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Policy Committee

9:15 a.m. – Conference Room 336, 30 East Broad Street, Columbus, OH

- I. Minutes Review
- II. Legislative Update
- III. Rule Review Update
- IV. Respiratory Care Rule Updates
- V. Revisions to FAQ’s on Prescribing to Patients Not Seen
- VI. Revisions to Rules on Criminal Records Checks
- VII. Revisions to Rules on Meeting Notices and Recordings
- VIII. Dietetics FAQ’s and Guidelines C and D
- IX. Respiratory Care Professional FAQ’s
- X. Physician Assistant Policy Committee Items
 - A. Rule Changes Under Senate Bill 259
 - B. Proposed Guidance Document for Physician Assistant Prescribing

State Medical Board of Ohio

POLICY COMMITTEE MEETING

March 13, 2019

30 East Broad Street, Columbus, OH 43215, Room 336

Members: Andrew P. Schachat, MD Robert Giacalone Betty Montgomery Mark Bechtel, MD Amol Soin, MD Other Board Members present: Michael Schottenstein, MD Sherry Johnson, DO Ronan Factora, MD Bruce Saferin, DPM Richard Edgin, MD Kim Rothermel, MD	Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel Nathan Smith, Senior Legal and Policy Counsel Joan Wehrle, Education & Outreach Program Manager Jonithon LaCross, Director of Public Policy and Government Affairs Rebecca Marshall, Chief Enforcement Attorney James Roach, Chief of Investigations Joe Turek, Deputy Director David Fais, Deputy Director
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Dr. Soin called the meeting to order at 9:15 a.m.

Meeting Minutes Review

Dr. Soin reported that the draft minutes of the February 13, 2019 meeting had been distributed to the committee and were included in the agenda materials.

Dr. Bechtel moved to approve the draft minutes of the Feb 13, 2019 Policy Committee meeting. Mr. Giacalone seconded the motion. Motion carried.

Legislative Update

Mr. LaCross reported that there are two bills outside of the healthcare bills that we are watching: SB7 Temporary State Occupational Licenses-Military and HB133, the Veteran's licensing bill. Sponsors have reached out to the Board and we are offering changes that are being discussed.

Budget items from the Medical Board are being drafted for the House Health Subcommittee. House budget testimony about our amendments is scheduled for March 25th. Mr. LaCross indicated that he will provide budget information to the Board when he receives the language back from the House.

Rules Review Update

Ms. Anderson referred to the information in the agenda materials. She said that we will change the order as the second set of Respiratory Care rules will be on the April committee agenda and the Dietetics rules will be discussed in June. Ms. Anderson said that CSI has returned the Chapter 6 physician licensure rules and 7431-1-02 limited branch.

Rules Regarding Military Service (all license types) – Initial Review

Ms. Anderson said that Mr. Smith drafted the military service rules. The proposed rules update and consolidate the Medical Board's current military rules which carry out the requirements of Ohio Revised Code sections 5903.03, 5903.04, 5903.10, 5903.12, and 5903.121 for occupational licensure, renewal of licensure, expedited processing of license applications, and continuing education.

Ms. Anderson said that current rules had differences between license types. Provisions from fourteen (14) different rules in seven (7) OAC chapters are proposed to be consolidated into three (3) rules in one OAC chapter. We are proposing new Chapter 4731-36 Military Provisions and the proposed rules will consistently apply the above referenced laws to all Medical Board license types:

4731-36-01 Military Provisions Related to Education and Experience Requirements for Licensure

4731-36-02 Military Provisions Related to Renewal of License and Continuing Education

4731-36-03 Processing applications from service members, veterans, or spouses of service members or veterans.

Dr. Bechtel asked if these rules would apply to military personnel who are part of the Veterans Administration. She said it could apply to those in the VA if they seek licensure in Ohio as they must hold a license in a state and Ohio could be that state.

Mr. Smith explained that there is expedited application processing and some active military have some CME changes, but a regular license is issued.

Dr. Bechtel moved that the proposed rules be sent to interested parties for comment in initial circulation Dr. Schachat seconded the motion. Motion carried.

Rules Regarding Consult Agreements – Reviewing Comments Received after Initial Review

Ms. Anderson introduced Ms. Tricia Jordan, a pharmacist from the OSUWexner Medical Center. Ms. Jordan helped with the Medical Board and the Pharmacy Board consult agreement rules and she is here to answer any questions of the committee as to how the consult agreements work in clinical situations.

Ms. Anderson said she will summarize the over 200 comments from physicians, pharmacists and hospital systems around the state. Ms. Anderson said it was clear from the comments received that parts of the proposed rules need to be changed. She said the memo in the committee materials identified the categories of concern.

Ms. Anderson said that anything in the rule that required the doctor's approval before making an adjustment to a dose is problematic as it is really the heart of a consult agreement. Essentially, if the pharmacist could not make a dosage adjustment within the confines of the agreement, they would not be able to enter into a consult agreement.

Several comments were received about periodically assessing the patient at least once a year. It was recommended that we remove that requirement.

It was also recommended that the Board remove the word "promptly" with respect to reviewing the medical record as there was concern about what that meant.

Ms. Anderson said we had some rule requirements for prior notice to making an adjustment and for regular meetings between the doctor and the managing pharmacist. She recommends we delete those sections from the rules.

Ms. Anderson said she believed we would still have strong rules if we implement the recommended deletions and it will achieve the purpose of the consult agreements.

Dr. Bechtel expressed concern about having a consult agreement in which the patient may not be seen in a year. He felt that a physician and patient should interact at least once a year. Dr. Soin asked if there were tangible examples because he felt the same way as Dr. Bechtel.

Dr. Schottenstein asked if it would fall under our minimal standards rule, as clearly a physician needs to see a patient from time to time. Ms. Anderson said that we added to rule that the doctor must always comply with minimal standards of care and no comments were received about that requirement.

Even more broadly than the consult agreements, Dr. Schachat referred to the requirement about seeing the patient at least once a year for prescription refills. He said many prescriptions cannot be filled 30 days prior. If a patient makes an appointment in the 11th month and its scheduled for the 12th month but some unforeseen event requires the appointment to be rescheduled until the following month that puts it over the one year timeframe. Some medications cannot safely be stopped.

Ms. Jordon said that for many patients, such as diabetic patients, the doctor will be seeing the patient more frequently. But when thinking about all patients, how do you operationalize the system to assure that the patient gets seen at least once a year by the physician. She said a patient taking part in a smoking cessation clinic may not see the doctor within a year for that specific indication. So, is the patient seen by a doctor for any indication, or just a specific indication. Discussion noted that patients could be treated for hypertension and other disorders.

Dr. Factora commented that requiring the physician to meet minimal standards of care is making the rule stronger. It makes the treatment specific to the condition rather than setting a fixed period of time and it allows flexibility. If a patient is diabetic and needs to be seen every three months, that is the expectation. But if a patient has stopped smoking and they don't need to be seen for a year or two that is acceptable. It allows for the inclusion of a lot of different diagnoses, but still the doctor is required to maintain standards, but the standard is related to the patient's condition, not just time standards.

Dr. Schottenstein and Dr. Soin voiced support of the requirement to maintain standards of care in the rule.

Rule 4731-35 02(A)(3): Ms. Anderson highlighted rule 4731-35 02(A)(3). She said we are matching up language with the language in the Pharmacy Board rule regarding getting consent and communication to the patient.

We had included language that prior to the effective date of the consult agreement, and prior to a pharmacist managing the drug therapy, the physician shall communicate the content of the proposed consult agreement. She suggested that the "prior to the effective date of the consult agreement" be removed. She said it was her understanding that the consult agreement was like the overarching document between the managing pharmacist and the physician group that clarifies the pharmacist is going to manage the patients of the group on a particular drug. The individual patients are then slotted

into the agreement. So, it would be impossible to provide notice to the patients before the effective date of the consult agreement. However, the patient is notified prior to their inclusion in the agreement.

Ms. Anderson continued referencing the memo included in the agenda materials. She said we received a lot of comments about the consent language about how everyone liked the Pharmacy Board rules, so we took a lot of the language from the Pharmacy Board rule around that consent. There is an institutional exception and that is because inpatient drug management and institutional facilities are handled differently than ambulatory. That is recognized in the Pharmacy Board rules. We tried to match that language whenever possible.

Many of the comments expressed concerns about the wording of the informed consent provisions of the rules and suggested that the rules be modified to align with the consent provisions in the rules promulgated by the Board of Pharmacy, as follows:

- (1) Rule 4731-35-01(A)(1)(b): Delete the word “informed” and indicate that the patient’s consent to drug therapy management is based on Rule 4729:1-6-01 (H) and (I) of the Administrative Code. The Pharmacy Board rule indicates that the patient consent must be obtained prior to the pharmacist managing the care and that the patient must be advised that a pharmacist may be utilized in the management of the patient’s care and that the patient or individual authorized to act on behalf of the patient have a right to elect to participate in and withdraw from the consent agreement. The rule also allows the consent to be obtained as part of the patient’s initial consent to treatment.
- (2) Rule 4731-35-02(A)(3): Delete language in (a) through (d) regarding the details regarding the consent of the patient and adding language to reflect the requirements from the Board of Pharmacy’s rule at 4729:1-6-01(H) and (I) of the Administrative Code.

Several commenters expressed concern with the language around the scope of the managing pharmacist in Rule 4731-35-02(B)(1) and (2). It was suggested that this section could be deleted since the language of Rule 4731-35-01(A)(1)(c)-(f) and Rule 4729:1-06-02(b)-(e) already require these items to be outlined in the consult agreement.

Several sections were duplicative or required some clean-up to align with the language from the Board of Pharmacy:

- (1) Rule 4731-35-01(A)(1)(h): language added to match the language in Rule 4729:1-6-02(A)(1)(g) which indicates that the agreement may include a requirement that a managing pharmacist send a consult report to each consulting physician.
- (2) Rule 4731-35-02(A)(2): Modify the references to the sections of the consult agreement dealing with the scope of the agreement for the institutional and ambulatory outpatient facility section.
- (3) Rule 4731-35-02(A)(5): Revise the situations where an amendment to consult agreement is required so it is limited to times when the scope of the permitted procedures expands past what was contemplated.
- (4) Rule 4731-35-01(B): For recordkeeping, add language to indicate that a physician group or institution may also be the entity maintaining the records.

(5) Rule 4731-35-01(C)(1)(b)(i), (ii): Delete duplicative words at the beginning of each paragraph.

(6) Rule 4731-35-01(C)(1)(d): Add some language to clarify the meaning of the section.

(7) Rule 4731-35-02(A)(6): Add some language to indicate that pharmacist's training can be verified through the credentialing process for institutional facilities.

(8) Rule 4731-35-02(D)(2)(a): Clarify that notification is required if the pharmacist's license is revoked, suspended or denied by the Board of Pharmacy;

(9) Rule 4731-35-02(D)(2)(b) and (c): Clarify that these sections only apply if the pharmacist is prescribing controlled substances.

Ms. Anderson recommend making these changes to clarify and clean up the language in the rules and file the rules with CSI.

Mr. Giacalone moved to recommend to the full Board that the Board file the rules as amended with the Common Sense Initiative. Dr. Bechtel seconded motion. Motion carried.

Subacute & Chronic Pain Rule 4731-11-14 OAC

Ms. Anderson reported that the Board received comments from outside parties and the Ohio Hospital Association noting that the implementation of the subacute and chronic pain rule is having some negative impact for patients diagnosed with non-terminal cancer and patients diagnosed with terminal conditions. This was not our intent, so we wanted to bring it to the committee's attention.

The comments regarding the patients diagnosed with non-terminal cancer are summarized by an email we received from the Ohio Hospital Association, which is in the agenda materials. In summary, these patients may have severe pain in that treatment requiring dosages which exceed 120MED. However, a hematologist or oncologist does not fit into the exceptions in place in the rule. So, they must refer the non-terminal cancer patient to a pain management specialist or hospice and palliative care specialist which delays the care of the patient.

Ms. Anderson said that the proposal is to amend 4731-11-01(E) (1) to exempt board certified hematologists and board certified oncologists from that portion of the rule so that they would not have refer the patient to a pain management or hospice/palliative care physician. But hematology/oncology would not be included in (E)(2) which would allow patients to see a hematologist/oncologist as a consultant.

Ms. Anderson explained that there is a long list of specialty boards that include hematology or oncology.

Ms. Anderson said that Board staff has also received comments from physicians indicating that the definition of terminal condition is causing delays for those patients. Patients diagnosed with a terminal condition are exempted from the rule, but the definition of terminal condition comes from Section 2133.01 of the Revised Code, which requires a second opinion. She suggested that the definition of terminal condition be amended to eliminate the need for a second opinion.

To reduce delay in making these changes, Ms. Anderson recommend filing the revised rules directly with the Common Sense Initiative rather than requiring an initial circulation to interested parties. The Medical Board became aware of these issues through feedback from interested parties.

Dr. Bechtel moved to recommend to the full Board that the rules, as amended, be filed with the Common Sense Initiative. Dr. Schachat seconded the motion. Motion carried.

ADJOURN

Dr. Schachat moved to adjourn the meeting. Dr Bechtel seconded the motion. Motion carried.

The meeting adjourned at 9:44 a.m.

jkw



Legislative Bill Report
04-05-2019

HB63 PHARMACY BENEFIT MANAGERS

Regarding pharmacy benefit managers, pharmacists, and the disclosure to patients of drug price information.

BILL SUMMARY

- Prohibits health plan issuers and third-party administrators from requiring or directing pharmacies to collect cost-sharing beyond a certain amount from individuals purchasing prescription drugs.
- Prohibits issuers and administrators from retroactively adjusting pharmacy claims other than because of a technical billing error or a pharmacy audit.
- Prohibits issuers and administrators from charging claim-related fees unless those fees can be determined at the time of claim adjudication.
- Requires pharmacists, pharmacy interns, and terminal distributors of dangerous drugs to inform patients if the cost-sharing required by the patient's plan exceeds the amount that may otherwise be charged and prohibits those persons from charging patients the higher amount.
- Provides for license or certificate of authority suspension or revocation and monetary penalties for failure to comply with the bill.
- Requires the Department of Insurance to create a web form for consumers to submit complaints relating to violations of the bill.

Status: House Health, First Hearing

HB68 HEARTBEAT BILL

To generally prohibit an abortion of an unborn human individual with a detectable heartbeat and to create the Joint Legislative Committee on Adoption Promotion and Support.

BILL SUMMARY

- Generally, prohibits a person from knowingly and purposefully performing or inducing an abortion with the specific intent of causing or abetting the termination of the life of an unborn human individual whose fetal heartbeat has been detected.
- Provides that a person who violates the above prohibition is guilty of performing or inducing an abortion after the detection of a fetal heartbeat, a felony of the fifth degree.
- Provides that a physician is not in violation of the above prohibition if that physician performs a medical procedure designed to or intended to prevent the death of a pregnant woman or prevent a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.

- Provides that a person is not in violation of the prohibition if that person has performed an examination for the presence of a fetal heartbeat and the method used does not reveal a fetal heartbeat.
- Provides that the prohibition does not repeal or limit any other provision of law that restricts or regulates the performance or inducement of an abortion by a method or during a particular stage of pregnancy.

Status: House Health, First Hearing

HB 133 TEMPORARY STATE OCCUPATIONAL LICENSES-MILITARY

To require state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved to Ohio for active duty

BILL SUMMARY

- Requires state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military or military technicians dual status (and their spouses) who are licensed in another jurisdiction and have moved to Ohio for active duty or were transferred to Ohio.
- Requires a licensing agency, at least annually, to verify the standing of a license or certificate that was issued by another state or jurisdiction for each individual to whom it has issued a temporary license or certificate.
- Authorizes a licensing agency to charge a fee for a temporary license or certificate, which must not be more than one-third of the fee charged in Ohio for the regular license or certificate.
- Requires a licensing agency to prepare an annual report regarding the number and type of temporary licenses or certificates the agency issued.

Status: House State and Local Government, First Hearing

SB7 TEMPORARY STATE OCCUPATIONAL LICENSES-MILITARY

Regarding temporary state occupational licenses for members of the military and their spouses.

BILL SUMMARY

- Requires state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved or will move to Ohio for duty.
- Specifies that temporary licenses or certificates under the bill are to be issued to an individual for a duration of not more than three years.
- Requires a state licensing agency to deny or revoke a temporary license or certificate issued under the bill under certain circumstances.
- Requires the Director of Administrative Services to prepare a report for each fiscal year on the number and type of temporary licenses or certificates issued during the fiscal year under the bill.

Status: Referred to House Armed Services and Veterans Affairs

SB61 NURSE ANESTHETISTS

Regarding the authority of certified registered nurse anesthetists to select, order, and administer certain drugs.

BILL SUMMARY

- Authorizes a certified registered nurse anesthetist to select, order, and administer drugs other than anesthesia in the immediate post-operative period if certain conditions are met.
- Requires the facility in which the nurse practices to develop a protocol specifying the drugs that the nurse may select, order, and administer and the procedures for doing so.
- Limits the drugs to those used only for the treatment of nausea, pain, or respiratory conditions related to the administration of anesthesia.
- Permits the nurse to direct another person to administer the drug under specified conditions.
- Allows the nurse's supervising physician, podiatrist, or dentist to prohibit, in certain circumstances, the nurse from selecting, ordering, or administering a drug for a patient.

Status: Senate General Government and Agency Review, First Hearing

SB105 MASSAGE THERAPY LICENSING

To make changes to the massage therapy licensing law

BILL SUMMARY

- Standardizes, for purposes of regulation by the State Medical Board, townships, and municipal corporations, terminology regarding massage therapy and individuals authorized to perform massage therapy.
- As part of that standardization:
 - Eliminates a township's authority to issue licenses to individuals who perform massage therapy;
 - Requires that if a township opts to regulate massage establishments, the regulations must require all massage therapy to be performed only by specified state-licensed professionals or massage therapy students;
 - Purports to require a municipal corporation that opts to regulate massage establishments to require all massage therapy to be performed by a state-licensed professional or a student, similar to township regulation.
- Regarding a township's authority to regulate massage establishments, eliminates a permit requirement and otherwise modifies permit application procedures.

Status: Senate Health, Human Services and Medicaid, First Hearing

Legislative Report

April 5, 2019
Prepared by: Jonithon
LaCross

MY TRACKED BILLS

Bill Information

HB29 DEXTROMETHORPHAN SALES *(KOEHLER K)*

To prohibit sales of dextromethorphan without a prescription to persons under age 18.

CURRENT STATUS

2/19/2019 - House Health, (First Hearing)

HB46 STATE GOVT EXPENDITURE DATABASE *(GREENSPAN D)*

To require the Treasurer of State to establish the Ohio State Government Expenditure Database.

CURRENT STATUS

3/27/2019 - House State and Local Government, (Second Hearing)

HB50 CHARTER COUNTY HOSPITAL PATENTS *(GREENSPAN D)*

To require that all rights to and interests in charter county hospital employee discoveries, inventions, or patents are the property of the charter county hospital.

CURRENT STATUS

4/2/2019 - Senate Government Oversight and Reform, (First Hearing)

HB61 HEALTH PROVIDER RESIDENTIAL INFO *(LANESE L, LISTON B)*

To include forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees as individuals whose residential and familial information is exempt from disclosure under the Public Records Law.

CURRENT STATUS

3/28/2019 - **PASSED BY HOUSE**; Vote 93-1

HB63 PHARMACY BENEFIT MANAGERS *(LIPPS S, WEST T)*

Regarding pharmacy benefit managers, pharmacists, and the disclosure to patients of drug price information.

■ **CURRENT STATUS**

4/9/2019 - House Health, (Second Hearing)

HB68 **HEARTBEAT BILL** (HOOD R, KELLER C)

To generally prohibit an abortion of an unborn human individual with a detectable heartbeat and to create the Joint Legislative Committee on Adoption Promotion and Support.

■ **CURRENT STATUS**

2/26/2019 - House Health, (First Hearing)

HB133 **MILITARY-TEMPORARY LICENSURE** (PERALES R, WEINSTEIN C)

To require state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved to Ohio for active duty.

■ **CURRENT STATUS**

4/3/2019 - House State and Local Government, (First Hearing)

HB144 **NURSE EMPLOYMENT-MANDATORY OVERTIME** (MANNING D)

To prohibit a hospital from requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment.

■ **CURRENT STATUS**

3/26/2019 - Referred to Committee House Commerce and Labor

HB165 **HEALTH EDUCATION STANDARDS** (LISTON B, GALONSKI T)

Regarding the adoption of health education standards.

■ **CURRENT STATUS**

4/2/2019 - Referred to Committee House Primary and Secondary Education

HB166 **OPERATING BUDGET** (OELSLAGER S)

To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.

■ **CURRENT STATUS**

HB177 STANDARD CARE ARRANGEMENTS *(BRINKMAN T)*

Regarding standard care arrangements entered into by advanced practice registered nurses and collaborating physicians or podiatrists; physician prescribing of schedule II controlled substances from convenience care clinics; and clearances by licensed health professionals of concussed student athletes.

CURRENT STATUS

4/9/2019 - House Health, (First Hearing)

SB1 REDUCE REGULATORY RESTRICTIONS *(MCCOLLEY R, ROEGNER K)*

To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.

CURRENT STATUS

3/5/2019 - Senate Government Oversight and Reform, (Third Hearing)

SB7 TEMP STATE OCCUPATIONAL LICENSES-MILITARY *(LEHNER P, HACKETT R)*

Regarding temporary state occupational licenses for members of the military and their spouses.

CURRENT STATUS

4/2/2019 - Referred to Committee House Armed Services and Veterans Affairs

SB9 HEALTH PLAN CLAIM INFORMATION *(HUFFMAN M)*

To require health plan issuers to release certain claim information to group plan policyholders.

CURRENT STATUS

4/9/2019 - House Insurance, (First Hearing)

SB14 DRUG PRICE INFORMATION DISCLOSURE *(MAHARATH T)*

Regarding pharmacy benefit managers, pharmacists, and the disclosure to patients of drug price information.

CURRENT STATUS

4/3/2019 - Senate Insurance and Financial Institutions, (First Hearing)

SB20 CONTROLLED SUBSTANCES DISPOSAL *(MAHARATH T)*

Regarding the disposal of controlled substances.

