schedule III or IV controlled substance short term anorexiant, the physician shall complete all of the following requirements:
- (1) The physician shall review the physician's own records of prior treatment or review the records of prior treatment by another treating physician, dietician, or weight-loss program to determine the patient's past efforts to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, intensive behavioral therapy, and exercise, without the utilization of controlled substances, and that the treatment has been ineffective.
 - (2) The physician shall complete and document the findings of all of the following:
 - (a) Obtain a thorough history;
 - (b) Perform an appropriate physical examination of the patient;
 - (c) Determine the patient's BMI;
 - (d) Rule out the existence of any recognized contraindications to the use of the controlled substance to be utilized;
 - (e) Assess and document the patient's freedom from signs of drug or alcohol abuse, and the presence or absence of contraindications and adverse side effects.
 - (f) Access OARRS for the patient's prescription history during the preceding twelve month period and document in the patient's record the receipt and assessment of the report received; and
 - (g) Develop and record in the patient record a treatment plan that includes, at a minimum, a diet and exercise program for weight loss.

- (3) The physician shall not initiate treatment utilizing a controlled substance short term anorexiant upon ascertaining or having reason to believe any one or more of the following:
 - (a) The patient has a history of or shows a propensity for alcohol or drug abuse, or has made any false or misleading statement to the physician related to the patient's use of drugs or alcohol;
 - (b) The patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions;
 - (c) The physician knows or should know the patient is pregnant;
 - (d) The patient has a BMI of less than thirty, unless the patient has a BMI of at least twenty seven with comorbid factors;
 - (e) The review of the physician's own records of prior treatment or review of records of prior treatment provided by another physician, dietician, or weight-loss program indicate that the patient made less than a substantial good faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, intensive behavioral therapy, and exercise without the utilization of controlled substances.

- (C) A physician may utilize a schedule III or IV controlled substance short term anorexiant, that bears appropriate F.D.A. approved labeling for weight loss, in the treatment of obesity as an adjunct, in a regimen of weight reduction based on caloric restriction, provided that:
 - (1) The physician shall personally meet face-to-face with the patient, at a minimum, every thirty days when controlled substances are being utilized for weight reduction, and shall record in the patient record information demonstrating the patient's continuing efforts to lose weight, the patient's dedication to the treatment program and response to treatment, and the presence or absence of contraindications, adverse effects, and indicators of possible substance abuse that would necessitate cessation of treatment utilizing controlled substances.
 - (2) The controlled substance short term anorexiant is prescribed strictly in accordance with the F.D.A. approved labeling. If the F.D.A. approved labeling of the controlled substance short term anorexiant being utilized for weight loss states that it is indicated for use for "a few weeks," the total course of treatment using that controlled substance shall not exceed twelve

weeks. That time period includes any interruption in treatment that may be permitted under paragraph (C)(3) of this rule.

- (3) A physician shall not initiate a course of treatment utilizing a controlled substance short term anorexiant for purposes of weight reduction if the patient has received any controlled substance for purposes of weight reduction within the past six months. However, the physician may resume utilizing a controlled substance short term anorexiant following an interruption of treatment of more than seven days if the interruption resulted from one or more of the following:
 - (a) Illness of or injury to the patient justifying a temporary cessation of treatment; or
 - (b) Unavailability of the physician; or
 - (c) Unavailability of the patient, if the patient has notified the physician of the cause of the patient's unavailability.
- (4) After initiating treatment, the physician may elect to switch to a different controlled substance short term anorexiant for weight loss based on sound medical judgment, but the total course of treatment for any short term anorexiant combination of controlled substances each of which is indicated for "a few weeks" shall not exceed twelve weeks.
- (5) The physician shall not initiate or shall discontinue utilizing all controlled substance short term anorexiant for purposes of weight reduction immediately upon ascertaining or having reason to believe:
 - (a) That the patient has a history of or shows a propensity for alcohol or drug abuse, or has made any false or misleading statement to the physician relating to the patient's use of drugs or alcohol;
 - (b) That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions;
 - (c) That the patient has failed to lose weight while under treatment with a controlled substance or controlled substances over a period of thirty days during the current course of treatment, which determination shall be made by weighing the patient at least every thirtieth day, except that a patient who has never before received treatment for obesity utilizing

any controlled substance who fails to lose weight during the first thirty days of the first such treatment attempt may be treated for an additional thirty days;

(d) That the patient has repeatedly failed to comply with the physician's treatment recommendations; or

(e) That the physician knows or should know the patient is pregnant.

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

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

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

(3) "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

4731-11-04.1

Controlled substances: utilization for chronic weight management.