CURRENT STATUS

2/13/2019 - Referred to Committee Senate Health, Human Services and Medicaid

SB25 MEDICAID WORK, EDUCATION REQUIREMENTS *(HUFFMAN M)*

Regarding work and education requirements for the Medicaid program.

CURRENT STATUS

3/20/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

SB27 FETAL REMAINS-SURGICAL ABORTIONS *(UECKER J)*

To impose requirements on the final disposition of fetal remains from surgical abortions.

CURRENT STATUS

4/2/2019 - Referred to Committee House Civil Justice

SB29 MEDICAID COPAYMENTS *(DOLAN M)*

Regarding Medicaid copayment requirements.

CURRENT STATUS

2/19/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

SB51 NON-OPIOID DIRECTIVES AND THERAPIES *(MAHARATH T)*

Regarding non-opioid directives and non-opioid therapies.

CURRENT STATUS

2/13/2019 - Referred to Committee Senate Health, Human Services and Medicaid

SB61 NURSE ANESTHETISTS *(BURKE D)*

Regarding the authority of certified registered nurse anesthetists to select, order, and administer certain drugs.

CURRENT STATUS

SB97 COST ESTIMATES FOR HEALTH CARE *(HUFFMAN S)*

Regarding the provision of cost estimates for scheduled health care services and health care services requiring insurer preauthorization.

CURRENT STATUS

3/20/2019 - Senate Health, Human Services and Medicaid, (First Hearing)

SB105 MASSAGE THERAPY LICENSING *(BRENNER A)*

To make changes to the massage therapy licensing law.

CURRENT STATUS

4/3/2019 - Senate Health, Human Services and Medicaid, (First Hearing)

SB121 HEALTH EDUCATION STANDARDS *(SYKES V, KUNZE S)*

To require the State Board of Education to adopt health education standards and to require that only statewide venereal disease education standards and curriculum be approved by the General Assembly.

CURRENT STATUS

3/26/2019 - Introduced

Revised Code Section	Explain Issue	Proposed Resolution	
4731.14(B)	Licensure approval	Removing the six vote requirement and establishing internal management rules- pharmacy board for reference	
4731.222 and various others	Not all license types have the type of language found in 4731.222 for initial issuance and/or restoration a license. Also, Statute makes all restorations subject to 4731.222. Really only concerned about individuals who may not have been practicing at all while Ohio license has been expired. Also should make clear that the two years is immediately preceding date of application	Need to add initial and/or restoration fitness to practice language for ACU, OM, AA, RA, PA, LD, RCP, GC. Also language should combine initial and restoration two year clinical practice. I.e. "An applicant seeking issuance of a license or certificate, or restoration of a license or certificate...who for more than two years, immediately preceding the date of application has not been engaged..."	
4731.299	Expedited statute needs clarification and/or review of requirements including malpractice claim limitation language	Amend statute accordingly once eligibility requirements are reviewed.	
4731.282 and corresponding section in regards to CME credit for volunteering	Currently a 100 hour requirement. By rule, 60 hours can be category 2. Category 2 continuing education requirements are difficult to audit. Physicians are also doing more than the required category one requirement to maintain certification	Change the statutory requirement to 50 hours. Note that the requirement for the hours to be all category 1 can be set out in statute or done by rule. Volunteer statute needs to be changed so that 1/3 of hours can't be fulfilled by volunteering	
4731.04 and 4731.291	Statute is not clear that an accredited clinical fellowship is acceptable GME	Add clinical fellowship to 4731.04(C)(1) and 4731.291(A)(2)(a)	
4731.19(A)(3)c	Not clear if license must have been held for five years immediately preceding application	Add clarifying language	
4730.14, possibly 4730.49	PA CME requirement not aligned with PA certification requirements	Eliminate specific CME requirements and require maintenance of certification (which requires CME in order to do so). Similar language to that of 4774.06 as applicable to RAs	
Various	Now that paper based renewal has been eliminated, both staggered and date-certain renewal is unnecessary.	Eliminate specific schedule of renewal. Licenses/permits are good for for one or two years, as applicable, from date of issuance	
Various	Need to update all license types from "certificate" to "license"		
4731.292	Limited Certificates	Rescind the ORC	
4731.291	Training Certificates	Add a 30 day late period for Training certificates accompanied by 50.00 late fee	
4730.43	PA personally furnished samples	Removes the supervising physician's ability to limit the PA's personally furnishing of drug samples. It gives the PA free reign to personally furnish packaged samples that are not controlled substances.	
4731.02(H)	PA volunteer work	Amend Section 4730.02(H) to read similar to that of Section 4730.04. Section 4730.04 authorizes a PA to provide care in Ohio in an emergency or disaster without the participation of the supervising physician. Instead, the PA practices under the supervision of the medical director of the emergency or disaster. If similar language were added to Section 4730.02(H), the medical director would determine the scope of practice of the PA, and the PA could render services that are within the normal course of practice and expertise of the medical director at the emergency or disaster site.	
4761.06	Respiratory Care CME	Include the option of a civil penalty as an alternative to discipline for failure to timely complete continuing education. Explore options of allowing for all CME statutes.	
4730.19	Fining for supervision agreement violations must be pursuant to a 119 proceeding	Use similar language for CME audit to provide for a non-disciplinary, administrative resolution process for supervision agreement violations	



**State Medical Board
of Ohio**

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MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Progress

DATE: March 27, 2019

Attached please find the Rule Review Spreadsheet and status of the rules under review.

Action Requested: No Action Requested

Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4730-1-01	Regulation of Physician Assistants - Definitions	12/9/15 11/8/15	03/09/16	03/09/16	03/11/16	05/11/16	08/02/17		06/20/18	07/24/18		09/12/18	09/30/18	09/30/23
4730-1-02	<i>Physician Assistant Practice</i>	04/12/16		04/13/16	04/15/16	06/08/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded
4730-1-03	<i>Duties of a Supervising Physician</i>	04/12/16		04/13/16	04/15/16	06/08/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded
4730-1-04	<i>Supervision</i>	04/12/16		04/13/16	04/15/16	06/08/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded
4730-1-05	Quality Assurance System	12/09/15	03/09/16	03/09/16	12/22/17 3/11/2016	03/14/18	04/02/18		06/20/18	07/24/18				08/07/23
4730-1-06	Licensure as a physician assistant	12/9/15 11/4/2015		04/13/16	3/22/19 6/20/17 4/15/2016	7/12/17 6/8/2016	8/2/2017		07/02/18 6/20/2018	07/24/18		09/12/18	09/30/18	09/30/23
4730-1-06.1	<i>Military provisions related to certificate to practice as a physician assistant</i>				03/22/19				06/20/18	07/24/18				09/30/20
4730-1-07	Miscellaneous Provisions	12/09/15		04/13/16	04/15/16	06/08/16	08/02/17		06/20/18	07/24/18		09/12/18	09/30/18	09/30/23
4730-1-08	Physician assistant delegation of medical tasks and administration of drugs	11/04/15		11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4730-2-01	Physician Delegated Prescriptive Authority - Definitions	05/10/16			05/13/16	08/10/16	08/02/17		06/20/18	07/24/18		09/12/18	Amended 9/30/18	03/19/19
4730-2-02	<i>Educational Requirements for Prescriptive Authority</i>	12/09/15	03/09/16	03/09/16	03/11/16	05/11/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded
4730-2-03	<i>Application for a Provisional Certificate to Prescribe</i>	04/12/16	04/13/16		04/15/16	06/08/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded
4730-2-04	Period of on-site supervision of physician-delegated prescriptive authority	05/10/16			12/22/17	03/14/18	04/02/18		08/20/18	09/26/18		11/14/18	11/30/18	11/15/23
4730-2-05	Addition of valid prescriber number after initial licensure	05/10/16			12/22/17	03/14/18	04/02/18		08/20/18	09/26/18		11/14/18	11/30/18	11/15/23
4730-2-06	Physician Assistant Formulary	05/10/16			05/13/16									06/30/19
4730-2-07	Standards for Prescribing	05/10/16			05/13/16	08/10/16	08/02/17		06/20/18	07/24/18			Amended 9/30/18	06/30/19
4730-2-08	<i>Standards for Personally Furnishing Drugs and Therapeutic Devices</i>	05/10/16			05/13/16	08/10/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded
4730-2-09	<i>Standards for Personally Furnishing Samples of Drugs and Therapeutic Devices</i>	05/10/16			05/13/16	08/10/16	08/02/17		06/20/18	07/24/18			09/30/18	rescinded

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4730-2-10	Standards and Procedures for use of OARRS		03/09/16	03/09/16	03/11/16	05/11/16	08/02/17		06/20/18	07/24/18		09/12/18	09/30/18	09/30/23
4730-3-01	Criminal Records Checks - (For Physician Assistants) - Definitions	04/12/16		04/13/16	04/15/16	06/08/16	08/02/17		06/20/18	07/24/18			Amended 9/30/18	06/30/19
4730-3-02	Criminal Records Checks	04/12/16		04/13/16	04/15/16	06/08/16	08/02/17		06/20/18	07/24/18			Amended 9/30/18	06/30/19
4730-4-01	Definitions				02/21/18	07/11/18	08/03/18		refiled 2/15/19 10/24/2018	11/28/18				
4730-4-03	Office Based Treatment for Opioid addiction				02/21/18	07/11/18	08/03/18		refiled 2/15/19 10/24/2018	11/28/18				
4730-4-04	Medication assisted treatment using naltrexone				02/21/18	07/11/18	08/03/18		refiled 2/15/19 10/24/2018	11/28/18				
4731-1-01	Limited Practitioners - Definition of Terms	07/13/16			5/15/17 7/13/2016	7/12/17 9/14/2016	08/07/17						01/24/12	01/24/17
4731-1-02	Application of Rules Governing Limited Branches of Medicine or Surgery			12/10/14 05/13/15	05/14/18	09/14/16	09/24/18		07/01/15			09/09/15	09/30/15	09/30/20
4731-1-03	General Prohibitions	07/13/16			07/13/16	09/14/16	09/26/17		08/31/18			no change		08/31/23
4731-1-04	Scope of Practice: Mechanotherapy	04/13/16		04/13/16	04/15/16	09/14/16	09/26/17		12/12/18 9/24/2018	10/25/18		12/12/18	12/31/18	12/31/23
4731-1-05	Scope of Practice: Massage Therapy	07/13/16			6/20/18 7/13/2016	9/24/18 9/26/2017			09/24/18	10/25/18		12/12/18	12/31/18	12/31/23
4731-1-06	Scope of Practice: Naprapathy	04/13/16		04/13/16	04/15/16	09/14/16	09/26/17		08/31/18			no change		08/31/23
4731-1-07	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	07/13/16				09/14/16	09/26/17		09/24/18	10/25/18		12/12/18	12/31/18	12/31/23

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4731-1-08	Continuing Cosmetic Therapy Education Requirements for Registration or Reinstatement of a License to Practice Cosmetic Therapy	10/10/18			07/18/18	09/14/16	10/31/18 2/20/2018							12/31/17
4731-1-09	Cosmetic Therapy Curriculum Requirements	07/13/16			07/13/16	09/14/16	09/26/17		08/31/18			no change		08/31/23
4731-1-10	Distance Education	07/13/16			07/13/16	09/14/16	09/26/17		09/24/18	10/25/18	01/09/19	01/09/19	01/31/19	01/31/24
4731-1-11	Application and Certification	07/13/16			5/15/17 7/13/2016	07/12/17 9/14/2016	08/07/17							01/24/17
4731-1-12	Examination	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/09/16	11/30/16	11/30/21
4731-1-13	Examination Failure; Additional Training	07/13/16			5/15/17 7/13/2016	7/12/17 9/14/2016	08/07/17							01/24/17
4731-1-14	<i>Preliminary Education Certificate</i>					09/14/16								<i>rescinded</i>
4731-1-15	Determination of Standing of School, College or Institution	07/13/16			07/13/16	09/14/16	09/26/17		09/24/18	10/25/18		12/12/18	12/31/18	12/31/23
4731-1-16	Massage Therapy curriculum rule (Five year review)	2/10/16 12/9/2015	12/09/15	12/09/15	6/20/18 12/11/2015		8/24/18 3/7/2016		10/24/18 8/16/2016	11/28/18 9/19/2016	01/09/19 10/19/16	1/9/19 11/9/2016	01/31/19	11/30/21
4731-1-17	Instructional Staff	07/13/16			07/13/16	09/14/16	09/26/17		09/24/18	10/25/18				01/24/17
4731-1-18	Grounds for Suspension, Revocation or Denial of Certificate of Good Standing, Hearing Rights	07/13/16			5/15/17 7/13/2016	7/12/17 9/14/2016	08/07/17							01/24/17
4731-1-19	Probationary Status	07/13/16			5/15/17 7/13/2016	7/12/17 9/14/2016	08/07/17							01/24/17
4731-1-23	<i>Home Study Schools</i>													<i>rescinded</i>
4731-1-24	Massage Therapy Continuing Education		03/09/16	2nd - 3/29/17 3/9/2016	03/09/16		10/26/16							
4731-1-25	<i>Determination of Equiv. Military Educ. For CT/MT</i>		04/08/15	05/13/15	3/22/19 7/23/15		07/23/15		7/1/2015 9/24/15	11/02/15	12/09/15	12/09/15	12/31/15	12/31/20
4731-2-01	Public Notice of Rules Procedure	10/14/15	10/14/15	10/14/15	04/15/16	06/08/16		11/08/17 7/12/2017	09/19/17	10/25/17			12/07/17	12/07/22

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4731-4-01	Criminal Records Checks - Definitions				02/20/19									06/29/19
4731-4-02	Criminal Records Checks				02/20/19									06/29/19
4731-5-01	Admission to Examinations	05/11/16			2/8/17 5/13/2016	07/13/16			06/09/17	no change				06/09/22
4731-5-02	Examination Failure; Inspection and Regrading	05/11/16			2/8/17 5/13/2016	07/13/16			06/09/17	no change				06/09/22
4731-5-03	Conduct During Examinations	05/11/16			2/8/17 5/13/2016	07/13/16			06/09/17	no change				06/09/22
4731-5-04	Termination of Examinations	05/11/16			2/8/17 5/13/2016	07/13/16			06/09/17	no change				06/09/22
4731-6-01	Medical or Osteopathic Licensure: Definitions	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-6-02	Preliminary Education for Medical and Osteopathic Licensure	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		06/09/17	no change				06/09/22
4731-6-03	Eligibility for the Medical and Osteopathic Examination	05/11/16			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		06/09/17	no change				06/09/22
4731-6-04	Demonstration of proficiency in spoken English	05/11/16			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		06/09/17	no change				06/09/22
4731-6-05	Format of Medical and Osteopathic Examination	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		06/09/17	08/31/17	08/31/22
4731-6-07	Passing Average on Examination	05/11/16			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		06/09/17	no change				06/09/22
4731-6-10	Clinical Competency Examination	05/11/16			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		06/09/17	08/31/17	06/09/22

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4731-6-14	Examination for physician licensure	1/10/18 5/11/2016			2/26/18 2/8/2017	07/13/16	09/25/18		06/09/17	no change				04/29/19
4731-6-15	Eligibility for Licensure of National Board Diplomats and Medical Council of Canada Licentiates	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		06/09/17	no change				06/09/22
4731-6-16	Eligibility for Medical or Osteopathic Licensure by Endorsement of Licenses Granted by Other States	1/10/18 5/11/2016			2/26/18 2/8/2017	07/13/16	09/25/18		06/09/17	no change				04/29/19
4731-6-20	<i>Requests for medical or osteopathic licensure application</i>													<i>rescinded</i>
4731-6-21	Application Procedures for Certificate Issuance; Investigation; Notice of Hearing Rights	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-6-22	Abandonment and Withdrawal of Medical and Osteopathic Licensure Applications	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-6-30	Training Certificates	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-6-31	Limited Preexamination Registration and Limited Certification	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		06/09/17	no change				06/09/22
4731-6-32	Visiting Faculty Certificates	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-6-33	Special Activity Certificates	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-6-34	Volunteer's Certificates	1/10/18 5/11/2016			2/26/18 2/8/17 5/13/2016	07/13/16	09/25/18		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22

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4731-6-35	Processing applications from service members, veterans, or spouses of service members or veterans.	01/10/18		05/13/15	3/22/19 2/26/18 2/8/17		9/25/18 1/8/2015		06/09/17	no change		09/09/15	09/30/15	09/30/20
4731-7-01	Method of Notice of Meetings												12/31/15	12/31/20
4731-8-01	Personal Information Systems				02/20/19								no change	04/21/21
4731-8-02	Definitions												no change	04/21/21
4731-8-03	Procedures for accessing confidential personal information												no change	04/21/21
4731-8-04	Valid reasons for accessing confidential personal information												no change	04/21/21
4731-8-05	Confidentiality Statutes	3/9/16 1/13/2016			01/15/16			04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-8-06	Restricting & Logging access to confidential personal information	3/9/16 1/13/2016			01/15/16			04/13/16	04/21/16					04/21/21
4731-9-01	Record of Board Meetings; Recording, Filming, and Photographing of Meetings		08/13/14	8/13/14 5/13/15	02/20/19		01/08/15		07/01/15			09/09/15	09/30/15	09/30/20
4731-10-01	Definitions	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17		02/02/18					02/02/23
4731-10-02	Requisite Hours of Continuing Medical Education for License Renewal or Reinstatement	06/08/16	06/08/16	06/08/16	6/20/17 6/9/2016	08/10/16	09/26/17					05/09/18	05/31/18	05/31/23
4731-10-03	CME Waiver	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17		02/02/18			05/09/18	05/31/18	05/31/23
4731-10-04	Continuing Medical Education Requirements for Restoration of a License	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17					05/09/18	05/31/18	05/31/23
4731-10-05	Out-of-State Licensees	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17		02/02/18			05/09/18	05/31/18	05/31/23
4731-10-06	Licensure After Cutoff for Preparation of Registration Notices	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17		02/02/18			05/09/18	05/31/18	05/31/23
4371-10-07	Internships, Residencies and Fellowships	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17		02/02/18			05/09/18	05/31/18	05/31/23
4371-10-08	Evidence of Continuing Medical Education	06/08/16	06/08/16	06/08/16	6/20/17 6/9/2016	08/10/16	09/26/17					05/09/18	05/31/18	05/31/23
4731-10-09	Continuing Medical Education Requirement for Mid-term Licensees	06/08/16	06/08/16	06/08/16	6/20/17 6/9/2016	08/10/16	09/26/17					05/09/18	05/31/18	05/31/23

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4731-10-10	Continuing Medical Education Requirements Following License Restoration	06/08/16	06/08/16	06/08/16	6/20/17 6/9/2016	08/10/16	09/26/17					05/09/18	05/31/18	05/31/23
4731-10-11	Telemedicine Certificates	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	07/31/17		02/02/18			05/09/18	05/31/18	05/31/23
4731-11-01	Controlled substances; General Provisions Definitions		revision 3/11/15	8/13/2014 4/13/16	5/11/18 Revision 4/13/17 revision 9/19/16 1/22/15 4/15/16	6/13/18 6/8/2016	refiled 3/21/19 6/14/18 05/11/17 7/5/2016	11/08/17	Refiled 10/16/18 refiled 8/20/18 refiled 9/19/17 refiled 6-16-17 refiled 2/8/17 9/26/18 10/25/17 07/26/17 11/3/2016 12/8/2016			12/12/18	12/23/18	12/07/22
4731-11-02	Controlled Substances - General Provisions			10/8/14 05/13/15	5/11/18 Revision 4/13/17	06/13/18	6/14/18 05/11/17 1/8/2015		Refiled 10/16/18 8/20/18 6/16/17 8/24/15 7/1/2015	9/26/18 07/26/17 11/2/2015	10/14/15	12/12/18	12/23/18	12/31/20
4731-11-03	Schedule II Controlled Substance Stimulants			10/8/14 5/13/15			01/08/15		8/24/15 7/1/2015	11/02/15	10/14/15	10/14/2015	12/31/15	12/31/20
4731-11-04	Controlled Substances: Utilization for Weight Reduction			11/12/14 05/13/15			01/08/15		1/5/16 8/24/15 7/1/2015	11/02/15	10/14/15		02/29/16	02/28/21
4731-11-04.1	Controlled substances: Utilization for chronic weight management			9/10/14 05/13/15			01/08/15		8/24/15 7/1/2015	11/02/15	10/14/15	10/14/15	12/31/15	12/31/20
4731-11-05	Use of Drugs to Enhance Athletic Ability			10/8/14 05/13/15			01/08/15		8/24/15 7/1/2015	11/02/15	12/09/15	12/09/15	12/31/15	12/31/20
4731-11-06	<i>Waivers for new uses</i>													<i>rescinded</i>
4731-11-07	Research Utilizing Controlled Substances			9/10/14 05/13/15			01/08/15		07/01/15			09/09/15	09/30/15	09/30/20
4731-11-08	Utilizing Controlled Substances for Self and Family Members	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/17/16					08/17/21

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4731-11-09	Prescribing to persons the physician has never personally examined.	03/09/16	revision 3/26/15 3/11/15 10/8/14	revision 9/19/16 1/14/15 05/13/15 10/8/14 4/13/16	1/22/2015 4/15/16	06/08/16	07/05/16		refiled 2/8/17 refiled (res & new) 1/13/17 11/3/2016	12/08/16			03/23/17	03/23/22
4731-11-11	Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).		revision 3/25/15 3/11/15	revision 1/14/15 05/13/15 10/8/14	7/23/15 1/22/2015		07/23/15		09/24/15	11/02/15	12/09/15	12/09/15	12/31/15	12/31/20
4731-11-12	Office-Based Opioid Treatment			08/31/14			rescind filing 8/3/18 3/28/2014		10/24/18 10/20/14	11/28/18 11/24/14		01/14/15	01/31/15	01/31/20
4731-11-13	Prescribing of Opioid Analgesics for Acute Pain				04/13/17		05/11/17			07/26/17		filed 8/21/17	08/31/17	08/31/22
4731-11-14	Prescribing for subacute and chronic pain				05/11/18	06/13/18	Refiled 3/21/19 6/14/2018		Refiled 10/16/18 8/20/2018	09/26/18		12/12/18	12/23/18	12/23/23
4731-12-01	Preliminary Education for Licensure in Podiatric Medicine and Surgery	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16	09/14/16	03/28/17	05/03/17		06/14/17	06/30/17	06/30/22
4731-12-02	Standing of Colleges of Podiatric Surgery and Medicine	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16	09/14/16	03/28/17	05/03/17		06/14/17	06/30/17	06/30/22
4731-12-03	Eligibility for the Examination in Podiatric Surgery and Medicine (see note below)	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16	09/14/16	04/19/17	NA				04/19/22
4731-12-04	Eligibility of Licensure in Podiatric Medicine and Surgery by Endorsement from Another State	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16	09/14/16	03/28/17	05/03/17		06/14/17	06/30/17	06/30/22
4731-12-05	Application Procedures for Licensure in Podiatric Medicine and Surgery, Investigation, Notice of Hearing Rights.	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16	09/14/16	03/28/17	05/03/17		06/14/17	06/30/17	06/30/22
4731-12-06	Visiting Podiatric Faculty Certificates	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16	09/14/16	03/28/17	05/03/17		06/14/17	06/30/17	06/30/22

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4731-12-07	Podiatric Training Certificates	02/10/16	02/10/16	02/10/16	7/13/16 2/12/2016	04/13/16	07/11/16		03/28/17	05/03/17		06/14/17	06/30/17	06/30/22
4731-13-01	Conduct of Hearings - Representative; Appearances	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-02	Filing Request for Hearing	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-03	Authority and Duties of Hearing Examiners	11/04/15	11/04/15	11/04/15	12/12/16 11/6/2015		7/31/17 2/1/2016	6/13/18 4/13/2016	6/20/18 5/5/2016	7/24/18 6/13/2016		09/12/18	09/30/18	07/31/21
4731-13-04	Consolidation	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	04/21/16	--				04/21/21
4731-13-05	Intervention	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	04/21/16	--				04/21/21
4731-13-06	Continuance of Hearing	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	8/4/16 5/5/2016	06/13/16		09/14/16	09/30/16	09/30/21
4731-13-07	Motions	11/04/15	11/04/15	11/04/15	12/12/16 11/6/2015		7/31/17 2/1/2016	6/13/18 4/13/2016	6/20/18 5/5/2016	07/24/18		09/12/18	09/30/18	04/21/21
4731-13-07.1	Form and page limitations for briefs and memoranda				12/12/16		07/31/17	06/13/18	06/20/18	07/24/18	09/12/18	09/12/18	09/30/18	09/30/23
4731-13-08	Filing	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-09	Service	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-10	Computation and Extension of Time	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-11	Notice of Hearings	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-12	Transcripts	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-13	Subpoenas for Purposes of Hearing	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-14	Mileage Reimbursement and Witness Fees	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	04/21/16	--				04/21/21
4731-13-15	Reports and Recommendations	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-16	Reinstatement or Restoration of Certificate	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-17	Settlements, Dismissals, and Voluntary Surrenders	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	04/21/16	--				04/21/21
4731-13-18	Exchange of Documents and Witness Lists	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-16-19	<i>Prehearing conference</i>													<i>rescinded</i>
4731-13-20	Depositions in Lieu of Live Testimony and Transcripts in place of Prior Testimony	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	04/13/16	05/05/16	06/13/16			07/31/16	07/31/21
4731-13-20.1	Electronic Testimony								05/05/16	06/13/16			07/31/16	07/31/21

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4731-16-04	Other Violations	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-05	Examinations	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-06	Consent Agreements and Orders for Reinstatement of Impaired Practitioners	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-07	Treatment Provider Program Obligations	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-08	Criteria for Approval	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-09	Procedures for Approval	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-10	Aftercare Contracts	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-11	Revocation, Suspension, or Denial of Certificate of Good Standing	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-12	Out-of-State Impairment Cases	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-13	Patient Consent; Revocation of Consent	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-14	Caffeine, Nicotine, and Over-The Counter Drugs	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-15	Patient Rights	06/08/16	06/08/16	06/08/16	06/09/16	08/10/16	08/29/17		11/17/17					11/17/22
4731-16-16	<i>Practice Prohibition</i>	06/08/16	06/08/16	06/08/16	12/17/18 6/9/2016	08/10/16	1/11/19 8/29/2017		11/17/17					11/17/22
4731-16-17	Requirements for the one-bite program	03/14/18			03/21/18		05/30/18		10/24/18	11/28/18		01/09/19	01/31/19	01/31/24
4731-16-18	Eligibility for the one-bite program	03/14/18			03/21/18		05/30/18		10/24/18	11/28/18		01/09/19	01/31/19	01/31/24
4731-16-19	Monitoring organization for one-bite program	03/14/18			03/21/18		05/30/18		10/24/18	11/28/18		01/09/19	01/31/19	01/31/24
4731-16-20	Treatment providers in the one-bite program	03/14/18			03/21/18		05/30/18		10/24/18	11/28/18		01/09/19	01/31/19	01/31/24
4731-16-21	Continuing care for the one-bite program	03/14/18			03/21/18		05/30/18		10/24/18	11/28/18		01/09/19	01/31/19	01/31/24
4731-17-01	Exposure-Prone Invasive Procedure Precautions - Definitions	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	10/20/16 8/16/2016	09/19/16	10/19/16	12/14/16	12/31/16	12/31/21
4731-17-02	Universal Precautions	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/09/16	11/30/16	11/30/21
4731-17-03	Hand Washing	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/17/16					08/17/21
4731-17-04	Disinfection and Sterilization	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	10/20/16 8/16/2016	09/19/16	10/19/16	12/14/16	12/31/16	12/31/21

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4731-17-05	Handling and Disposal of Sharps and Wastes	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/17/16					08/17/21
4731-17-06	Barrier Techniques	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/17/16					08/17/21
4731-17-07	Violations	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	10/19/16	11/09/16	11/30/21
4731-18-01	Standards for Surgery	01/13/16			1/17/18 1/15/2016	03/14/18	06/27/18							05/04/00
4731-18-02	Use of Light Based Medical Devices	01/13/16			1/17/18 1/15/2016	03/14/18								06/30/05
4731-18-03	Delegation of the Use of Light Based Medical Devices	01/13/16			1/17/18 1/15/2016	03/14/18								06/30/05
4731-18-04	Delegation of the Use of Light Based Medical Devices; Exceptions	01/13/16			1/17/18 1/15/2016	03/14/18								05/31/07
4731-19-01	<i>Duty of License to Report HIV or HBV Infection; Confidentiality</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-02	<i>Licensee's Duty to Report Infection with HIV or HBV</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-03	<i>Confidentiality; Reporting by Board</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-04	<i>Voluntary Compliance</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-05	<i>Duty to Refrain from Certain Procedures</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-06	<i>Board Procedures</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-07	<i>Confidential Monitoring Program</i>	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16	05/11/16	08/16/16	09/19/16	10/19/16	11/9/2016	11/30/16	Rescinded 11/9/2016

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4731-20-01	Surgery Privileges of Podiatrist - Definition of Foot	03/09/16	03/09/16	03/09/16	03/11/16	05/11/16	07/31/17	02/14/18				05/09/18	05/31/18	05/31/23
4731-20-02	Surgery: Ankle Joint	03/09/16	03/09/16	03/09/16	03/11/16		07/31/17	02/14/18				05/09/18	05/31/18	05/31/23
4731-21-01	Drug Treatment of Intractable Pain - Definitions	2/10/2016 3/8/16 4/12/16			7/13/16 3/11/2016		6/14/18 7/11/2016	10/19/16	Refiled 10/16/18 rescind filed 8/20/18 5/23/2017	06/23/17		08/09/17	08/31/17	rescinded 12/23/18
4731-21-02	Utilizing Prescription Drugs for the Treatment of Intractable Pain	2/10/2016 3/8/16 4/12/16			7/13/16 3/11/2016		6/14/18 7/11/2016	10/19/16	Refiled 10/16/18 rescind filed 8/20/18 5/23/2017	06/23/17		08/09/17	08/31/17	rescinded 12/23/18
4731-21-03	Continuing Medical Education	2/10/2016 3/8/16 4/12/16			7/13/16 3/11/2016		6/14/18 7/11/2016	10/19/16	Refiled 10/16/18 rescind filed 8/20/18 5/23/2017	06/23/17		08/09/17	08/31/17	rescinded 12/23/18
4731-21-04	Tolerance, Physical Dependence and Addiction	2/10/2016 3/8/16 4/12/16			7/13/16 3/11/2016		6/14/18 7/11/2016	10/19/16	Refiled 10/16/18 rescind filed 8/20/18 5/23/2017	06/23/17		08/09/17	08/31/17	rescinded 12/23/18
4731-21-05	Violations	2/10/2016 3/8/16 4/12/16			7/13/16 3/11/2016		6/14/18 7/11/2016	10/19/16	Refiled 10/16/18 rescind filed 8/20/18 5/23/2017	no change				rescinded 12/23/18

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4731-21-06	Exceptions	2/10/2016 3/8/16 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016	06/13/18	6/14/18 7/11/2016	10/19/16	Refiled 10/16/18 rescind filed 8/20/18 5/23/2017	06/23/17		08/09/17	08/31/17	rescinded 12/23/18
4731-22-01	Emeritus Registration - Definitions	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	(Revised 6-5-17 for XML version) 5/23/2017	06/23/17		08/09/17	08/31/17	08/31/22
4731-22-02	Application	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-22-03	Status of Registrant	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	05/12/17					05/12/22
4731-22-04	Continuing Education Requirements	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	05/12/17					05/12/22
4731-22-05	Documentation of Status													rescinded
4731-22-06	Renewal of Cycle of Fees	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	05/12/17					05/12/22
4731-22-07	Change to Active Status	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-22-08	Cancellation of or Refusal to Issue an Emeritus Registration	2/10/2016 4/12/16	02/10/16	03/09/16	7/13/16 3/11/2016		07/11/16	09/14/16	05/12/17					05/12/22
4731-23-01	Delegation of Medical Tasks - Definitions	3/9/16 1/13/2016			01/15/16		04/04/16	05/11/16	08/16/16	09/19/16	10/19/16	11/09/16	11/30/16	11/30/21
4731-23-02	Delegation of Medical Tasks	3/9/16 1/13/2016			01/15/16		04/04/16	05/11/16	08/16/16	09/19/16	10/19/16	11/09/16	11/30/16	11/30/21
4731-23-03	Delegation of Medical Tasks: Prohibitions	3/9/16 1/13/2016			01/15/16		04/04/16	05/11/16	08/17/16					08/17/21
4731-23-04	Violations	3/9/16 1/13/2016			01/15/16		04/04/16	05/11/16	08/17/16					08/17/21

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4731-24-01	Anesthesiologist Assistants - Definitions	10/10/18			10/30/18		1/11/19 11/7/2013		02/19/14					03/19/19
4731-24-02	Anesthesiologist Assistants; Supervision	10/10/18			10/30/18		1/11/19 11/7/2013		02/19/14					03/19/19
4731-24-03	Anesthesiologist Assistants; Enhanced Supervision	10/10/18			10/30/18		1/11/19 11/7/2013		02/19/14					03/19/19
4731-24-04	Anesthesiologist Assistants; Prohibitions						11/07/13		06/17/14	04/23/14		06/11/14	06/17/14	rescinded
4731-24-05	Military Provisions Related to Certificate to Practice as an Anesthesiologist Assistant	10/30/18 10/10/2018		7/19/14 5/13/15	03/22/19		1/11/19 11/14/2014		1/8/2015 7/1/15			09/09/15	09/30/15	09/30/20
4731-25-01	Office-Based Surgery - Definition of Terms	3/9/16 1/13/2016		10/19/16 05/11/16	01/15/16		07/31/17	02/14/18						03/01/23
4731-25-02	General Provisions	3/9/16 1/13/2016			01/15/16	05/11/16	07/31/17	02/14/18				05/09/18	05/31/18	05/31/23
4731-25-03	Standards for Surgery Using Moderate Sedation/Analgesia	3/9/16 1/13/2016			01/15/16	05/11/16	07/31/17	02/14/18				05/09/18	05/31/18	08/31/23
4731-25-04	Standards for Surgery Using Anesthesia Services	3/9/16 1/13/2016			01/15/16	05/11/16	07/31/17	02/14/18				05/09/18	05/31/18	05/31/23
4731-25-05	Liposuction in the Office Setting	3/9/16 1/13/2016			01/15/16	05/11/16	07/31/17	02/14/18						03/01/23
4731-25-07	Accreditation of Office Settings	3/9/16 1/13/2016			01/15/16	05/11/16	07/31/17	02/14/18				05/09/18	05/31/18	05/31/23
4731-25-08	Standards for Surgery				01/17/18		06/27/18							
4731-26-01	Sexual Misconduct - Definitions	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	03/09/16	03/15/16	04/20/16			06/30/16	06/30/21
4731-26-02	Prohibitions	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	03/09/16	03/15/16	04/20/16				06/14/21
4731-26-03	Violations; Miscellaneous	11/04/15	11/04/15	11/04/15	11/06/15		02/01/16	03/09/16	03/15/16	04/20/16			06/30/16	06/30/21
4731-27-01	Definitions				05/11/18		08/03/18		02/03/19					02/02/24
4731-27-02	Dismissing a patient from the medical practice				05/11/18		08/03/18		02/06/19	03/12/19				06/29/19

Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4731-27-03	Notice of termination of physician employment or physician leaving a practice, selling a practice, or retiring from the practice of medicine				05/11/18		08/03/18		02/06/19	03/12/19				06/29/19
4731-28-01	Mental or Physical Impairment	2/10/16 12/9/2015	12/09/15	12/09/15	12/11/15	02/10/16	03/07/16		05/23/17	06/23/17		08/09/17	08/31/17	08/31/22
4731-28-02	Eligibility for confidential monitoring program				04/10/17		02/06/18		05/30/18	07/09/18		08/08/18	08/31/18	08/31/23
4731-28-03	Participation in the confidential monitoring program				04/10/17		02/06/18		05/30/18	07/09/18		08/08/18	08/31/18	08/31/23
4731-28-04	Disqualification from continued participation in the confidential monitoring program				04/10/17		02/06/18		05/30/18	07/09/18		08/08/18	08/31/18	08/31/23
4731-28-05	Termination of the participation agreement for the confidential monitoring program				04/10/17		02/06/18		05/30/18	07/09/18		08/08/18	08/31/18	08/31/23
4731-29-01	Standards and procedures for operation of a pain management clinic.	02/10/16			07/13/16		07/11/16	12/14/16	03/28/17	05/03/17		06/14/17	06/30/17	06/30/22
4731-30-01	Internal Management Definitions	09/12/18										09/12/18	09/23/18	
4731-30-02	Internal Management Board Metrics	09/12/18										09/12/18	09/23/18	
4731-31-01	Requirements for assessing and granting clearance for return to practice or competition. (concussion rule)	02/14/18		05/13/15	02/26/18		5/16/18 6/2/2015		09/08/15			09/09/15	09/18/15	09/18/20
4731-32-01	Definition of Terms						03/23/17		06/09/17	07/10/17		08/09/17	09/08/17	09/08/22
4731-32-02	Certificate to Recommend Medical Marijuana						03/23/17		06/09/17	07/10/17		08/09/17	09/08/17	09/08/22
4731-32-03	Standard of Care						03/23/17		06/09/17	07/10/17		08/09/17	09/08/17	09/08/22
4731-32-04	Suspension and Revocation of Certificate to Recommend						03/23/17		06/09/17	07/10/17		08/09/17	09/08/17	09/08/22
4731-32-05	Petition to Request Additional Qualifying Condition or Disease						03/23/17		06/09/17	07/10/17		08/09/17	09/08/17	09/08/22

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Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4759-3-03	Minutes of board meetings			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-3-04	Cooperation and communication with professional organizations			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-3-05	Advisory committees			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-3-06	Parliamentary procedures			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-3-07	Adjudication hearings			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-4-01	Applications			04/11/18	04/19/18	07/11/18	09/25/18							
4759-4-02	Preprofessional experience			04/11/18	04/19/18	07/11/18	09/25/18							
4759-4-03	Examination			04/11/18	04/19/18	07/11/18	09/25/18							
4759-4-05	Licensure by reciprocity													To be rescinded
4759-4-06	Status categories													To be rescinded
4759-4-07	Failure to maintain licensure													To be rescinded
4759-4-08	Limited permit			04/11/18	04/19/18	07/11/18	09/25/18							
4759-4-09	License certificates and permits			04/11/18	04/19/18	07/11/18	09/25/18							
4759-4-10	Prorated initial license fee													To be rescinded
4759-4-11	Criminal records check			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-4-12	Consideration of military experience, education, training and term of service			04/11/18	3/22/19 4/19/18	07/11/18	09/25/18							
4759-4-13	Temporary license for military spouse			04/11/18	3/22/19 4/19/18	07/11/18	09/25/18							
4759-5-01	Supervision of persons claiming exemption			04/11/18	04/19/18	07/11/18	09/25/18							
4759-5-02	Student practice exemption			04/11/18	04/19/18	07/11/18	09/25/18							
4759-5-03	Plan of treatment exemption			04/11/18	04/19/18	07/11/18	09/25/18							
4759-5-04	Additional nutritional activities exemption			04/11/18	04/19/18	07/11/18	09/25/18							
4759-5-05	Distribution of literature exemption			04/11/18	04/19/18	07/11/18	09/25/18							
4759-5-06	Weight control program exemption			04/11/18	04/19/18	07/11/18	09/25/18							
4759-6-01	Standards of practice innutrition care			04/11/18	04/19/18	07/11/18	09/25/18							
4759-6-02	Standards of professional performance			04/11/18	04/19/18	07/11/18	09/25/18							
4759-6-03	Interpretation of standards			04/11/18	04/19/18	07/11/18	09/25/18							

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Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4759-8-22	Stipulation of Facts			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-23	Witnesses			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-24	Conviction of a Crime			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-25	Rules of evidence			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-26	Broadcasting and Photographing Administrative Hearings			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-27	Sexual misconduct evidence			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-28	Reinstatement of license			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-8-29	Settlements, Dismissals, and Voluntary Surrenders			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-9-01	Severability			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-10-01	Definitions			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-10-02	Procedures for accessing confidential personal information			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-10-03	Valid reasons for accessing confidential personal information			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-10-04	Confidentiality Statutes			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-10-05	Restricting & Logging access to confidential personal information in computerized personal information systems			04/11/18	04/19/18	07/11/18	09/25/18							To be rescinded
4759-11-01	Miscellaneous Provisions			04/11/18	04/19/18	07/11/18	09/25/18							
4761-1-01	Public hearings on adoption, amendment, or rescission of rules: methods of public notice												02/28/19	Rescinded
4761-1-02	Notice of board meetings												02/28/19	Rescinded
4761-2-01	Board Organization								01/19/19				02/28/19	Rescinded
4761-2-02	Personnel								01/19/19				02/28/19	Rescinded
4761-2-03	Board Records			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-2-05	Personal information systems												02/28/19	Rescinded
4761-3-01	Definition of terms			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24

Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4761-4-01	Approval of educational programs			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-4-02	Monitoring of Ohio respiratory care educational programs								11/15/18	12/17/18			02/28/19	02/28/24
4761-4-03	<i>Recognition of military educational programs for active duty military members and/or military veterans</i>				03/22/19				11/15/18	no change				11/15/23
4761-5-01	Waiver of licensing requirements pursuant to division (B) of section 4761.04 or the Revised Code													04/24/18
4761-5-02	Admission to the Ohio credentialing examination													05/06/15
4761-5-04	License application procedure													
4761-5-05	<i>Non-resident practice of respiratory care</i>								01/19/19				02/28/19	Rescinded
4761-5-06	Respiratory care practice by polysomnographic technologists													12/31/17
4761-5-07	<i>Criminal records check</i>												02/28/19	Rescinded
4761-6-01	Limited permit application procedure			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-7-01	Original license or permit, identification card or electronic license verification			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-7-03	Scope of respiratory care defined								11/15/18	no change				11/15/23
4761-7-04	Supervision								11/15/18	no change				11/15/23
4761-7-05	Administration of medicines								11/15/18	no change				11/15/23
4761-8-01	Renewal of license or permits				03/22/19									08/15/18
4761-8-02	<i>Licenses not in active practice</i>								01/19/19				02/28/19	Rescinded
4761-9-01	Definition of respiratory care continuing education			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-9-02	Gemera; RCCE requirements and reporting mechanism				03/22/19									
4761-9-03	Activities which do not meet the Ohio RCCE requirements			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24

Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4761-9-04	Ohio respiratory care law and professional ethics course criteria			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-9-05	Approved sources of RCCE			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-9-07	Auditing for compliance with RCCE requirements													
4761-10-01	Ethical and professional conduct			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4761-10-02	Proper use of credentials								11/15/18	no change				11/15/23
4761-10-03	Providing information to the Board													
4761-11-01	<i>Filing of complaints</i>								01/19/19				02/28/19	Rescinded
4761-11-02	<i>Administrative procedure for refusal to issue or renew a license or permit, deny, suspend, or revoke a certificate or license</i>								01/19/19				02/28/19	Rescinded
4761-11-03	<i>Board imposition of penalties</i>								02/06/19	03/12/19				To be rescinded
4761-11-04	<i>Representation; appearance; communication applicability</i>												02/28/19	Rescinded
4761-11-05	<i>Authority and duties of the board or hearing examiner</i>												02/28/19	Rescinded
4761-11-06	<i>Continuance of Hearing</i>												02/28/19	Rescinded
4761-11-07	<i>Filing</i>								01/19/19				02/28/19	Rescinded
4761-11-08	<i>Service</i>												02/28/19	Rescinded
4761-11-09	<i>Computation and Extension of Time</i>												02/28/19	Rescinded
4761-11-10	<i>Motions</i>												02/28/19	Rescinded
4761-11-11	<i>Transcripts</i>								01/19/19				02/28/19	Rescinded
4761-11-12	<i>Subpoenas for Purposes of Hearing</i>												02/28/19	Rescinded
4761-11-13	<i>Mileage Reimbursement and Witness Fees</i>								01/19/19				02/28/19	Rescinded
4761-11-14	<i>Reports and Recommendations</i>								01/19/19				02/28/19	Rescinded
4761-11-15	<i>Exchange of Documents and Witness Lists</i>												02/28/19	Rescinded