TO BE RESCINDED

(A) A physician shall determine whether to utilize a controlled substance anorexiant for purposes of chronic weight management as an adjunct to a reduced calorie diet and increased physical activity. The determination shall be made in compliance with the provisions of this rule.

(1) Before initiating treatment utilizing any controlled substance anorexiant, the physician shall complete all of the following requirements:

(a) Obtain a thorough history;

(b) Perform a physical examination of the patient;

(c) Determine the patient's BMI;

(d) Review the patient's attempts to lose weight in the past for indications that the patient has made a substantial good faith effort to lose weight in a regimen for weight reduction based on caloric restriction, nutritional counseling, intensive behavioral therapy, and exercise without the utilization of controlled substance anorexiant. The review shall include available records from the physician's own prior treatment of the patient, prior treatment provided by another physician, prior participation in a weight-loss program, or prior treatment by a dietitian;

(e) Rule out the existence of any recognized contraindications to the use of the controlled substance anorexiant to be utilized;

(f) Assess and document the patient's freedom from signs of drug or alcohol abuse;

(g) Access OARRS and document in the patient's record the receipt and assessment of the information received; and

(h) Develop and record in the patient record a treatment plan that includes, at a minimum, a diet and exercise program for weight loss.

(2) The physician shall not initiate treatment utilizing a controlled substance anorexiant upon ascertaining or having reason to believe any one or more of the following:

- (a) The patient has a history of, or shows a propensity for, alcohol or drug abuse, or has made any false or misleading statement to the physician or physician assistant relating to the patient's use of drugs or alcohol;
 - (b) The patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions; or
 - (c) The physician knows or should know the patient is pregnant.
 - (3) The physician shall not initiate treatment utilizing a controlled substance anorexiant if any of the following conditions exist:
 - (a) The patient has an initial BMI of less than thirty, unless the patient has an initial BMI of at least twenty seven with comorbid factors.
 - (b) The review of the patient's attempts to lose weight in the past indicates that the patient has not made a substantial good faith effort to lose weight in a regimen for weight reduction based on caloric restriction, nutritional counseling, intensive behavioral therapy, and exercise without the utilization of controlled substance anorexiant. The review shall include available records from the physician's own prior treatment of the patient, prior treatment provided by another physician, prior participation in a weight-loss program, or prior treatment by a dietitian.
 - (4) The physician shall prescribe the controlled substance anorexiant strictly in accordance with the F.D.A. approved labeling;
 - (5) Throughout the course of treatment with any controlled substance anorexiant the physician shall comply with rule 4731-11-11 of the Administrative Code and the physician assistant shall comply with rule 4730-2-10 of the Administrative Code.
- (B) A physician shall provide treatment utilizing a controlled substance anorexiant for weight management in compliance with paragraph (A) of this rule and the following:
- (1) The physician shall meet face-to-face with the patient for the initial visit and at least every thirty days during the first three months of treatment. If the F.D.A. approved labeling for the controlled substance anorexiant requires induction of treatment at one dose and an increase to a higher dose after a stated period of less than thirty days, the physician may give the patient a prescription for

the higher dose at the initial visit and the first thirty day period then starts from the date the prescription for the higher dose may be filled.

(2) Following the initial visit and two follow-up visits, the treatment may be continued under one of the following means:

(a) The physician may authorize refills for the controlled substance anorexiant up to five times within six months after the initial prescription date;

(b) The treatment may be provided by a physician assistant in compliance with this rule, the supervisory plan or policies of the healthcare facility, and the physician assistant formulary adopted by the board.

(3) When treatment for chronic weight management is provided by a physician assistant, the following requirements apply:

(a) The supervising physician shall personally review the medical records of each patient to whom the physician assistant has prescribed a controlled substance anorexiant following each visit; and

(b) A physician assistant shall not initiate utilization of a different controlled substance anorexiant, but may recommend such change for the supervising physician's initiation.

(4) A physician shall discontinue utilizing any controlled substance anorexiant immediately upon ascertaining or having reason to believe:

(a) That the patient has repeatedly failed to comply with the physician's treatment recommendations; or

(b) That the patient is pregnant.

(C) A violation of any provision of this rule, as determined by the board, shall constitute the following as applicable:

(1) For a physician:

(a) "Failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of

section 4731.22 of the Revised Code;

- (b) "Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code; and
- (c) "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

(2) For a physician assistant:

- (a) "A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established," as that clause is used in division (B)(19) of section 4730.25 of the Revised Code;
- (b) "Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board," as that clause is used in division (B)(2) of section 4730.25 of the Revised Code; and
- (c) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board," as that clause is used in division (B)(3) of section 4730.25 of the Revised Code.