Rule	Rule Description	Date to Committee	Comm approval	Board approval	Sent for Comment	Board Approval	CSI filing	Board Approval	JCARR filing	Rules Hearing	Board Review	Board Adoption	New Effective Date	Current Review Date
4761-11-16	Depositions and transcripts of prior testimony								01/19/19				02/28/19	Rescinded
4761-11-17	Witnesses												02/28/19	Rescinded
4761-11-18	Expert testimony								01/19/19				02/28/19	Rescinded
4761-11-19	Exhibits												02/28/19	Rescinded
4761-12-01	Initial application fee				03/22/19									
4761-12-02	Renewal fees								01/19/19				02/28/19	Rescinded
4761-12-03	Replacement of license or certificate												02/28/19	Rescinded
4761-13-01	Definitions for accessing confidential personal information								01/19/19				02/28/19	Rescinded
4761-13-02	Procedures for accessing confidential personal information								01/19/19				02/28/19	Rescinded
4761-13-03	Valid reasons for accessing confidential personal information								01/19/19				02/28/19	Rescinded
4761-13-04	Confidentiality Statutes								01/19/19				02/28/19	Rescinded
4761-13-05	Restricting & Logging access to confidential personal information in computerized personal information systems								01/19/19				02/28/19	Rescinded
4761-14-01	Accepting and storing hyperbaric technologist certifications												02/28/19	Rescinded
4761-15-01	Miscellaneous Provisions			04/11/18	04/19/18	07/11/18	09/25/18		11/15/18	12/17/18			02/28/19	02/28/24
4762-1-01	Military Provisions Related to Certificate to Practice Acupuncture or Oriental Medicine		08/06/14	8/6/14 05/13/15	03/22/19		1/8/2015 7/1/15		09/24/15	11/02/15	12/09/15	12/09/15	12/31/15	12/31/20
4774-1-01	Definitions	3/9/16 1/13/2016			01/15/16		04/04/16		10/20/16 8/16/2016	09/19/16		12/14/16	12/31/16	12/31/21
4774-1-02	Application for Certificate to Practice	3/9/16 1/13/2016			01/15/16		04/04/16		08/16/16	09/19/16	10/19/16	11/09/16	11/30/16	11/31/2021

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Legal Dept. Rules Schedule

As of 3/27/19

To April Board for Adoption

4778-1-02 4778-2-01
4778-1-02.1 4778-2-02
4778-1-05 4778-1-06
4730-4-01 4731-33-01
4730-4-03 4731-33-03
4730-4-04 4731-33-04
4731-11-12

To April Policy Committee

Update on Respiratory Care Rules – 4761 – 2nd group
4731-4-01 4731-4-02
4731-7-01 4731-9-01
4730 Chap. 1 4731-Chap 2
4731-Chap 3

Sent for Initial Comment – deadline 4/12/19

Military provisions for all license types
4761-8-01 4761-9-02

Rules at CSI

4731-18 Chapter (anti-trust review)

Comment Deadline 4/10/19

4731-11-01 4731-35-01
4731-11-14 4731-35-02

Comment deadline 11/22/18

4731-1-08

Comment deadline (resubmitted)

4731-1-24

Comment deadline 8/24/17

4731-1-01 4731-1-13
4731-1-11 4731-1-18
4731-1-19

Comment Deadline 5/31/18

4731-31-01

Comment Deadline 10/12/18

4731-1-05 4759 Chapter

At JCAAR – no change – jurisdiction ends 5/5/19

4731-27-01

At JCAAR – no change – jurisdiction ends 4/24/19

4778-1-01 4778-1-03

At JCAAR – Hearing 3/12/19 – jurisdiction ends 4/12/19

4761-11-03 4731-27-03
4731-27-02

Anticipated Schedule for 2019 Policy Committee

January: Consult Agreements – sent for initial comment–deadline 2/8/19

February: 4731-7-01 (Method of Notice of Meetings) ;4731-9-01 (Record of Board Meetings) ;4731-4-01;4731-4-02 (Criminal Records Checks) – to February Policy Committee

March: Military Rules for all License Types

April: Respiratory Care Rules – 4761 – 2nd group

May: MAT Detox Rule

June: Dietetics Rules

July: 4731-11-03; 4731-11-04; 4731-11-041;4731-11-05; 4731-11-11 (Controlled Substance Rules)



MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Nathan T. Smith, Senior Legal and Policy Counsel

DATE: April 3, 2019

RE: Proposed Ohio Administrative Code rules for respiratory care: 4761-5-01, 4761-5-02, 4761-5-04, 4761-5-06, 4761-6-01, 4761-7-04, 4761-9-01, 4761-9-04, 4761-9-05, 4761-9-07, and 4761-10-03.

The attached proposed Ohio Administrative Code (“OAC”) Chapter 4761 rules update the Medical Board’s respiratory care rules for licensure, continuing education, and providing information to the Medical Board. Notable changes include:

1. 4761-5-01: This rule dealing with the examination requirement for licensure is proposed to be amended to reflect the statutory change eliminating reciprocity. The proposed rule requires that all initial applicants for licensure must have passed the RRT. The current version of the rule was a transition step by the former Respiratory Care Board to move licensees from the CRT exam to the more demanding RRT exam. This has been in place for almost 4 years. The current rule allows applicants licensed in another state by passage of the CRT to obtain licensure in Ohio with just the CRT. The proposed rule eliminates the inequity and requires all applicants to have passed the RRT. There is also a grandfather clause in paragraph (B) for license holders practicing under the CRT. This is an issue that has been discussed by the Respiratory Care Advisory Council, and the consensus was to move in this direction to elevate the practice of respiratory care in Ohio.
 2. 4761-5-04, 4761-6-01: Updating application and licensure processes for licensees and limited permit holders for consistency with the Board’s rules for other licensees in this area.
 3. 4761-6-01 and 4761-7-04: Rules proposed to amend the education verification form process and clarify the documentation and communication of competencies for student limited permit holders among the student, educational program, and employer. As proposed, the education verification form would contain only education information demonstrating that the limited permit applicant is in good standing in a respiratory care educational program. Also, the proposed rules would still require the respiratory care educational program director to approve and document competencies of student limited permit holders. The Medical Board may provide a sample form for this. This would provide greater flexibility for the educational programs to customize the documentation of the approved competencies for student limited permit holders and to account for evolving technologies and techniques in the field.
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Most importantly for public safety, the student limited permit holder would still give approved documentation of competencies to an employer, and the employer would still have to customize the supervision and practice of the student limited permit holder to those competencies. The proposed changes remove the Board from an intermediary role in documentation and collection of forms related to competencies while still maintaining safeguards for student limited permit holders and the public.

4. 4761-9-01, 4761-9-04 and 4761-9-05: Rules proposed to be amended to remove full Board approval for the required Ohio respiratory care law and professional ethics courses, and replace it with a process similar to other Respiratory Care Continuing Education requirements.
5. 4761-9-07: Rule proposed to be amended to change the auditing of respiratory care continuing education to be consistent with licensure's processes for other license types. The proposed rule no longer addresses the disciplinary process for deficiency in CME. This issue cannot be written into the rule at this time until the outcome of proposed statutory language (to be drafted by LSC) in this area is known.
6. 4761-10-03: Removes "negligent" and "gross misconduct" language because those terms were amended out of respiratory care disciplinary statute (R.C. 4761.09) during the consolidation, and instead makes failure to report a violation of statute or rules consistent with the processes described in 4731-15-01. Also, the proposed rule also changes the language relating to failure to respond to a Board request for information.
7. 4761-5-02 and 4761-5-06: No change rules to be filed for the 5-year rule review.

REQUESTED ACTION:

Approve that the proposed rules be sent to interested parties for comment in initial circulation and be referred to the Respiratory Care Advisory Council for review.

4761-5-01 ~~Waiver of licensing~~ Examination requirements pursuant to division (B) of section 4761.04 of the Revised Code.

(A) To meet the requirement of division (A)(3) of section 4761.04 of the Revised Code, an applicant for licensure must provide evidence that the applicant has successfully completed both portions of the registered respiratory therapist (R.R.T.) examination administered by the national board for respiratory care, inc. ("NBRC") or its successor organization. Recognition of current licensure in another state for the purposes of waiving division (A) of section 4761.04 of the Revised Code:

(1) ~~Applicants meeting the following provisions shall be recognized as holding a license in another state based upon standards that are equivalent to those in the state of Ohio on the date of application. The board will waive the requirements of division (A) of section 4761.04 of the Revised Code with respect to any applicant that provides proof of the following:~~

(a) ~~The applicant, on the date of application for an Ohio license, holds an active and valid license issued by another state or states and the license was issued in part or in whole based upon successful completion of either of the following examinations offered by the national board for respiratory care, inc.'s (NBRC) or its successor organization:~~

(i) ~~The certified respiratory therapist (C.R.T.) examination taken prior to January 1, 2015; or~~

(ii) ~~The registered respiratory therapist (R.R.T.) examination consisting of both the written and clinical simulation portions; and~~

(b) ~~Each state of origin requires its licensees to complete at least as many contact hours of continuing education as the state of Ohio and the applicant is current on obtaining and reporting completed continuing education to each state of origin based on the renewal schedule of each state. If the applicant holds a license from a state that does not require as many contact hours of continuing education as the state of Ohio, the board will require the applicant to complete needed contact hours to make up the difference.~~

(B) All persons currently holding a license in this state to practice respiratory care who obtained an initial license in this state based on showing evidence of successful completion of the certified respiratory therapist (C.R.T.) examination may continue to practice respiratory care in this state if the following conditions are met:

(1) the licensee continues to meet the requirements to renew a license under this chapter; and

(2) the licensee continues to timely renew the license through the state medical board. Recognition of examinations for the purpose of waiving divisions (A)(2) and (A)(3) of section 4761.04 of the Revised Code:

(1) On and after January 1, 2015, the board recognizes successful completion of both portions of the R.R.T. examination administered by the NBRC or its successor organization as meeting the requirements of division (A)(3) of section 4761.04 of the Revised Code if the examination was passed within three years prior to the date of application for an Ohio license. The board will waive the requirements of divisions (A)(2) and (A)(3) of section 4761.04 for any applicant that has successfully completed both portions of the RRT examination in compliance with this rule.

~~(2) Prior to January 1, 2015, the board recognizes successful completion of the CRT examination administered by the NBRC as meeting the requirements of division (A)(3) of section [4761.04](#) of the Revised Code if the examination was passed within three years prior to the date of application for an Ohio license.~~

~~(3) The board will waive the three-year examination recognition period contained in paragraphs (B)(1) and (B)(2) of this rule for persons demonstrating regular employment in the practice of respiratory care by an entity meeting the requirements of division (A)(2) of section [4761.11](#) of the Revised Code. Applicants meeting this requirement must show proof of successful completion of an examination recognized in paragraphs (B)(1) and (B)(2) of this rule.~~

~~(C) Recognition of examination for the purpose of Ohio credentialing:~~

~~(1) Applicants for licensure by Ohio credentialing must take and pass the Ohio state credentialing examination offered by the NBRC in accordance with rule [4761-5-02](#) of the Administrative Code. This examination shall be administered in accordance with the provisions of the agreement between the board and the NBRC; or~~

~~(2) Applicants must hold an active license from another state based on taking and passing a state credentialing examination that meets or exceeds the scope of the examination approved by the board under paragraph (C) (1) of this rule.~~

4761-5-02 Admission to the Ohio credentialing examination. (Propose to file as no change rule)

(A) An applicant for the Ohio credentialing examination must have an approved preliminary application for licensure form on file with the board that authorizes a waiver of the education requirement for licensure as set forth in Section 6 of Sub. House Bill 111 of the 118th General Assembly.

(B) An applicant for the Ohio credentialing examination shall file an application provided by the board to take the examination offered by the "National Board for Respiratory Care, Inc. (NBRC)." The original application shall be mailed to the NBRC, and a copy of the application shall be mailed to the board. The application mailed to the NBRC shall include an examination score release form.

(C) The application mailed to the NBRC shall include the nonrefundable examination fee.

(D) The applicant for the Ohio credentialing examination shall comply with any and all deadlines established by the NBRC.

4761-5-04 License application procedure.

(A) An applicant for licensure by recognition of another state or jurisdiction's license shall submit to the board an application under oath in the manner determined by the board, and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board.:

~~(1) File an initial license application form (form rcb-0002, revised 4/2013) approved by the board and shall pay the initial application fee prescribed by the board.~~

~~(2) Provide, in accordance with the license application form and as set forth in paragraph (A) of rule [4761-5-01](#) of the Administrative Code, verification of respiratory care licensure status from any state or jurisdiction in which the applicant holds or has ever held a respiratory care license. Acceptable methods of providing verification of licensure status from another state or jurisdiction are:~~

~~(a) A letter of license verification containing the official seal of the state or jurisdiction of origin; or~~

~~(b) An electronic license verification from an official state website, if the state or jurisdiction of origin validates the authenticity and accuracy of the electronic verification through a secure validation process.~~

~~(c) Documentation of the number of contact hours of continuing education completed in the state or jurisdiction of origin in accordance with paragraph (A)(1)(b) of rule [4761-5-01](#) of the Administrative Code.~~

(B) No application submitted to the board shall be considered complete until the applicant has complied with the requirements of Chapter 4731-4 of the Administrative Code and the board has received the results of the criminal records checks. A letter of licensure verification or electronic license verification must contain the following to be acceptable:

~~(1) Name of the state or jurisdiction of origin.~~

~~(2) Name of the licensee.~~

~~(3) Initial issuance date of the license.~~

~~(4) Current status of the license.~~

~~(5) Expiration date of the license.~~

~~(6) Examination basis upon which the license was issued. If the examination basis is not obtainable from the state or jurisdiction of origin, the applicant is responsible for obtaining an official credential verification letter from the national board for respiratory care, inc. (NBRC) to verify that the license was issued based on the successful completion of an examination recognized by the board.~~

(C) An applicant for licensure by successful completion of an examination recognized by the board shall:

~~(1) File an initial license application form (form rcb-0002, revised 4/2013) approved by the board and shall pay the initial application fee prescribed by the board.~~

~~(2) Provide, in accordance with the license application form and as set forth in paragraph (B) of rule [4761-5-01](#) of the Administrative Code, verification of successful completion of any examination recognized by the board.~~

~~(C)~~ Licensure by examination:

An applicant for licensure by examination who filed a preliminary application for licensure and who qualified for the educational waiver provided for in Section 6 of Sub. House Bill 111 of the 118th General Assembly and who has passed the Ohio licensure examination in accordance with ~~paragraph (B) of rule [4761-5-02](#) 01~~ of the Administrative Code shall ~~file with the board a signed application on forms approved by the board, and shall pay the fee prescribed by the board~~ submit to the board an application under oath in the manner determined by the board, and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board.

~~(D)~~ If an applicant fails to complete the application process within six months of initial application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application. Incomplete applications will be held open for ninety days following notification of incomplete requirements by regular mail. After sixty days, a final notice of incomplete application will be mailed by certified mail, return receipt requested. If the final notice is returned as unclaimed by the United States postal service, the board shall mail the final notice to the last address of record by regular mail. The final notice shall be deemed served on the date of mailing by regular mail. If, by the end of the ninety day period, the application remains incomplete, it will be considered abandoned. After ninety days, if desired, the applicant must submit a new application form, including fee.

~~(E)~~ If the application process extends for a period longer than six months, the board may require updated information as it deems necessary. Application forms are available on the board's website at www.respiratorycare.ohio.gov.

~~(F)~~ No application being investigated under section 4761.09 of the Revised Code, may be withdrawn without approval of the board.

~~(G)~~ Application fees are not refundable.

4761-5-06 Respiratory care practice by polysomnographic technologists. (Propose to file as no change rule)

(A) As used in division (B)(3) of section [4761.10](#) of the Revised Code, "a polysomnographic technologist" shall be defined as a person who holds a credential as a registered polysomnographic technologist (RPSGT) issued by the board of registered polysomnographic technologists (BRPT) or its successor organization.

(B) As used in division (B)(3) of section [4761.10](#) of the Revised Code, "a trainee" shall be defined as a person who, under the direct supervision of a polysomnographic technologist, performs respiratory care tasks as a part of a defined course of education leading to eligibility to take the comprehensive registry exam for polysomnographic technologists.

(C) As used in division (B)(3) of section [4761.10](#) of the Revised Code, "being eligible to be credentialled" shall be defined as a person who has completed the training and clinical experience required by the BRPT to take the comprehensive registry exam for polysomnographic technologists. Eligibility status shall not exceed eighteen months.

(D) As used in division (B)(3) of section [4761.10](#) of the Revised Code, "direct supervision" shall be defined as being immediately available to oversee and direct the care rendered by a trainee.

(E) The following respiratory care tasks performed in the diagnosis and therapeutic intervention of sleep-related breathing disorders may be performed upon the prescription or order under the general supervision of a physician:

- (1) Application and titration of bi-level, continuous positive airway pressure, or non-invasive ventilation;
- (2) Application and titration of supplemental low flow oxygen;
- (3) Application and monitoring of pulse oximetry;
- (4) Application and monitoring of capnometry; and
- (5) Patient education in the application of bi-level or continuous positive airway pressure, low flow oxygen, or pulse oximetry for the ongoing management of sleep-related disorders.

4761-6-01 Limited permit application procedure.

(A) An applicant for a limited permit shall submit to the board an application under oath in the manner determined by the board, and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board. Application fees are not refundable.

(1) An applicant for a limited permit must provide proof of meeting one of the following requirements:

(a) Is enrolled in and is in good standing in a respiratory care educational program that meets the requirements of rule [4761-4-01](#) of the Administrative Code; or

(b) Is a graduate of a respiratory care educational program that meets the requirements of rule [4761-4-01](#) of the Administrative Code and is making application within one year of such graduation date; or

(c) Is employed as a provider of respiratory care in this state and was employed as a provider of respiratory care in this state prior to March 14, 1989, as provided by division (B)(1)(b) of section [4761.05](#) of the Revised Code.

(2) An applicant meeting the requirements of paragraph (A)(1)(a) of this rule shall file with the application a verification of education form provided by the board as proof of his/her enrollment and good standing in an approved educational program.

(3) An applicant meeting the requirements of paragraph (A)(1)(b) of this rule shall submit an official transcript.

(4) An applicant meeting the requirements of paragraph (A)(1)(c) of this rule shall submit proof of his/her record of employment as a provider of respiratory care in this state.

(5) A person issued a limited permit under paragraph (A)(1)(a) or (A)(1)(b) of this rule shall practice respiratory care only under the supervision of a respiratory care professional until whichever of the following occurs first:

(a) Three years after the date the limited permit is issued; or

(b) until the holder discontinues enrollment in the educational program; or

(c) one year following the date of receipt of a degree or certificate of completion from a board-approved respiratory care education program;

(B) The respiratory care services which may be performed by the holders of a limited permit issued under paragraph (A)(1)(a) of this rule are limited to only those services which have been successfully completed by such persons as part of the curriculum of their respiratory care educational program, as certified by the director of the respiratory care educational program ~~on the verification of education form filed with the board. A copy of the board approved verification of education form will be provided to the holder of a limited permit. The board may supply a sample form to document these competencies to be certified by the director of the respiratory care educational program.~~ The limited permit holder must provide a copy of the board approved verification of education form documentation of competencies certified by the director of the respiratory care educational program to all employers of respiratory care services. ~~An uUpdated verification of education form~~ documentation of competencies

shall ~~may~~ be provided by the limited permit holder to employers of respiratory care services filed with the board upon successful completion of additional clinical courses as certified by the director of the respiratory care educational program.

(C) A person issued a limited permit under paragraph (A)(1)(c) of this rule shall practice respiratory care only under the supervision of a respiratory care professional and may practice for not more than three years, unless the holder has been employed as a provider of respiratory care for an average of not less than twenty-five hours per week for a period of not less than five years by a hospital certified or accredited pursuant to section [3727.02](#) of the Revised Code.

(D) If an applicant fails to complete the application process within six months of initial application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application.

(E) If the application process extends for a period longer than six months, the board may require updated information as it deems necessary.

(F) No application being investigated under section 4761.09 of the Revised Code, may be withdrawn without approval of the board.

~~(G) A person issued a limited permit in accordance with this rule must file a completed supervisor registration form within fifteen days of the beginning date of employment in the practice of respiratory care. A limited permit holder must file a new form for any change in respiratory care employment or upon being employed by more than one respiratory care employer.~~

4761-7-04 Supervision.

As provided for in division (B) of section [4761.05](#) of the Revised Code, a limited permit holder must work under the supervision of a respiratory care professional (RCP) and may not be supervised by any other person, including those persons licensed to practice in any other profession.

"To practice under the supervision of a respiratory care professional" as used in division (B) of section [4761.05](#) of the Revised Code requires that an RCP be readily available in the facility and responsible at all times for the direction and actions of a limited permit holder under their supervision. Three types of limited permits are issued by the board: student-based, employment-based, and graduate-based. The level of supervision and the duties assigned may vary based upon the type of limited permit holder that is being supervised. The RCP shall determine the appropriate level of supervision and assigned respiratory care duties for an employment-based limited permit holder taking into consideration institutional competency reviews and work performance. For student limited permit holders, the appropriate level of supervision and assigned respiratory care duties shall be based, in part, on competencies approved and on the verification of education form completed documented by the student's respiratory care educational program director. At no time shall a supervising RCP assign duties that exceed the approved competencies ~~documented on the verification of education form~~. Graduate-based limited permit holders may practice a full scope of respiratory care duties, but must still be supervised in accordance with this rule. Regardless of the type of limited permit held, an RCP shall not delegate to a less qualified person any service which requires the skill, knowledge and judgment of an RCP.

4761-9-01 Definition of respiratory care continuing education.

(A) "Respiratory care continuing education" (hereafter referred to as RCCE), as required under section [4761.06](#) of the Revised Code, means post-licensure learning experiences which are approved by the state medical board of Ohio (hereafter referred to as the board) and which enhance or build upon the licensee's current knowledge or educational background as it pertains to the practice of respiratory care, as set forth in section [4761.01](#) of the Revised Code.

(B) For the purposes of this chapter, the following definitions shall apply:

(1) "Post-licensure" means the period following the granting of a license under section [4761.04](#) of the Revised Code or a limited permit issued under division (B) of section [4761.05](#) of the Revised Code.

(2) "Learning experiences" means activities or programs which allow respiratory care providers to obtain or enhance skills, knowledge, or behavior needed to provide respiratory care.

(3) "Approved by the state medical board of Ohio" means that the RCCE program or activity qualifies for official recognition by the board in accordance with one of the approval mechanisms set forth in rules [4761-9-04](#) and [4761-9-05](#) of the Administrative Code.

(4) "Licensee" means the holder of a license issued under section [4761.04](#) of the Revised Code or a limited permit issued under division (B)(1)(b) of section [4761.05](#) of the Revised Code.

(5) "Contact hour" means fifty or sixty minutes of planned classroom, clinical, or provider-directed independent study.

(a) Calculation of contact hours from credit hours earned in an academic institution shall be done using the following formula:

(i) Quarter system: one credit hour = ten contact hours;

(ii) Trimester system: one credit hour = twelve contact hours;

(iii) Semester system: one credit hour = fifteen contact hours.

4761-9-04 Ohio respiratory care law and professional ethics course criteria.

(A) An acceptable course in Ohio respiratory care law or professional ethics shall meet the following criteria and be taught by an individual with the appropriate qualifications and experience ~~awarded or approved through an activity meeting the requirements of rule [4761-9-05](#) of the Administrative Code:~~

(1) The course shall be at least one contact hour in length; and

(2) The course content shall include one of the following:

(a) Standards of respiratory care practice and ethical conduct; or

(b) Acts that constitute violations of the respiratory care practice law under section [4761.09](#) of the Revised Code; or

(c) Obligations to report alleged violations of Chapter 4761 of the Revised Code or rules adopted thereunder; or

(d) Medical ethics.

(B) To be state medical board of Ohio approved RCCE for the one contact hour in respiratory care law or professional ethics required in rule 4761-9-02 of the Administrative Code, a course that meets the requirements of paragraph (A) of this rule shall also be approved by American association for respiratory care (A.A.R.C.), the American medical association (A.M.A.), the American nurses association (A.N.A.), the Ohio association of physician assistants (O.A.P.A.), the Ohio society for respiratory care (O.S.R.C.), the Ohio state medical association (O.S.M.A.), the Ohio nurses association (O.N.A.), the Ohio thoracic society (O.T.S.), the American college of chest physicians (A.C.C.P.), the American heart association (A.H.A.), the American lung association (A.L.A.), the Ohio lung association (O.L.A.), or the American association of critical care nurses (A.A.C.C.N.).

(C) The board may also, in its discretion, offer a respiratory care law or professional ethics course to meet the one contact hour respiratory care or professional ethics requirement in rule 4761-9-02 of the Administrative Code.

4761-9-05 Approved sources of RCCE.

(A) Applicants for renewal shall successfully complete the required number of RCCE contact hours according to rule [4761-9-02](#) of the Administrative Code. RCCE earned from any combination of the following sources may be applicable towards meeting RCCE requirements:

- (1) Relevant college credit awarded by an academic institution accredited by its regional accrediting association.
- (2) RCCE contact hours awarded by respiratory care educational programs approved by the board in accordance with rule [4761-4-01](#) of the Administrative Code.
- (3) The successful completion of advanced life support programs and/or instructors for life support programs will qualify to meet the RCCE requirement. Those meeting this requirement are, but may not be limited to advanced cardiac life support (ACLS), pediatric advanced life support (PALS), neonatal resuscitation program (NRP), and advanced trauma life support (ATLS). The number of contact hours for each program must be assigned by the educational provider. Licensees will be responsible for acquiring documentation supporting completion of the program, the date of completion, and the number of contact hours earned.
- (4) Recertification for ACLS, PALS, NRP, or ATLS. The number of contact hours for each program must be assigned by the educational provider. Licensees will be responsible for acquiring documentation supporting completion of the program, the date of completion, and the number of contact hours earned.
- (5) All or portions of a continuing education activity relevant to the practice of respiratory care which meet the requirements of paragraph (A) of rule [4761-9-01](#) of the Administrative Code and which have been approved by a professional organization or association awarding continuing education contact hours, including, but not limited to the American association for respiratory care (A.A.R.C.), the American medical association (A.M.A.), the American nurses association (A.N.A.), the Ohio association of physician assistants (O.A.P.A.), the Ohio society for respiratory care (O.S.R.C.), the Ohio state medical association (O.S.M.A.), the Ohio nurses association (O.N.A.), the Ohio thoracic society (O.T.S.), the American college of chest physicians (A.C.C.P.), the American heart association (A.H.A.), the American lung association (A.L.A.), the Ohio lung association (O.L.A.), and the American association of critical care nurses (A.A.C.C.N.).
- (6) Relevant education and training provided by a branch of the U.S. military for active duty military service members.
- ~~(7) Professional ethics or Ohio respiratory care law continuing education programs approved by the Ohio respiratory care board for the purposes of meeting the requirements of rule [4761-9-04](#) of the Administrative Code. Providers must file a written request for approval with the Ohio respiratory care board, including a description of the course and qualifications of the course instructors. The Ohio respiratory care board, in its discretion, may approve or reject any course offering.~~

4761-9-07 Auditing for compliance with RCCE requirements.

(A) To monitor compliance with the RCCE requirements, audits ~~shall~~ may be conducted retrospectively on random samples of licensees and permit holders, or in response to complaints received by the board. the following:

~~(1) A random sample of license and permit holders;~~

~~(2) Licensees who indicate non-compliance with the RCCE portion of the annual license or limited permit renewal form; and~~

~~(3) Licensees who fail to complete the RCCE portion of the license or limited permit renewal form.~~

~~(B) Audits may also be conducted in response to complaints received by the board or upon reporting less than the required number of contact hours on a renewal application.~~

~~(B)(C)~~ Audits may be required at any time within the year following the renewal of a license or limited permit ~~or within the three year period following the renewal of a license.~~

~~(C)(D)~~ The audit procedure shall be as follows:

~~(1) Licensees shall receive a notice of audit by regular mail which includes the rationale for the audit, the term of RCCE collection under consideration, and instructions for compliance with the audit;~~

~~(2) Audited licensees or limited permit holders shall be required to submit notarized proof of RCCE validating the evidence of completions of the required contact hours by license type under rule 4761-9-04 of this chapter;~~

~~(3) Licensees shall have thirty days to comply with the audit request;~~

~~(4) Audit investigations shall be conducted on a schedule determined by the board.~~

~~(5) Proof of RCCE submitted to the board in response to an audit shall not be returned to the licensee or retained by the board after verification of RCCE is established. in accordance with this chapter;~~

~~(E) The board shall verify all proof of RCCE submitted in response to a notice of audit.~~

~~(1) If the information submitted to the board in response to a notice of audit meets the requirements of the board, no further action shall be taken.~~

~~(2) If the information submitted to the board in response to a notice of audit indicates non-compliance of any kind, the licensee shall receive a report outlining the areas of non-compliance. The licensee will have fifteen days from the receipt of the report to file a written response with the board.~~

~~(3) If the board does not receive a satisfactory response to the notice of audit within thirty days, as set forth in paragraph (D)(3) of this rule, or to the report of non-compliance within fifteen days, as set forth in paragraph (E)(2) of this rule, there shall be an opportunity for hearing notice issued in accordance with Chapter 119. of the Revised Code and rule 4761-11-02 of the Administrative Code. Pursuant to a hearing in accordance with Chapter 119. of the Revised Code, the board may impose one or more of the sanctions provided in section 4761.09 of the Revised Code, including the imposition of fines, as set forth under rule 4761-11-03 of the Administrative Code.~~

4761-10-03 Providing information to the board.

(A) A licensee or permit holder ~~shall~~ ~~may be considered negligent or guilty of gross misconduct for failing to report to the board alleged violations of Chapter 4761. of the Revised Code the respiratory care law or these any rules of the board to the board in the manner prescribed by rule 4731-15-01 of the Administrative Code.~~

(B) A licensee or permit holder shall notify the board office as soon as practicable, but no more than within sixty days after of any changes in address, academic standing or employment, or other facts that might affect licensee or permit holder's his eligibility to practice respiratory care.

(C) A licensee or permit holder may be considered ~~negligent~~ in violation of division (A)(19) of section 4761.09 of the Revised Code for failing to respond to a request for information or other correspondence relating to Chapter 4761. of the Revised Code or ~~agency level~~ Chapter 4761. of the Administrative Code.



TO: Amol Soin, Chair, Policy Committee
Members, Policy Committee

FROM: Sallie Debolt, Senior Counsel

RE: Proposed revisions to FAQ for Rule 4731-11-09 (Prescribing to persons not seen by the physician)

DATE: March 27, 2019

Attached to this memo you will find a proposed revision to the FAQ for Rule 4731-11-09. The proposed revision is based upon the following:

Paragraph (C) of Rule 4731-11-09, OAC, requires that in all situations a physician or physician assistant must have interaction with the patient when prescribing to a patient for whom the physician or physician assistant has not conducted a physical examination. Several inquiries, including from the Ohio Hospital Association, have indicated that requiring a physician who is serving in a cross-coverage situation to have interaction with the patient is very cumbersome when the patient is seeking a refill of a non-controlled maintenance drug and the physician has access to the patient's medical records. Accordingly, the FAQ for the rule is proposed to be amended by adding the following question and answer:

23. In a cross-covering situation is the cross-covering physician or physician assistant required to have interaction with the patient who seeks a new prescription for a maintenance drug that is not a controlled substance?

Perhaps. The cross-covering physician or physician assistant does not need to personally interact with the patient if all of the following conditions are met:

1. It is a cross-coverage situation as defined in Rule 4731-11-01, Ohio Administrative Code. That is, the care is being delivered by agreement between an Ohio-licensed physician or physician assistant and another Ohio licensed physician or healthcare provider who is temporarily unavailable to conduct an evaluation of the patient.
2. The patient is an active patient of the other physician or healthcare provider. An active patient is one that within the previous twenty-four months the physician or other healthcare provider being cross-covered conducted at least one in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine.
3. The drug requested is a non-controlled maintenance drug for a chronic condition.
4. The cross-covering physician or physician assistant has access to the patient's medical record and reviews the record as part of the prescriptive decision-making.
5. The cross-covering physician or physician assistant authorizes the issuance of a new prescription.

REQUESTED ACTION: Please consider the proposed amendments to the FAQ for Rule 4731-11-09 and provide direction to staff.



Rule 4731-11-09 – Frequently Asked Questions

Medical Board Rule 4731-11-09 describes the circumstances under which a physician or physician assistant can prescribe medication to a patient whom the physician or physician assistant has never personally examined when the patient is at a different location from the prescriber. Although most frequently referred to as the “telemedicine prescribing” rule, 4731-11-09 applies in all situations where the physician or physician assistant is in one location and the patient is in another and the physician or physician assistant has never personally examined the patient.

1. Question 1: Why does this FAQ include physician assistants in the questions and answers when the language of the rule only states “physician?”

The rule is applicable to physician assistants because Rule 4730-1-06, Ohio Administrative Code, states that all rules in Chapter 4731-11 of the Ohio Administrative Code are applicable to physician assistants. In addition, Section 4730.42, Ohio Revised Code, provides that a supervising physician shall not grant physician-delegated prescriptive authority to a physician assistant in a manner that exceeds the supervising physician's prescriptive authority.

2. Question 2: What is meant by the term “healthcare provider?”

A “healthcare provider” is a licensed individual acting within the scope of their professional license. The term includes advanced practice nurses and physician assistants who hold prescriptive authority.

3. When the patient is remote from the physician or physician assistant, does an “evaluation” require the use of devices that allow there to be a visual connection with the patient?

Rule 4731-11-09 is silent as to the requirements for the equipment.

However, for prescribing a controlled substance in compliance with Paragraph (D) of the rule, federal law requires that telemedicine practice occur via use of a telecommunication system that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of an interactive telecommunications system. However, asynchronous store and forward technologies may be used for photographs specific to the patient's medical condition when adequate for furnishing or confirming a diagnosis and treatment plan. 42 CFR 410.78(a).

4. Is there a difference between prescribing controlled medications versus non-controlled medications to a patient under Rule 4731-11-09?

Yes, controlled substance (or Drug Enforcement Administration [DEA] scheduled) medications can only be prescribed via the procedures outlined in Rule 4731-11-09(D). Non-controlled medications can only be prescribed by following the procedures in Rule 4731-11-09(C).

5. Are there any situations in which the physician or physician assistant can prescribe a controlled substance medication to a patient who is not in the same location as the physician or physician assistant, even though the physician or physician assistant has never conducted a physical examination of the patient?

Yes, paragraph (D) of the rule lists the situations in federal law that authorize an Ohio prescriber to prescribe a controlled substance to a patient whom they have not personally examined and who is at a different location than the prescriber, as follows:

- When providing on-call or cross coverage for a physician or other appropriately licensed healthcare practitioner who has the patient as an active patient and all of the requirements of 4731-11-09(C) for non-controlled medication prescriptions are met. The on-call or cross coverage must be per an agreement between the on-call/cross covering physician and the healthcare provider.
- The patient is in a hospital or clinic that is registered with the DEA and the patient is being treated by a healthcare provider who has a DEA certificate of registration.
- The patient is in the physical presence of a health care provider who has a DEA certificate of registration and the patient is being treated by that healthcare provider.
- The physician or physician assistant has obtained from the DEA administrator a special DEA certificate of registration. (NOTE: At this time the special DEA certificate of registration is not available although it may be in the future.)

6. Does Rule 4731-11-09 recognize the unique prescribing needs presented by patients enrolled in state licensed hospice programs?

Yes, Rule 4731-11-09(D)(5) authorizes the medical director, hospice physician, or attending physician for a licensed hospice program to prescribe a controlled substance to a remote patient whom they have not personally examined, when all of the following are met:

- The controlled substance medication is being provided to a patient enrolled in the hospice program
- and**
- The prescription is transmitted to the pharmacy by a means that is compliant with Ohio board of pharmacy rules.

7. Does Rule 4731-11-09 recognize the unique prescribing needs of patients in institutional settings?

Yes, Rule 4731-11-09 authorizes a medical director or attending physician at an institutional facility as defined by Pharmacy Board Rule 4729-17-01 (see <http://codes.ohio.gov/oac/4729-17-01>), to prescribe a controlled substance to a patient who is remote from the physician and whom the physician has never conducted a physical examination when the following conditions are

met:

- The controlled substance medication is being provided to a person who has been admitted as an inpatient or is a resident of that institutional facility
- and**
- The prescription is transmitted to the pharmacy by a means that is compliant with Ohio board of pharmacy rules.

8. What types of facilities are included in the definition of “institutional facility?”

As defined in Pharmacy Board rule, an “institutional facility” means a hospital as defined in Section 3727.01 of the Ohio Revised Code, or a facility licensed by the Ohio State Board of Pharmacy and the Ohio Department of Health, Ohio Department of Rehabilitation and Correction, Ohio Department of Development Disabilities, or the Ohio Department of Mental Health and Addiction Services at which medical care is provided on site and a medical record documenting episodes of care, including medications ordered and administered, is maintained. The following facilities are examples of institutional facilities:

- Hospitals registered with the Ohio Department of Health
- Convalescent homes
- Developmental facilities
- Long term care facilities
- Nursing homes
- Psychiatric facilities
- Rehabilitation facilities
- Developmental disability facilities
- Level III sub-acute detoxification facilities

9. I am a gastroenterologist and routinely prescribe non-controlled laxatives to patients prior to providing screening colonoscopies. Am I required to interact with the patient prior to prescribing these non-controlled substances?

If the patient has been referred for a screening colonoscopy by a healthcare provider who has prescriptive authority, the information contained in the referral, including patient history and physical examination notes, are sufficient for the gastroenterologist to rely upon in prescribing the non-controlled substances for preparation for the colonoscopy. The evaluation by the referring healthcare provider with prescriptive authority would meet the requirements of 4731-11-09(C)(4).

10. I am a psychiatrist. Am I able to prescribe Schedule II controlled substance stimulants such as Vyvance or Adderall to a patient who is remote when I have never conducted an in-person examination of the patient?

In general, no. However, if the prescribing situation meets one of the exceptions listed in Paragraph (D) of the rule then the answer is yes. But see the answer to #3, above, for important information concerning the requirements for the telecommunications system when prescribing a controlled substance via the practice of telemedicine.

11. I am a psychiatrist. Am I able to prescribe Schedule II controlled substance stimulants such as Vyvance or Adderall to a patient in a cross-coverage arrangement with an advanced practice nurse who can only prescribe Schedule II medications for a seventy-two hour period?

It depends. “Cross-coverage” under Rule 4731-11-09 and federal law is defined as a practitioner who conducts a medical evaluation at the request of another practitioner who conducted a medical evaluation of the patient within the previous twenty-four months and is temporarily unavailable to conduct a current evaluation. Under a September 2018 interpretation by the U.S. Department of Health and Human Services, the remote psychiatrist would be able to rely upon the examination conducted by the advanced practice registered nurse who is registered with the DEA, when the patient is in the presence of the advanced practice registered nurse and the physician communicates with the patient via an appropriately safeguarded interactive telecommunication system to determine whether the prescription is appropriate. See the answer to #3, above, for important information concerning the requirements for the telecommunication system.

12. I am a physician who has a collaboration agreement with an advanced practice registered nurse or a supervision agreement with a physician assistant. Can I rely solely on the assessment conducted by the advanced practice registered nurse or physician assistant for the evaluation aspect before prescribing a controlled substance to the patient?

No, not solely on the assessment of the advanced practice registered nurse or physician assistant. Federal law recognizes that some of the evaluation may be conducted by the advanced practice registered nurse or physician assistant who holds DEA registration, however, federal law still requires that the collaborating or supervising physician must ~~have conducted at least one in-person or telemedicine evaluation of the patient within the previous twenty-four months, unless one of the situations in Paragraph (D) of Rule 4731-11-09 applies.~~ communicate with the patient, who is in the presence of the advanced practice registered nurse or physician assistant, via an appropriately safeguarded interactive telecommunication system to determine whether the prescription is appropriate. See the answer to #3, above, for important information concerning the requirements for the telecommunication systems.

13. In a cross-coverage or on-call situation, I am considering prescribing a non-controlled substance to a patient who I have never physically examined. Can I rely on a nurse’s assessment of the patient to comply with 4731-11-09(C)(4)?

Yes, in a cross-coverage situation the interaction with the patient required by Paragraph (C)(4) of the rule may be coordinated through another licensed health care provider acting within the scope of their professional license. Examples of licensed healthcare providers include a nurse, pharmacist, or physician assistant. “Cross-coverage” is defined in Rule 4731-11-01 to include “on call coverage.”

14. Before prescribing a non-controlled substance to a new patient via a telemedicine encounter, am I required to personally perform all of the steps in 4731-11-09 (C)(1) through (C)(9)?

The physician or physician assistant must interact with the patient to complete a medical

evaluation, as required by 4731-11-09(C)(4), and to establish or confirm a diagnosis and treatment plan, to include the utilization of any prescription drug, as required by 4731-11-09(C)(5). However, all documentation and other requirements may be delegated to appropriate personnel.

15. I am in a cross-coverage arrangement with another health care provider and I am covering for that healthcare provider who is on vacation. What do I need to do if I am considering prescribing a controlled substance medication to a patient of the vacationing healthcare provider?

The prescribing of controlled substances must comply with 4731-11-09(D):

- Under (D)(1), you must comply with the requirements of paragraph (C) of the rule. See Questions 15 and 16 for information concerning compliance with paragraph (C) requirements.
- Under (D)(2) – (6), you must have sufficient information to prescribe within the minimal standards of care.

16. I am in a cross-coverage arrangement as described above. What do I need to do if I am considering prescribing a non-controlled substance medication to the same patient?

You must comply with the requirements of 4731-11-09(C) regardless of whether or not the patient is in an in-patient setting. However, the interaction with the patient required by Paragraph (C)(4) may be coordinated through another licensed healthcare professional working within the scope of their professional license.

17. I am a hospice medical director. May I prescribe a controlled substance medication to a hospice patient I have never personally examined?

Yes, 4731-11-09(D)(5) permits you to do so when you comply with the requirements of that paragraph.

18. I am the medical director of a hospice. May I prescribe a non-controlled substance medication to a hospice patient I have never personally examined?

Yes, but you must follow all of the requirements in 4731-11-09(C). However, the interaction with the patient required by Paragraph (C)(4) of the rule may be coordinated through another licensed health care provider acting within the scope of their professional license.

19. I am an attending physician of a hospice program. I am considering prescribing a non-controlled substance to a hospice patient whom I have never examined. Do I need to follow all of the requirements in 4731-11-09(C) if the patient is in a home care setting?

Yes. However, the interaction with the patient required by Paragraph (C)(4) of the rule may be coordinated through another licensed health care provider acting within the scope of their professional license.

20. What if the patient is in an in-patient setting? Do I still have to follow all of the requirements in 4731-11-09(C) in a cross-coverage situation?

Yes. However, the interaction with the patient required by Paragraph (C)(4) of the rule may be coordinated through another licensed health care provider acting within the scope of their

professional license.

- 21. I am the physician for a home health program. I am the collaborating physician for advanced practice registered nurses and supervising physician for physician assistants who make the home visits. Many of the patients require Schedule II controlled substances, however, the situation is not one in which the advanced practice registered nurse or physician assistant is authorized by the Ohio Revised Code to prescribe a Schedule II drug. Even though I have never personally examined the patient, may I prescribe a Schedule II medication to the patient based upon the physical examinations and assessments performed by the advanced practice registered nurse or physician assistant?**

See the answers to #11 and #12, above.

- 22. The medical license of a physician who practices as a sole practitioner was suspended by the Medical Board. Some of the physician's patients have called my office seeking new prescriptions for the controlled substances that had been prescribed to them by the now suspended physician. It will be several days before the patients will be able to be seen by me. Does it constitute cross-coverage or on-call when the previous prescribing physician is not available due to license suspension or revocation?**

The suspension of a physician's medical license does not create a cross-coverage or on-call situation with a subsequent physician for the purpose of prescribing controlled substances. Cross-coverage" under Rule 4731-11-09 and federal law is defined as a practitioner who conducts a medical evaluation at the request of another practitioner who conducted a medical evaluation of the patient within the previous twenty-four months and is temporarily unavailable to conduct a current evaluation. While the suspended physician is certainly "unavailable," patient safety requires that the subsequent physician establish a physician-patient relationship with the patient by conducting an in-person examination of the patient to determine appropriate medical care before prescribing a controlled substance.

- 23. In a cross-covering situation is the cross-covering physician or physician assistant required to have interaction with the patient who seeks a new prescription for a maintenance drug that is not a controlled substance?**

Perhaps. The cross-covering physician or physician assistant does not need to personally interact with the patient if all of the following conditions are met:

1. It is a cross-coverage situation as defined in Rule 4731-11-01, Ohio Administrative Code. That is, the care is being delivered by agreement between an Ohio-licensed physician or physician assistant and another Ohio licensed physician or healthcare provider who is temporarily unavailable to conduct an evaluation of the patient.
2. The patient is an active patient of the other physician or healthcare provider. An active patient is one that within the previous twenty-four months the physician or other healthcare provider being cross-covered conducted at least one in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine.
3. The drug requested is a non-controlled maintenance drug for a chronic condition.

4. The cross-covering physician or physician assistant has access to the patient's medical record and reviews the record as part of the prescriptive decision-making.
5. The cross-covering physician or physician assistant authorizes the issuance of a new prescription.



MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Sallie Debolt, Senior Counsel

RE: Rules 4731-4-01 and 4731-4-02, OAC: Criminal records checks

DATE: March 26, 2019

The rules in Chapter 4731-4, OAC, were reviewed for purposes of the five year review requirement. The proposed rules, simplify and clarify the language, and reflect current procedures. The proposed rules also will apply to all license types instead of having separate rules based on the chapter of the Revised Code that contains licensing requirements for each the various license types.

Following approval at the February meeting rules were sent for initial review by interested parties. No comments were received. The rules are now ready to be submitted for CSI review.

4731-4-01 – Definitions:

- Paragraphs (A) and (B) are amended to list all license types.
- The reference is paragraph (C) is corrected to the correct division of Section 109.572, ORC.

4731-4-02 – Criminal records checks:

- Paragraph (A) is amended to list all license types.
- The language of paragraphs (A)(1) and (2) is simplified and amended to reflect current procedures.

As a result of including all license types in the above rules, the following rules on criminal records check requirements are proposed to be rescinded:

Chapter 4730-3: Physician assistants

Chapter 4774-2: Radiologist assistants

Rule 4778-2: Genetic counselors

Rule 4759-4-11: Dietitians

Note that Rule **4761-5-07** has already been officially rescinded, effective February 28, 2019.

REQUESTED ACTION: Please approve that rules 4731-4-01 and 4731-4-02 and the rules to be rescinded be submitted for CSI review.

4731-4-01 Definitions.

(A) "Applicant for an initial license or certificate to practice" includes a person seeking an initial license or certificate to practice under Chapter 4730, an initial certificate to practice as a physician, massage therapist, or cosmetic therapist under Chapter 4731, of the Revised Code, as an anesthesiologist assistant under 4759., Chapter 4760. of the Revised Code, as an acupuncturist or oriental medicine practitioner under 4761., Chapter 4762., 4774., or 4778. of the Revised Code.

(B) "Applicant for a restored license or certificate to practice" includes a person seeking restoration of a license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4760., 4761., or 4762., 4774., or 4778. of the Revised Code.

(C) "Criminal records check" has the same meaning as in division (~~EE~~) of section 109.572 of the Revised Code.

(D) BCI means the "Ohio Bureau of Criminal Identification and Investigation."

(E) "FBI" means the "Federal Bureau of Investigation."

4731-4-02 Criminal records checks.

(A) An applicant for an initial license or certificate to practice or for a restored license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4760., 4761., or 4762., 4774., or 4778. of the Revised Code, shall submit fingerprints, required forms, and required fees to BCI for completion of BCI and FBI criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the "National WebCheck" program (available at <http://www.ohioattorneygeneral.gov/>), and pay any processing fee charged by the entity, and ~~cause the entity to submit both of the following to BCI,~~ with the "State Medical Board of Ohio" designated to receive the results:-

~~(a) The applicant's electronic fingerprints; and~~

~~(b) The applicant's payment of fees for the BCI and FBI criminal records checks.~~

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send/provide the forms required for/to complete the criminal records checks ~~to the applicant's address.~~

Upon receipt of the forms, the applicant shall have their/his or her fingerprints processed, and pay any applicable processing fees ~~charged by the entity, and cause the entity to submit to BCI all of the following, with the "State Medical Board of Ohio" designated to receive the results:-~~

~~(a) A fingerprint card bearing prints of the applicant's ten fingers;~~

~~(b) The applicant's completed request for exemption from the electronic fingerprint submission requirement; and~~

~~(c) The applicant's payment of fees for the BCI and FBI criminal records checks.~~

(B) The board shall maintain the criminal records check reports in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.

(C) The board shall not accept the results of a criminal records check submitted by an entity other than BCI.

(D) In reviewing the results of criminal records checks to determine whether the applicant should be granted an initial or restored certificate to practice, the board may consider all of the following:

- (1) The nature and seriousness of the crime;
- (2) The extent of the applicant's past criminal activity;
- (3) The age of the applicant when the crime was committed;
- (4) The amount of time that has elapsed since the applicant's last criminal activity;
- (5) The conduct and work activity of the applicant before and after the criminal activity;
- (6) Whether the applicant has completed the terms of any probation or deferred adjudication;
- (7) Evidence of the applicant's rehabilitation;
- (8) Whether the applicant fully disclosed the arrest or conviction to the board; and
- (9) Any other factors the board considers relevant.

RESCIND:

- Chapters 4730-3; 4774-2; and 4778-2
- Rule 4759-4-11

- Rule 4761-5-07 is filed with JCARR for rescission.

TO BE RESCINDED

Chapter 4730-3 Criminal Records Checks**4730-3-01 Definitions.**

(A) "Applicant for an license" means a person seeking an initial license to practice as a physician assistant pursuant to Chapter 4730. of the Revised Code.

(B) "Applicant for a restored license" includes a person seeking restoration of a license to practice pursuant to Chapter 4730. of the Revised Code.

(C) "Criminal records check" has the same meaning as in division (E) of section [109.572](#) of the Revised Code.

(D) "BCI" means the "Ohio Bureau of Criminal Identification and Investigation."

(E) "FBI" mean the "Federal Bureau of Investigation."

Effective: 9/30/2018

Five Year Review (FYR) Dates: 6/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4776.03](#)

Rule Amplifies: [4730.10](#), [4730.14](#), [4776.02](#), [4776.03](#), [4776.04](#)

Prior Effective Dates: 09/30/2008, 06/30/2014

4730-3-02 Criminal records checks.

(A) An applicant for an initial license or for a restored license pursuant to Chapter 4730. of the Revised Code, shall submit fingerprints, required forms, and required fees to BCI for completion of BCI and FBI criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the "National WebCheck" program (available at <http://www.ohioattorneygeneral.gov/>) pay any processing fee charged by the entity, and cause the entity to submit both of the following to BCI, with the "State Medical Board of Ohio" designated to receive the results:

(a) The applicant's electronic fingerprints; and

(b) The applicant's payment of fees for the BCI and FBI criminal records checks.

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send the forms required for the criminal records checks to the applicant's address.

Upon receipt of the forms, the applicant shall have their fingerprints processed, pay any processing fees charged by the entity and cause the entity to submit to BCI all of the following, with the "State Medical Board of Ohio" designated to receive the results:

(a) A fingerprint card bearing the prints of the applicant's ten fingers;

(b) The applicant's completed request for exemption from the electronic fingerprint submission requirement; and

(c) The applicant's payment of fees for BCI and FBI criminal records checks.

(B) The board shall maintain the criminal records check reports in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.

(C) The board shall not accept the results of a criminal records check submitted by an entity other than BCI.

(D) In reviewing the results of criminal records checks to determine whether the applicant should be granted an initial or restored certificate to practice, the board may consider all of the following:

- (1) The nature and seriousness of the crime;
- (2) The extent of the applicant's past criminal activity;
- (3) The age of the applicant when the crime was committed;
- (4) The amount of time that has elapsed since the applicant's last criminal activity;
- (5) The conduct and work activity of the applicant before and after the criminal activity;
- (6) Whether the applicant has completed the terms of any probation or deferred adjudication;
- (7) Evidence of the applicant's rehabilitation;
- (8) Whether the applicant fully disclosed the arrest or conviction to the board; and
- (9) Any other factors the board considers relevant.

Effective: 9/30/2018

Five Year Review (FYR) Dates: 6/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4776.03](#)

Rule Amplifies: [4730.101](#), [4730.14](#), [4730.28](#), [4776.02](#), [4776.03](#), [4776.04](#)

Prior Effective Dates: 09/30/2008, 06/30/2014

4759-4-11 Criminal records check.

(A) In addition to the requirements established in section [4759.06](#) of the Revised Code and agency 4759 of the Administrative Code, all applicants for an initial license or limited permit license to practice dietetics in the state of Ohio shall submit to a criminal records check conducted by the Ohio bureau of criminal identification and investigation in accordance with section [4759.06](#) 1 of the Revised Code.

(B) The results of the criminal records check shall be received by the board prior to the issuance of an initial license to practice and the records check shall have been conducted no earlier than twelve months prior to the filing of the application with the board.

(C) An applicant requesting a criminal records check shall provide the Ohio bureau of criminal identification and investigation with the applicant's name, address, and any other information required by the bureau of criminal identification for the purpose of completing the criminal records check. In the request the applicant shall ask the superintendent of the bureau of criminal identification and investigation to obtain any information it has pertaining to the applicant from the federal bureau of investigation.

(D) The applicant shall cause the results of the criminal records check to be forwarded directly to the "Ohio Board of Dietetics at 77 South High St., Columbus, Ohio, 43215-6119." The board shall only accept results of a criminal records check submitted directly to the board from the Ohio bureau of criminal identification and investigation.

(E) The applicant shall bear all costs associated with the required criminal records check as determined by the Ohio bureau of criminal identification and investigation, the federal bureau of investigation, and by any agency with authority to charge a fee for fingerprint impressions.

(F) Prior to issuance of a license, the board will in its discretion evaluate the results of the criminal records check and information from any other source to determine if the applicant is eligible for a license.

(G) The results of the criminal records check are a confidential record and are not a public record for the purposes of section [149.43](#) of the Revised Code. Pursuant to section [4776.04](#) of the Revised Code the results are available for inspection by the applicant or applicant's legal representative during regular business hours. A legal representative requesting inspection of an applicant's criminal records shall have an appropriately filed letter of representation on file in the board office prior to inspecting the applicant's records.

(H) Background check reports will be retained in the board office for one year from the date of its receipt or final action is taken upon the applicant's license, or until such time as the report is no longer of administrative value.

R.C. [119.032](#) review dates: 12/20/2012 and 12/20/2017

Promulgated Under: [119.03](#)

Statutory Authority: [4759.05\(A\)](#)

Rule Amplifies: [4759.06](#), [4759.061](#)

Prior Effective Dates: 07/06/2009

Chapter 4774-2 Radiologist Assistants Criminal Records Check

4774-2-01 Definitions.

TO BE RESCINDED

(A) "Criminal records check" has the same meaning as in division (E) of section [109.572](#) of the Revised Code.

(B) "BCI&I" means the "Ohio Bureau of Criminal Identification and Investigation."

(C) "FBI" means the "Federal Bureau of Investigation."

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#), [4776.03](#)

Rule Amplifies: [4774.031](#), [4774.11](#), [4776.02](#), [4776.03](#), [4776.04](#)

Prior Effective Dates: 2/28/09

4774-2-02 Criminal records checks.

(A) An applicant for an initial certificate to practice or for a restored certificate to practice pursuant to Chapter 4774. of the Revised Code, shall submit fingerprints, required forms, and required fees to BCI&I for completion of state and federal criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the BCI&I and FBI program, pay any processing fee charged by the entity, and cause the entity to submit both of the following to BCI&I, with the "State Medical Board of Ohio" designated to receive the results:

(a) The applicant's electronic fingerprints; and

(b) The applicant's payment of fees charged for the state and federal criminal records checks.

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send the forms required for a criminal records check to the applicant's address.

Upon receipt of the forms the applicant shall have have their fingerprints processed, pay any processing fees charged by the entity, and cause the entity to submit to BCI&I all of the following, with the "State Medical Board of Ohio" designated to receive the results:

(a) A fingerprint card bearing the prints of the applicant's ten fingers;

(b) The applicant's completed request for exemption from the electronic fingerprint submission requirement; and

(c) The applicant's payment of fees charged for state and federal criminal records checks.

(3) The applicant who submits the criminal records check via the fingerprint card bearing the prints of applicant's ten fingers, pursuant to paragraph (A)(2) of this rule, shall also ensure that any other forms required by the board are completed and submitted to the board.

(B) The board shall maintain the criminal records check report in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.

(C) The board shall not accept the results of a criminal records check submitted by an entity other than BCI&I.

(D) In reviewing the results of a criminal records check to determine whether the applicant should be granted an initial or restored certificate to practice, the board may consider all of the following:

(1) The nature and seriousness of the crime;

- (2) The extent of the applicant's past criminal activity;
- (3) The age of the applicant when the crime was committed;
- (4) The amount of time that has elapsed since the applicant's last criminal activity;
- (5) The conduct and work activity of the applicant before and after the criminal activity;
- (6) Whether the applicant has completed the terms of any probation or deferred adjudication;
- (7) Evidence of the applicant's rehabilitation;
- (8) Whether the applicant fully disclosed the arrest or conviction to the board; and
- (9) Any other factors the board considers relevant.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.031](#), [4774.11](#), [4776.02](#), [4776.03](#), [4776.04](#)

Prior Effective Dates: 2/28/09

4778-2-01

Definitions.

- (A) “Criminal records check” has the same meaning as in division (E) of section 109.572 of the Revised Code.
- (B) “~~BCI&F~~BCI” means the “Ohio Bureau of Criminal Identification and Investigation.”
- (C) “FBI” means the “Federal Bureau of Investigation.”

Effective:

Five Year Review (FYR) Dates: 1/24/2019

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4778.12
Rule Amplifies: 4776.03, 4778.04
Prior Effective Dates: 10/31/2013

4778-2-02

Criminal records checks.

(A) An applicant for an initial license to practice or for a restored license to practice pursuant to Chapter 4778. of the Revised Code, shall submit fingerprints, required forms, and required fees to ~~BCI&I~~ BCI for completion of state and federal criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the ~~BCI&I~~ BCI and FBI program, pay any processing fee charged by the entity, and cause the entity to submit both of the following to ~~BCI&I~~ BCI, with the “State Medical Board of Ohio” designated to receive the results:

- (a) The applicant’s electronic fingerprints; and
- (b) The applicant’s payment of fees charged for the state and federal criminal records checks.

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send the forms required for a criminal records check to the applicant’s address.

~~When an applicant requests that the required forms be mailed by the board, upon receipt of the forms the applicant shall have a local law enforcement agency process the forms. The applicant shall pay any processing fees charged by the local law enforcement agency and cause the local law enforcement agency to submit to BCI&I all of the following. Upon receipt of the forms, the applicant shall have their fingerprints processed, pay any processing fees charged by the entity, and cause the entity to submit to BCI all of the following,~~ with the “State Medical Board of Ohio” designated to receive the results:

- (a) A fingerprint card bearing the prints of the applicant’s ten fingers;
- (b) The applicant’s completed request for exemption from the electronic fingerprint submission requirement; and
- (c) The applicant’s payment of fees charged for state and federal criminal records checks.

~~(3) The applicant who submits the criminal records check via the fingerprint card bearing the prints of applicant’s ten fingers, pursuant to paragraph (A)(2) of this rule, shall also ensure that any other forms required by the board are completed and submitted to the board.~~

- (B) The board shall maintain the criminal records check report in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.
- (C) The board shall not accept the results of a criminal records check submitted by an entity other than ~~BCI~~ IBCI.
- (D) In reviewing the results of a criminal records check to determine whether the applicant should be granted an initial or restored license to practice, the board may consider all of the following:
 - (1) The nature and seriousness of the crime;
 - (2) The extent of the applicant's past criminal activity;
 - (3) The age of the applicant when the crime was committed;
 - (4) The amount of time that has elapsed since the applicant's last criminal activity;
 - (5) The conduct and work activity of the applicant before and after the criminal activity;
 - (6) Whether the applicant has completed the terms of any probation or deferred adjudication;
 - (7) Evidence of the applicant's rehabilitation;
 - (8) Whether the applicant fully disclosed the arrest or conviction to the board; and
 - (9) Any other factors the board considers relevant.

Effective:

Five Year Review (FYR) Dates: 1/24/2019

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4778.12
Rule Amplifies: 4776.03, 4778.04
Prior Effective Dates: 10/31/2013



MEMORANDUM

TO: Amol Soin, Chair, Policy Committee
Members, Policy Committee

FROM: Sallie Debolt, Senior Counsel

RE: Rules 4731-7-01 and 4731-9-01, OAC

DATE: March 26, 2019

Rules 4731-7-01 (Method of notice of meetings) and 4731-9-01 (Record of board meetings; recording, filming, and photographing of meetings), were reviewed for purposes of the five-year review. Following approval at the February committee meeting the rules were circulated to interested parties for initial comment. No comments were received. Therefore, this memo seeks approval to submit the proposed rules for CSI review.

4731-7-01 – Method of notice of meetings:

The rule is proposed to be amended by deletion of a stray “c” found in the last line of paragraph (B)(2), as follows: “upon e the meeting.”

4731-9-01 – Record of board meetings; recording, filming, and photographing of meetings

No changes to the rule are proposed.

REQUESTED ACTION: Please approve rules 4731-7-01 and 4731-9-01 for submission to CSI for its review.

Chapter 4731-7 Notice of Meetings

4731-7-01 Method of notice of meetings.

(A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:

- (1) Writing the state medical board of Ohio (hereinafter, "board") at its business address;
- (2) Calling the board at its business office during normal business hours;
- (3) Checking the board's public website.

(B) A representative of the news media may obtain notice of all special meetings by requesting that notice be provided and supplying a regular mail or electronic mail address.

(1) If a special meeting not of an emergency nature, the board shall notify all media representatives who have requested notice of the meeting by doing at least one of the following:

(a) Sending written notice, by regular mail or electronic mail, no later than twenty-four hours prior to the special meeting;

(b) Notifying representatives by telephone no later than twenty-four hours prior to the special meeting. Telephone notice shall be complete if a message has been left for the representative, or if, after reasonable effort, the board has been unable to provide telephone notice;

(c) Informing the representative personally no later than twenty-four hours prior to the special meeting.

(2) If a special meeting of an emergency nature requiring immediate official action is scheduled, the board shall notify all media representatives who have requested notice of such meeting of the time, place and purpose of the meeting by providing notice as described in paragraph (B)(2) of this rule, or by notifying the clerk of the state house press room. In such event, the notice shall be given immediately upon the meeting date and time being scheduled.

(C) Persons who have requested, in writing, advance notification of all meetings of the board at which specific public matters are scheduled to be discussed shall be placed on the board's agenda mailing list. The board shall, within a reasonable time prior to each meeting, send to those persons on the list either an agenda of the meeting by regular mail or a notice via electronic mail that the agenda is posted on the board's website. The board may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices via regular mail.

Chapter 4731-9 Recordation of Meetings – NO CHANGES PROPOSED

4731-9-01 Record of board meetings; recording, filming, and photographing of meetings.

(A) The minutes of board meetings, upon approval by the board, shall constitute the official record of its proceedings. Audio recordings of meetings made for the purpose of facilitating the transcription of minutes shall be considered transitory documents.

(B) In order to promote the orderly transaction of business, any party intending to broadcast, televise, record, or photograph any board meeting shall provide written notice to the board within at least twenty-four hours prior to the scheduled meeting. The board shall not refuse permission to broadcast, televise, record, or photograph a meeting based solely upon a determination that prior written notice was not provided in a timely fashion.

(C) Board meetings may be broadcast, televised, recorded, or photographed consistent with the following standards:

(1) The presiding officer of the board or his or her designee shall designate a reasonable location or locations within the meeting room from which broadcasting, televising, recording, or photographing may take place;

(2) Broadcasting, televising, recording, or photographic equipment used at the board meeting shall be silent, unobtrusive, self-contained, and self-powered so as not to interfere with any individual's ability to hear, see or participate in the meeting and so as not to interfere with the orderly transaction of board business; and

(3) The presiding officer or his or her designee may terminate or limit the broadcasting, televising, recording, or photographing if it is determined that it is interfering with the orderly transaction of board business, is inhibiting a participant's presentation to the board, or is interfering with the dignity of the proceedings .

(D) For purposes of this rule, the word "record" includes, but is not limited to, the use of a court reporter or similar method to record the meeting via shorthand, machine (stenotype) shorthand, stenomask methods, or a similar method.



MEMORANDUM

TO: Curtis Gingrich, M.D., Chair, PAPC
Members, PAPC

FROM: Sallie Debolt, Senior Counsel

RE: Proposed rule changes to reflect SB 259 of the 132nd General Assembly

DATE: March 22, 2019

The current physician assistant rules were reviewed for consistency with the provisions of Chapter 4730, ORC, subsequent to SB 259. Please note, all but a very few of the rules were just reviewed and adopted in September 2018.

I have attached the pages of SB 259 that contain amendments to Chapter 4730, ORC. All current physician assistant rules are also attached for your review.

4730-1-01: Definitions – No changes proposed

4730-1-05: Quality assurance system – No changes proposed

4730-1-06: Licensure as a physician assistant – Proposed to be amended

(A): Amended to reflect on-line submission of applications.

(C)(4): Amended to reflect that the criminal records check procedure will be under the rules in Chapter 4731-4, ORC.

(F): Amended to conform to language used for physician applications

(G): Deleted as not consistent with new statutory language.

(H)(3): Typo is corrected

(J): Deleted because it is being moved to rule 4731-36-02 (4731-36-02 is attached).

4730-1-06.1: Military provisions related to certificate to practice as a physician assistant – Proposed to be rescinded as military provisions for all licensees will be in Chapter 4731-36 (which is attached).

4730-1-07: Miscellaneous provisions – Proposed to be amended

Amended to add 4731-4 (criminal records check procedures), 4731-23 (delegation to unlicensed persons), and delete 4731-21 as applicable to physician assistants.

4730-1-08: Physician assistant delegation of medical tasks and administration of drugs – Proposed to be rescinded.

4730-2-01: Definitions – No changes proposed

4730-2-04: Period of on-site supervision of physician-delegated prescriptive authority – No changes proposed

4730-2-05: Addition of valid prescriber number after initial licensure – Proposed to be amended

(A) The word “valid” is deleted as the term is now “prescriber number.”

(B)(2): Statutory reference is updated.

4730-2-06: Physician assistant formulary – Proposed to be rescinded

4730-2-07: Standards for prescribing – Proposed to be amended

The phrase “current valid” is deleted throughout.

(A)(1) References to the formulary are deleted

(A)(3) Reference to rules in Chapter 4730-4 is added (MAT rules)

4730-2-10: Standards and procedures for review of “Ohio Automated Rx Reporting System” (OARRS) – Proposed to be amended

(A)(4) Reference to the Pharmacy Board rule is updated to the current rule.

4730-3-01: Definitions – Proposed to be rescinded

4730-3-02: Criminal records checks – Proposed to be rescinded

The following rules are also included in the packet for your review:

Chapter 4731-4: Medication-assisted treatment rules, which will be officially adopted by the Medical Board on April 10th.

All rules listed in rule 4730-1-07.

REQUESTED ACTION: Please recommend that the proposed amended, rescinded, and no change rules be sent for initial interested party review either as presented or with your recommendation for additional changes.

dentist will be absent from the location and that the expanded function dental auxiliary cannot diagnose the patient's dental health care status.

~~(8)-(7)~~ The expanded function dental auxiliary is employed by, or under contract with, the supervising dentist, a dentist licensed under this chapter who meets one of the criteria specified in division (C)~~(11)~~(10)(b) of section 4715.22 of the Revised Code, or a government entity that employs the expanded function dental auxiliary to provide services in a public school or in connection with other programs the government entity administers.

(D) An expanded function dental auxiliary may apply pit and fissure sealants prior to a dentist examining the patient and rendering a diagnosis, and when a dentist is not physically present at the location where the service is provided, if all of the following are the case:

(1) ~~All of the~~ The conditions specified in ~~division~~ divisions (C)(1), (2), (3), (4), (6), and (7) of this section have been satisfied.

(2) The expanded function dental auxiliary is providing the service as part of a program operated through any of the following: a school district board of education or the governing board of an educational service center; the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code; a national, state, district, or local dental association; or any other public or private entity recognized by the state dental board.

(3) A supervising dentist for the program described in division (D)(2) of this section meets both of the following conditions:

(a) Is employed by or a volunteer for, and the patients are referred by, the entity through which the program is operated;

(b) Is available for consultation by telephone, videoconferencing, or other means of electronic communication.

(4) The application of pit and fissure sealants is limited to erupted permanent posterior teeth without suspicion of cavitation.

(5) If the patient is a minor, a parent, guardian, or other person responsible for the patient has been notified that a dentist will not be present at the location and that the expanded function dental auxiliary is not trained to diagnose or treat other serious dental concerns that could exist.

(E) An expanded function dental auxiliary may perform the services specified in divisions (A)(3) to (9) of this section when the supervising dentist is not physically present at the location where the services are provided, regardless of whether the dentist has examined the patient, if the expanded function dental auxiliary is employed by, or under contract with, the supervising dentist, a dentist licensed under this chapter who meets one of the criteria specified in division (C)(10)(b) of section 4715.22 of the Revised Code, or a government entity that employs the expanded function dental auxiliary to provide services in a public school or in connection with other programs the government entity administers.

(F) Nothing in this section shall be construed by rule of the board or otherwise to authorize an expanded function dental auxiliary to engage in the practice of dental hygiene as defined by sections 4715.22 and 4715.23 of the Revised Code.

Sec. 4730.05. (A) There is hereby created the physician assistant policy committee of the state medical board. The president of the board shall appoint the members of the committee. The

committee shall consist of the seven members specified in divisions (A)(1) to (3) of this section. When the committee is developing or revising policy and procedures for physician-delegated prescriptive authority for physician assistants, the committee shall include the ~~two~~ additional ~~members~~ member specified in division (A)(4) of this section.

(1) Three members of the committee shall be physicians. Of the physician members, one shall be a member of the state medical board, one shall be appointed from a list of five physicians recommended by the Ohio state medical association, and one shall be appointed from a list of five physicians recommended by the Ohio osteopathic association. At all times, the physician membership of the committee shall include at least one physician who is a supervising physician of a physician assistant, preferably with at least two years' experience as a supervising physician.

(2) Three members shall be physician assistants appointed from a list of five individuals recommended by the Ohio association of physician assistants.

(3) One member, who is not affiliated with any health care profession, shall be appointed to represent the interests of consumers.

(4) ~~The two~~ One additional ~~members~~ member, appointed to serve only when the committee is developing or revising policy and procedures for physician-delegated prescriptive authority for physician assistants, shall be ~~pharmacists~~ a pharmacist. ~~Of these members, one~~ The member shall be appointed from a list of five clinical pharmacists recommended by the Ohio pharmacists association and ~~one shall be or~~ appointed from the pharmacist members of the state board of pharmacy, preferably from among the members who are clinical pharmacists.

The pharmacist ~~members~~ member shall have voting privileges only for purposes of developing or revising policy and procedures for physician-delegated prescriptive authority for physician assistants. Presence of the pharmacist ~~members~~ member shall not be required for the transaction of any other business.

(B) Terms of office shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of being appointed until the end of the term for which the member was appointed. Members may be reappointed, except that a member may not be appointed to serve more than three consecutive terms. As vacancies occur, a successor shall be appointed who has the qualifications the vacancy requires. A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) Each member of the committee shall receive the member's necessary and actual expenses incurred in the performance of official duties as a member.

(D) The committee members specified in divisions (A)(1) to (3) of this section by a majority vote shall elect a chairperson from among those members. The members may elect a new chairperson at any time.

(E) The state medical board may appoint assistants, clerical staff, or other employees as necessary for the committee to perform its duties adequately.

(F) The committee shall meet ~~at least four times a year and at such other times as may be~~ necessary to carry out its responsibilities.

(G) The board may permit meetings of the physician assistant policy committee to include the use of interactive videoconferencing, teleconferencing, or both if all of the following requirements are met:

- (1) The meeting location is open and accessible to the public.
- (2) Each committee member is permitted to choose whether the member attends in person or through the use of the meeting's videoconferencing or teleconferencing:
- (3) Any meeting related materials available before the meeting are sent to each committee member by electronic mail, facsimile, or United States mail, or are hand delivered.
- (4) If interactive videoconferencing is used, there is a clear video and audio connection that enables all participants at the meeting location to see and hear each committee member.
- (5) If teleconferencing is used, there is a clear audio connection that enables all participants at the meeting location to hear each committee member.
- (6) A roll call vote is recorded for each vote taken.
- (7) The meeting minutes specify for each member whether the member attended by videoconference, teleconference, or in person.

Sec. 4730.06. (A) The physician assistant policy committee of the state medical board shall review, and shall submit to the board recommendations concerning, all of the following:

- (1) Requirements for issuing a license to practice as a physician assistant, including the educational requirements that must be met to receive the license;
- (2) Existing and proposed rules pertaining to the practice of physician assistants, the supervisory relationship between physician assistants and supervising physicians, and the administration and enforcement of this chapter;
- (3) In accordance with section 4730.38 of the Revised Code, physician-delegated prescriptive authority for physician assistants ~~and proposed changes to the physician assistant formulary the board adopts pursuant to division (A)(1) of section 4730.39 of the Revised Code;~~
- (4) Application procedures and forms for a license to practice as a physician assistant;
- (5) Fees required by this chapter for issuance and renewal of a license to practice as a physician assistant;
- (6) Any issue the board asks the committee to consider.

(B) In addition to the matters that are required to be reviewed under division (A) of this section, the committee may review, and may submit to the board recommendations concerning quality assurance activities to be performed by a supervising physician and physician assistant under a quality assurance system established pursuant to division (F) of section 4730.21 of the Revised Code.

(C) The board shall take into consideration all recommendations submitted by the committee. Not later than ninety days after receiving a recommendation from the committee, the board shall approve or disapprove the recommendation and notify the committee of its decision. If a recommendation is disapproved, the board shall inform the committee of its reasons for making that decision. The committee may resubmit the recommendation after addressing the concerns expressed by the board and modifying the disapproved recommendation accordingly. Not later than ninety days after receiving a resubmitted recommendation, the board shall approve or disapprove the recommendation. There is no limit on the number of times the committee may resubmit a

recommendation for consideration by the board.

(D)(1) Except as provided in division (D)(2) of this section, the board may not take action regarding a matter that is subject to the committee's review under division (A) or (B) of this section unless the committee has made a recommendation to the board concerning the matter.

(2) If the board submits to the committee a request for a recommendation regarding a matter that is subject to the committee's review under division (A) or (B) of this section, and the committee does not provide a recommendation before the sixty-first day after the request is submitted, the board may take action regarding the matter without a recommendation.

Sec. 4730.11. (A) To be eligible to receive a license to practice as a physician assistant, all of the following apply to an applicant:

(1) The applicant shall be at least eighteen years of age.

(2) The applicant shall be of good moral character.

(3) The applicant shall hold current certification by the national commission on certification of physician assistants or a successor organization that is recognized by the state medical board.

(4) The applicant shall meet either of the following requirements:

(a) The educational requirements specified in division (B)(1) or (2) of this section;

(b) The educational or other applicable requirements specified in division (C)(1), (2), or (3) of this section.

(B) For purposes of division (A)(4)(a) of this section, an applicant shall meet either of the following educational requirements:

(1) The applicant shall hold a master's or higher degree obtained from a program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board.

(2) The applicant shall hold both of the following degrees:

(a) A degree other than a master's or higher degree obtained from a program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board;

(b) A master's or higher degree in a course of study with clinical relevance to the practice of physician assistants and obtained from a program accredited by a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation.

(C) For purposes of division (A)(4)(b) of this section, an applicant shall present evidence satisfactory to the board of meeting one of the following requirements in lieu of meeting the educational requirements specified in division (B)(1) or (2) of this section:

(1) The applicant shall hold a current, valid license or other form of authority to practice as a physician assistant issued by another jurisdiction and either have been in active practice in any jurisdiction throughout the ~~three-year~~ two-year period immediately preceding the date of application or have met one or more of the following requirements as specified by the board:

(a) Passed an oral or written examination or assessment, or both types of examination or assessment, that determined the applicant's present fitness to resume practice;

(b) Obtained additional training and passed an examination or assessment on completion of the training;

(c) Agreed to limitations on the applicant's extent, scope, or type of practice.

(2) The applicant shall hold a degree obtained as a result of being enrolled on January 1, 2008, in a program in this state that was accredited by the accreditation review commission on education for the physician assistant but did not grant a master's or higher degree to individuals enrolled in the program on that date, and completing the program on or before December 31, 2009.

(3) The applicant shall hold a degree obtained from a program accredited by the accreditation review commission on education for the physician assistant and meet either of the following experience requirements:

(a) ~~Have~~ Either have experience practicing as a physician assistant for at least ~~three~~ two consecutive years immediately preceding the date of application while on active duty, with evidence of service under honorable conditions, in any of the armed forces of the United States or the national guard of any state, including any experience attained while practicing as a physician assistant at a health care facility or clinic operated by the United States department of veterans affairs or have met one or more of the following requirements as specified by the board:

(i) Passed an oral or written examination or assessment, or both types of examination or assessment, that determined the applicant's present fitness to resume practice;

(ii) Obtained additional training and passed an examination or assessment on completion of the training;

(iii) Agreed to limitations on the applicant's extent, scope, or type of practice;

(b) ~~Have~~ Either have experience practicing as a physician assistant for at least ~~three~~ two consecutive years immediately preceding the date of application while on active duty in the United States public health service commissioned corps or have met one or more of the following requirements as specified by the board:

(i) Passed an oral or written examination or assessment, or both types of examination or assessment, that determined the applicant's present fitness to resume practice;

(ii) Obtained additional training and passed an examination or assessment on completion of the training;

(iii) Agreed to limitations on the applicant's extent, scope, or type of practice.

~~(D) Unless the applicant had prescriptive authority while practicing as a physician assistant in another jurisdiction, in the military, or in the public health service, the license issued to an applicant who does not hold a master's or higher degree described in division (B) of this section does not authorize the holder to exercise physician-delegated prescriptive authority and the state medical board shall not issue a prescriber number.~~

~~(E)(1)~~ This section does not require an individual to obtain a master's or higher degree as a condition of retaining or renewing a license to practice as a physician assistant if the individual received the license without holding a master's or higher degree as provided in either of the following:

~~(a)~~ (1) Before the educational requirements specified in division (B)(1) or (2) of this section became effective January 1, 2008;

~~(b)~~ (2) By meeting the educational or other applicable requirements specified in division (C) (1), (2), or (3) of this section.

~~(2) A license described in division (E)(1) of this section authorizes the license holder to exercise physician-delegated prescriptive authority if, on October 15, 2015, the license holder held a~~

~~valid certificate to prescribe issued under former section 4730.44 of the Revised Code, as it existed immediately prior to October 15, 2015.~~

~~(3) On application of an individual who received a license without having first obtained a master's or higher degree and is not authorized under division (E)(2) of this section to exercise physician-delegated prescriptive authority, the board shall grant the individual the authority to exercise physician-delegated prescriptive authority if the individual meets either of the following requirements:~~

~~(a) The individual provides evidence satisfactory to the board of having obtained a master's or higher degree from either of the following:~~

~~(i) A program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board;~~

~~(ii) A program accredited by a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation, if the degree is in a course of study with clinical relevance to the practice of physician assistants.~~

~~(b) The individual meets the requirements specified in division (C)(1) or (3) of this section and had prescriptive authority while practicing as a physician assistant in another jurisdiction, in any of the armed forces of the United States or the national guard of any state, or in the United States public health service commissioned corps.~~

Sec. 4730.15. (A) A license issued by the state medical board under section 4730.12 of the Revised Code authorizes the license holder to exercise physician-delegated prescriptive authority if the holder meets either of the following requirements:

(1) Holds a master's or higher degree described in division (B) of section 4730.11 of the Revised Code;

(2) Had prescriptive authority while practicing as a physician assistant in another jurisdiction, in any of the armed forces of the United States or the national guard of any state, or in the United States public health service commissioned corps.

(B) A license described in division (D) of section 4730.11 of the Revised Code authorizes the license holder to exercise physician-delegated prescriptive authority if, on October 15, 2015, the license holder held a valid certificate to prescribe issued under former section 4730.44 of the Revised Code, as it existed immediately prior to that date.

(C) On application of an individual who holds a license issued under this chapter but is not authorized to exercise physician-delegated prescriptive authority, the board shall grant the authority to exercise physician-delegated prescriptive authority if the individual meets either of the following requirements:

(1) The individual provides evidence satisfactory to the board of having obtained a master's or higher degree from either of the following:

(a) A program accredited by the accreditation review commission on education for the physician assistant or a predecessor or successor organization recognized by the board;

(b) A program accredited by a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation, if the degree is in a course of study with clinical relevance to the practice of physician assistants.

(2) The individual meets the requirements specified in division (C)(1) or (3) of section

4730.11 of the Revised Code and had prescriptive authority while practicing as a physician assistant in another jurisdiction, in any of the armed forces of the United States or the national guard of any state, or in the United States public health service commissioned corps.

(D) The board shall issue a prescriber number to each physician assistant licensed under this chapter who is authorized to exercise physician-delegated prescriptive authority.

Sec. 4730.203. (A) Acting pursuant to a supervision agreement, a physician assistant may delegate performance of a task to implement a patient's plan of care or, if the conditions in division (C) of this section are met, may delegate administration of a drug. Subject to division (D) of section 4730.03 of the Revised Code, delegation may be to any person. The physician assistant must be physically present at the location where the task is performed or the drug administered.

(B) Prior to delegating a task or administration of a drug, a physician assistant shall determine that the task or drug is appropriate for the patient and the person to whom the delegation is to be made may safely perform the task or administer the drug.

(C) A physician assistant may delegate administration of a drug only if all of the following conditions are met:

(1) The physician assistant has been granted physician-delegated prescriptive authority and is authorized to prescribe the drug.

~~(2) The drug is included in the formulary established under division (A) of section 4730.39 of the Revised Code.~~

~~(3) The drug is not a controlled substance.~~

~~(4)-(3) The drug will not be administered intravenously.~~

~~(5)-(4) The drug will not be administered in a hospital inpatient care unit, as defined in section 3727.50 of the Revised Code; a hospital emergency department; a freestanding emergency department; or an ambulatory surgical facility licensed under section 3702.30 of the Revised Code.~~

(D) A person not otherwise authorized to administer a drug or perform a specific task may do so in accordance with a physician assistant's delegation under this section.

Sec. 4730.21. (A) The supervising physician of a physician assistant exercises supervision, control, and direction of the physician assistant. A physician assistant may practice in any setting within which the supervising physician has supervision, control, and direction of the physician assistant.

In supervising a physician assistant, all of the following apply:

(1) The supervising physician shall be continuously available for direct communication with the physician assistant by either of the following means:

(a) Being physically present at the location where the physician assistant is practicing;

(b) Being readily available to the physician assistant through some means of telecommunication and being in a location that is a distance from the location where the physician assistant is practicing that reasonably allows the physician to assure proper care of patients.

(2) The supervising physician shall personally and actively review the physician assistant's professional activities.

(3) The supervising physician shall ensure that the quality assurance system established pursuant to division (F) of this section is implemented and maintained.

(4) The supervising physician shall regularly perform any other reviews of the physician

assistant that the supervising physician considers necessary.

(B) A physician may enter into supervision agreements with any number of physician assistants, but the physician may not supervise more than ~~three~~ five physician assistants at any one time. A physician assistant may enter into supervision agreements with any number of supervising physicians.

(C) A supervising physician may authorize a physician assistant to perform a service only if the physician is satisfied that the physician assistant is capable of competently performing the service. A supervising physician shall not authorize a physician assistant to perform any service that is beyond the physician's or the physician assistant's normal course of practice and expertise.

(D) In the case of a health care facility with an emergency department, if the supervising physician routinely practices in the facility's emergency department, the supervising physician shall provide on-site supervision of the physician assistant when the physician assistant practices in the emergency department. If the supervising physician does not routinely practice in the facility's emergency department, the supervising physician may, on occasion, send the physician assistant to the facility's emergency department to assess and manage a patient. In supervising the physician assistant's assessment and management of the patient, the supervising physician shall determine the appropriate level of supervision in compliance with the requirements of divisions (A) to (C) of this section, except that the supervising physician must be available to go to the emergency department to personally evaluate the patient and, at the request of an emergency department physician, the supervising physician shall go to the emergency department to personally evaluate the patient.

(E) Each time a physician assistant writes a medical order, including prescriptions written in the exercise of physician-delegated prescriptive authority, the physician assistant shall sign the form on which the order is written and record on the form the time and date that the order is written.

(F)(1) The supervising physician of a physician assistant shall establish a quality assurance system to be used in supervising the physician assistant. All or part of the system may be applied to other physician assistants who are supervised by the supervising physician. The system shall be developed in consultation with each physician assistant to be supervised by the physician.

(2) In establishing the quality assurance system, the supervising physician shall describe a process to be used for all of the following:

(a) Routine review by the physician of selected patient record entries made by the physician assistant and selected medical orders issued by the physician assistant;

(b) Discussion of complex cases;

(c) Discussion of new medical developments relevant to the practice of the physician and physician assistant;

(d) Performance of any quality assurance activities required in rules adopted by state medical board pursuant to any recommendations made by the physician assistant policy committee under section 4730.06 of the Revised Code;

(e) Performance of any other quality assurance activities that the supervising physician considers to be appropriate.

(3) The supervising physician and physician assistant shall keep records of their quality assurance activities. On request, the records shall be made available to the board.

Sec. 4730.38. (A) ~~Except as provided in division (B) of this section, the~~ The physician

assistant policy committee of the state medical board shall, at such times the committee determines to be necessary, submit to the board recommendations regarding physician-delegated prescriptive authority for physician assistants. The committee's recommendations shall address both of the following:

- (1) Policy and procedures regarding physician-delegated prescriptive authority;
- (2) Any issue the committee considers necessary to assist the board in fulfilling its duty to adopt rules governing physician-delegated prescriptive authority.

~~(B) Not less than every six months, the committee shall review the physician assistant formulary the board adopts pursuant to division (A)(1) of section 4730.39 of the Revised Code and, to the extent it determines to be necessary, submit recommendations proposing changes to the formulary.~~

~~(C)~~ Recommendations submitted under this section are subject to the procedures and time frames specified in division (C) of section 4730.06 of the Revised Code.

Sec. 4730.39. (A) The state medical board shall ~~do all of the following~~:

~~(1) Adopt a formulary listing the drugs and therapeutic devices by class and specific generic nomenclature that a physician may include in the physician-delegated prescriptive authority granted to a physician assistant who holds a valid prescriber number issued by the state medical board;~~

~~(2) Adopt~~ adopt rules governing physician-delegated prescriptive authority for physician assistants;

~~(3) Establish standards and procedures for delegation under division (A) of section 4730.203 of the Revised Code of the authority to administer drugs. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

(B) The board's rules governing physician-delegated prescriptive authority ~~adopted pursuant to division (A)(2) of this section shall be adopted in accordance with Chapter 119. of the Revised Code and shall establish all of the following:~~

(1) Requirements regarding the pharmacology courses that a physician assistant is required to complete;

(2) A specific prohibition against prescribing any drug or device to perform or induce an abortion;

(3) Standards and procedures to be followed by a physician assistant in personally furnishing samples of drugs or complete or partial supplies of drugs to patients under section 4730.43 of the Revised Code;

(4) Any other requirements the board considers necessary to implement the provisions of this chapter regarding physician-delegated prescriptive authority.

~~(C)(1) After considering recommendations submitted by the physician assistant policy committee pursuant to sections 4730.06 and 4730.38 of the Revised Code, the board shall review either or both of the following, as appropriate according to the submitted recommendations:~~

~~(a) The formulary the board adopts under division (A)(1) of this section;~~

~~(b) The rules the board adopts under division (A)(2) of this section regarding physician-delegated prescriptive authority.~~

~~(2) Based on its review, the board shall make any necessary modifications to the formulary or rules.~~

Sec. 4730.41. (A) A physician assistant who holds a valid prescriber number issued by the state medical board is authorized to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority.

(B) In exercising physician-delegated prescriptive authority, a physician assistant is subject to all of the following:

(1) The physician assistant shall exercise physician-delegated prescriptive authority only to the extent that the physician supervising the physician assistant has granted that authority.

(2) The physician assistant shall comply with all conditions placed on the physician-delegated prescriptive authority, as specified by the supervising physician who is supervising the physician assistant in the exercise of physician-delegated prescriptive authority.

(3) If the physician assistant possesses physician-delegated prescriptive authority for controlled substances, the physician assistant shall register with the federal drug enforcement administration.

(4) If the physician assistant possesses physician-delegated prescriptive authority for schedule II controlled substances, the physician assistant shall comply with section 4730.411 of the Revised Code.

(5) If the physician assistant possesses physician-delegated prescriptive authority to prescribe for a minor an opioid analgesic, as those terms are defined in sections 3719.061 and 3719.01 of the Revised Code, respectively, the physician assistant shall comply with section 3719.061 of the Revised Code.

(6) The physician assistant shall comply with the requirements of section 4730.44 of the Revised Code.

(C) A physician assistant shall not prescribe any drug in violation of state or federal law.

Sec. 4730.42. (A) In granting physician-delegated prescriptive authority to a particular physician assistant who holds a valid prescriber number issued by the state medical board, the supervising physician is subject to all of the following:

~~(1) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or therapeutic device that is not listed on the physician assistant formulary adopted under section 4730.39 of the Revised Code as a drug or therapeutic device that may be included in the physician-delegated prescriptive authority granted to a physician assistant.~~

~~(2) The supervising physician shall not grant physician-delegated prescriptive authority for any drug or device that may be used to perform or induce an abortion.~~

~~(3)~~ (2) The supervising physician shall not grant physician-delegated prescriptive authority in a manner that exceeds the supervising physician's prescriptive authority, including the physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code.

~~(4)~~ (3) The supervising physician shall supervise the physician assistant in accordance with both of the following:

(a) The supervision requirements specified in section 4730.21 of the Revised Code;

(b) The supervision agreement entered into with the physician assistant under section 4730.19 of the Revised Code, including, if applicable, the policies of the health care facility in which the physician and physician assistant are practicing.

(B)(1) The supervising physician of a physician assistant may place conditions on the physician-delegated prescriptive authority granted to the physician assistant. If conditions are placed on that authority, the supervising physician shall maintain a written record of the conditions and make the record available to the state medical board on request.

(2) The conditions that a supervising physician may place on the physician-delegated prescriptive authority granted to a physician assistant include the following:

(a) Identification by class and specific generic nomenclature of drugs and therapeutic devices that the physician chooses not to permit the physician assistant to prescribe;

(b) Limitations on the dosage units or refills that the physician assistant is authorized to prescribe;

(c) Specification of circumstances under which the physician assistant is required to refer patients to the supervising physician or another physician when exercising physician-delegated prescriptive authority;

(d) Responsibilities to be fulfilled by the physician in supervising the physician assistant that are not otherwise specified in the supervision agreement or otherwise required by this chapter.

Sec. 4730.43. (A) A physician assistant who holds a valid prescriber number issued by the state medical board and has been granted physician-delegated prescriptive authority may personally furnish to a patient samples of drugs and therapeutic devices ~~that are included in the physician assistant's physician-delegated prescriptive authority~~, subject to all of the following:

(1) The amount of the sample furnished shall not exceed a seventy-two-hour supply, except when the minimum available quantity of the sample is packaged in an amount that is greater than a seventy-two-hour supply, in which case the physician assistant may furnish the sample in the package amount.

(2) No charge may be imposed for the sample or for furnishing it.

(3) Samples of controlled substances may not be personally furnished.

(B) A physician assistant who holds a valid prescriber number issued by the state medical board and has been granted physician-delegated prescriptive authority may personally furnish to a patient a complete or partial supply of the drugs and therapeutic devices that are included in the physician assistant's physician-delegated prescriptive authority, subject to all of the following:

(1) The physician assistant shall personally furnish only antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, and drugs used in the treatment of dyslipidemia.

(2) The physician assistant shall not furnish the drugs and devices in locations other than a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code, a federally funded comprehensive primary care clinic, or a nonprofit health care clinic or program.

(3) The physician assistant shall comply with all standards and procedures for personally furnishing supplies of drugs and devices, as established in rules adopted under section 4730.39 of the Revised Code.

Sec. 4730.44. (A) As used in this section:

(1) "Military" means the armed forces of the United States or the national guard of any state,

including any health care facility or clinic operated by the United States department of veterans affairs.

(2) "Public health service" means the United States public health service commissioned corps.

(B) During the first five hundred hours of a physician assistant's exercise of physician-delegated prescriptive authority, the physician assistant shall exercise that authority only under the on-site supervision of a supervising physician. This requirement is met by a physician assistant practicing in the military or the public health service if the supervision is provided by a person licensed, or otherwise authorized, by any jurisdiction to practice medicine and surgery or osteopathic medicine and surgery.

~~(B)-(C)~~ A physician assistant shall be excused from the requirement established in division ~~(A)-(B)~~ of this section if ~~prior~~ either of the following is the case:

(1) Prior to application under section 4730.10 of the Revised Code, the physician assistant held a prescriber number, or the equivalent, from another jurisdiction and practiced with prescriptive authority in that jurisdiction for not less than one thousand hours.

(2) Prior to application under section 4730.10 of the Revised Code, the physician assistant practiced with prescriptive authority in the military or public health service for not less than one thousand hours.

~~(C)-(D)~~ A record of a physician assistant's completion of the hours required by division ~~(A)-(B)~~ of this section ~~or~~, issuance of a prescriber number or equivalent by another jurisdiction, ~~or practice in the military or public health service~~ shall be kept in the records maintained by a supervising physician of the physician assistant. The record shall be made available for inspection by the board.

Sec. 5164.951. As used in this section, "teledentistry" has the same meaning as in section 4715.43 of the Revised Code.

The department of medicaid shall establish standards for medicaid payments for services provided through teledentistry. The standards shall provide coverage for services to the same extent that those services would be covered by the medicaid program if the services were provided without the use of teledentistry.

SECTION 2. That existing sections 1739.05, 2925.01, 4715.03, 4715.09, 4715.10, 4715.11, 4715.13, 4715.22, 4715.23, 4715.36, 4715.365, 4715.39, 4715.56, 4715.64, 4730.05, 4730.06, 4730.11, 4730.203, 4730.21, 4730.38, 4730.39, 4730.41, 4730.42, 4730.43, and 4730.44 and section 4730.40 of the Revised Code are hereby repealed.

SECTION 3. The enactment by this act of section 4715.435 of the Revised Code takes effect six months after the effective date of this section.

SECTION 4. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as

4730-1-01 Definitions. NO CHANGES PROPOSED

(A) For purposes of Chapter 4730. of the Administrative Code:

(1) "On-site supervision" means the supervising physician is required to be physically present in the same location as the physician assistant, but does not require the supervising physician's physical presence in the same room.

(2) "Health care facility" means either of the following:

(a) A hospital registered with the department of health under section 3701.07 of the Revised Code;

(b) A health care facility licensed by the department of health under section 3702.30 of the Revised Code.

(3) "Office-based practice" means medical practice in a location other than a health care facility.

(4) "Service" means a medical function, task, or activity which requires training in the diagnosis, treatment or prevention of disease, including the use and administration of drugs.

(5) "Board" means the state medical board of Ohio.

(6) "Local anesthesia" means the injection of a drug or combination of drugs to stop or prevent a painful sensation in a circumscribed area of the body where a painful procedure is to be performed, and is limited to local infiltration anesthesia, digital blocks, and pudendal blocks. Local anesthesia does not include regional anesthesia or any systemic sedation.

(7) "Medical order" means one or more diagnostic or treatment directives generated by a physician or physician assistant that commands the execution of specific activities to be performed or delivered as part of a diagnostic or therapeutic regimen of a patient.

(8) "CME" means continuing medical education.

(9) "Licensure period" means the period between granting of the initial or renewed license and the next scheduled renewal date for the license.

(B) For purposes of Chapter 4730. of the Revised Code: "Being readily available to the physician assistant through some means of telecommunication and in a location that is a distance from the location where the physician assistant is practicing that reasonably allows the physician to assure proper care of patients" as used in section 4730.21 of the Revised Code means the physician is available to the physician assistant for direct communication via telephone or other real-time electronic, active communication.

4730-1-05 Quality assurance system. NO CHANGES PROPOSED

(A) A quality assurance system shall be developed to assess the physician assistant's performance.

(B) The quality assurance system shall describe the process to be used for all of the following:

(1) Review by the physician of selected patient record entries made by the physician assistant and selected medical orders issued by the physician assistant, to include, at a minimum, all of the following:

(a) Assessment of the medical history and physical examination documented in the record;

(b) Assessment of the appropriateness of the diagnosis and treatment plan based on the medical history and physical examination documented in the record;

(c) Feedback to the physician assistant concerning appropriateness of the physician assistant's prescriptive decisions; and

(d) Assessment of whether the physician assistant is practicing according to the supervisory plan or the policies of the health care facility, as applicable.

(2) Discussion of complex cases;

(3) Discussion of new medical developments relevant to the practice of the physician and physician assistant, including new pharmaceuticals;

(4) Performance of any other quality assurance activities that the supervising physician considers to be appropriate.

(C) The quality assurance assessment shall be conducted at least twice per year during the first year of a physician assistant's practice and at least once per year thereafter.

(D) Each supervising physician and physician assistant shall keep records of their quality assurance activities for at least seven years, and shall make the records available to the board and any health care professional working with the supervising physician and physician assistant.

(E) The quality assurance system developed pursuant to this rule shall not preclude a health care facility or other entity in which physician assistants practice from conducting quality assurance activities involving the assessment of physician assistant performance.

(F) This provision allows, and does not preclude, multiple supervising physicians to assign the quality assurance process to one supervising physician.

4730-1-06 Licensure as a physician assistant.

(A) All applicants for a physician assistant license shall ~~file a written~~ submit an application under oath in the manner provided by section 4730.10 of the Revised Code prescribed by the board and provide such other facts and materials as the board requires.

(B) No application shall be considered filed, and shall not be reviewed, until the fee required by section 4730.10 of the Revised Code has been received by the board.

(C) An application shall be considered complete when all of the following requirements are met:

(1) The fee required pursuant to section 4730.10 of the Revised Code has been received by the board;

(2) Verification of the applicant's current certification has been received by the board directly from the "National Commission on Certification of Physician Assistants";

(3) All information required by section 4730.10 of the Revised Code, including such other facts and materials as the board requires, has been received by the board; and

(4) The applicant has complied with the requirements of paragraph (A) of rule ~~4730-3-02~~ 4731-4-02 of the Administrative Code and the board has received the results of the criminal records checks ~~and any other forms required to be submitted pursuant to paragraph (A) of rule 4730-3-02 of the Administrative Code.~~

(5) The board is not conducting an investigation, pursuant to section 4730.26 of the Revised Code, of evidence appearing to show that the applicant has violated section 4730.25 of the Revised Code or applicable rules adopted by the board.

(D) All application materials submitted to the board will be thoroughly investigated. The board will contact individuals, agencies, or organizations for information about applicants as the board deems necessary. As part of the application process, an applicant may be requested to appear before the board or a representative thereof to answer questions or provide additional information.

(E) Applications received from service members, veterans, or spouses of service members or veterans shall be identified and processed in accordance with rule ~~4731-6-35~~ 4731-36-03 of the Administrative Code.

(F) The following processes apply when an application is not complete within six months of the date the application is filed with the board:

~~(1) If the application is not complete because required information, facts, or other materials have not been received by the board, the board may notify the applicant in writing that it intends to consider the application abandoned if the application is not completed.~~

~~(a) The written notice shall:~~

~~(i) Specifically identify the information, facts, or other materials required to complete the application; and~~

~~(ii) Inform the applicant that the information, facts, or other materials must be received by the deadline date specified; that if the application remains incomplete at the close of business on the deadline date the application may be deemed to be abandoned and no further review of the application will occur; and that if the application is abandoned the submitted fees shall neither be refundable nor transferable to a subsequent application.~~

~~(b) If all of the information, facts, or other materials are received by the board by the deadline date and the application is determined to be complete, the board shall process the application and may require updated information as it deems necessary.~~

(1) If an applicant fails to complete the application process within six months of initial application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application.

(2) If the application is not complete because the board is investigating, pursuant to section 4730.26 of the Revised Code, evidence appearing to show that the applicant has violated Chapter 4730. of the Revised Code or applicable rules adopted by the board, the board shall do both of the following:

(a) Notify the applicant that although otherwise complete, the application will not be processed pending completion of the investigation; and

(b) Upon completion of the investigation and the determination that the applicant is not in violation of statute or rule, process the application, including requiring updated information as it deems necessary.

~~(G) The holder of a physician assistant license issued under section 4730.11 of the Revised Code who did not have a qualifying master's degree or higher at the time of licensure and did not receive a valid prescriber number with the license may obtain a valid prescriber number by meeting the requirements of division (E)(3) of section 4730.11 of the Revised Code.~~

~~(H)~~ A physician assistant license must be renewed in the manner and according to the requirements of section 4730.14 of the Revised Code.

~~(H)~~ To qualify for renewal of a physician assistant license, the holder shall comply with the following:

(1) Each applicant for renewal shall certify that the applicant has completed the requisite hours of CME since the start of the licensure registration period.

(2) Except as provided in paragraph (I)(4) of this rule, a physician assistant shall have completed one hundred hours of CME during the licensure registration period.

(3) Pursuant to the provisions of section 4745.04 of the Revised Code, the board shall permit a physician assistant to earn one hour of CME for each sixty minutes spent providing health care services in Ohio, as a volunteer, to indigent and ~~uninsured~~ uninsured persons, up to a maximum of thirty-three hours per CME period. Physician assistants seeking to receive credit toward CME requirements shall maintain a log of their qualifying activities. The log shall indicate the dates the health care services were provided, the number of hours spent providing health care services on those dates, the location where the health care services were provided, and the signature of the medical director or the medical director's designee.

(4) Proration of hours required:

(a) If the physician assistant license is initially issued prior to the first day of the second year of a licensure period, the licensee shall be required to earn fifty total hours; if the license is issued on or after the first day of the second year of the licensure period and prior to the first day of the eighteenth month of that licensure period, the licensee shall be required to earn twenty-five total hours; if the license is issued on or after the first day of the eighteenth month of a licensure period, the licensee shall not be required to earn any hours of CME for that licensure period.

(b) Pursuant to the provisions of section 4745.04 of the Revised Code, the board shall permit a physician assistant to earn one hour of CME for each sixty minutes spent providing health care services in Ohio, as a volunteer, to indigent and uninsured persons, when it is documented as required by paragraph (I)(3) of this rule, up to the following maximums:

(i) For a physician assistant required to earn fifty total hours, a maximum of sixteen hours for that CME period.

(ii) For a physician assistant required to earn twenty-five total hours, a maximum of eight hours for that CME period.

(5) Only those hours earned from the date of licensure to the end of the licensure period shall be used towards the total hour requirement as contained in this rule.

(6) Completion of the CME requirement may be satisfied by courses acceptable for the individual to maintain NCCPA certification.

~~(4)~~ To qualify for renewal of a physician assistant license with a valid prescriber number, the physician assistant shall comply with all of the following requirements:

(1) Completion of the requirements in paragraph (I) of the rule;

(2) Except as provided in paragraph (J)(4) of this rule, completion of at least twelve hours of category I continuing education in pharmacology as certified by the "Ohio Association of Physician Assistants," "Ohio State Medical Association," Ohio Osteopathic Association," Ohio Foot and Ankle Medical Association," a continuing medical education provider accredited by the ACCME and approved by the board, "American Academy of Physician Assistants," "American Council on Pharmacy Education," or and advanced instructional program in pharmacology approved by the Ohio board of nursing.

(a) Certification is a process whereby ACCME accredited providers define their respective continuing medical education program requirements for periodic submission to the board for approval.

(b) The board may approve each association's continuing medical education requirements which consist of continuing medical education category I courses and activities that are deemed acceptable for completing the requisite hours of continuing education in pharmacology by each licensee who has a valid prescriber number.

(3) If the physician assistant prescribes opioid analgesics or benzodiazepines, the applicant for renewal shall certify having been granted access to OARRS, unless one of the exemptions in section 4730.49 of the Revised Code is applicable.

(4) If the renewal of the license with a valid prescriber number is the first renewal after the holder has completed the five hundred hours of on site supervision required by section 4730.44 of the Revised Code, the requisite hours of pharmacology continuing education are as follows:

(a) If the five hundred hours were completed prior to the first day of the second year of the licensure period, the licensee shall be required to earn six total hours of pharmacology continuing education;

(b) If the five hundred hours were completed on or after the first day of the second year of the licensure period and prior to the eighteenth month of that licensure period, the licensee shall be required to earn three total hours;

(c) If the five hundred hours were completed on or after the first day of the eighteenth month of a licensure period, the licensee shall not be required to earn any hours of pharmacology continuing education for that licensure period.

~~(KJ) A physician assistant who served on active duty in any of the armed forces, as that term is defined in rule 4730-1-06.1 of the Administrative Code, during the licensure period may apply for an extension of the continuing education period by meeting the requirements of rule 4730-1-06.1 of the Administrative Code.~~

4730-1-06.1 Military provisions related to certificate to practice as a physician assistant. TO BE RESCINDED

(A) Definitions

(1) "Armed forces" means any of the following:

- (a) The armed forces of the United States, including the army, navy, air force, marine corps, and coast guard;
- (b) A reserve component of the armed forces listed in paragraph (A)(1)(a) of this rule;
- (c) The national guard, including the Ohio national guard or the national guard of any other state;
- (d) The commissioned corps of the United States public health service;
- (e) The merchant marine service during wartime;
- (f) Such other service as may be designated by Congress; or
- (g) The Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

(2) "Board" means the state medical board of Ohio.

(B) Education and service for eligibility for licensure.

In accordance with section 5903.03 of the Revised Code, the following military programs of training, military primary specialties, and lengths of service are substantially equivalent to or exceed the educational and experience requirements for licensure as a physician assistant and for the certificate to prescribe:

(1) An individual serving in a military primary specialty listed in paragraph (B)(2) of this rule must be a graduate of a physician assistant education program approved by the accreditation review commission on education for the physician assistant.

(2) Service in one of the following military primary specialties for at least three consecutive years while on active duty, with evidence of service under honorable conditions, including any experience attained while practicing as a physician assistant at a health care facility or clinic operated by the United States department of veterans affairs, may be substituted for a master's degree for eligibility for a license to practice as a physician assistant and for a certificate to prescribe, pursuant to sections 4730.11 and 4730.44 of the Revised Code:

- (a) Army: MOS 65D;

(b) Navy: NOBC 0113;

(c) Air force: AFSC 42G;

(d) The national guard of Ohio or any state;

(e) Marine: Physician assistant services are provided by Navy personnel;

(f) Coast guard;

(g) Public health service.

(C) Renewal of an expired license without a late fee or re-examination.

(1) An expired license to practice as a physician assistant shall be renewed upon payment of the biennial renewal fee provided in section 4730.14 of the Revised Code and without a late fee or re-examination if the holder meets all of the following three requirements:

(a) The licensee is not otherwise disqualified from renewal because of mental or physical disability;

(b) The licensee meets the requirements for renewal under section 4730.14 of the Revised Code;

(c) Either of the following situations applies:

(i) The license was not renewed because of the licensee's service in the armed forces, or

(ii) The license was not renewed because the licensee's spouse served in the armed forces, and the service resulted in the licensee's absence from this state.

(d) The licensee or the licensee's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(2) Pursuant to section 4730.48 of the Revised Code, a certificate to prescribe expires on the same date as the physician assistant's license to practice as a physician assistant. There is no late fee or examination requirement for late renewal.

(D) Continuing education.

(1) Extension of the continuing education period for the licensure to practice as a physician assistant or for the certificate to prescribe:

(a) The holder of a physician assistant license or certificate to prescribe may apply for an extension of the current continuing education reporting period in the manner provided in section [5903.12](#) of the Revised Code by submitting both of the following:

(i) A statement that the licensee has served on active duty, whether inside or outside of the United States, for a period in excess of thirty-one days during the current continuing education reporting period.

(ii) Proper documentation certifying the active duty service and the length of that active duty service.

(b) Upon receiving the application and proper documentation, the board shall extend the current continuing education reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current continuing education reporting period. Any portion of a month served shall be considered one full month.

(2) The board shall consider relevant education, training, or service completed by a licensee as a member of the armed forces in determining whether a licensee has met the continuing education requirements needed to renew the license or the certificate to prescribe.

4730-1-07 Miscellaneous provisions.

For purposes of Chapter 4730. of the Revised Code and Chapters 4730-1 and 4730-2 of the Administrative Code:

(A) An adjudication hearing held pursuant to the provisions of Chapter 119. of the Revised Code shall be conducted in conformance with the provisions of Chapter 4731-13 of the Administrative Code.

(B) The provisions of Chapters ~~4731-4~~, 4731-11, 4731-13, 4731-14, 4731-15, 4731-16, 4731-17, 4731-18, ~~4731-21~~, ~~4731-23~~, 4731-25, 4731-26, 4731-28, and 4731-29 of the Administrative Code are applicable to the holder of a physician assistant license issued pursuant to section 4730.12 of the Revised Code, as though fully set forth in Chapter 4730-1 or 4730-2 of the Administrative Code.

4730-1-08 Physician assistant delegation of medical tasks and administration of drugs. TO BE RESCINDED

(A) As used in this rule:

(1) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.

(2) "Delegate" means to transfer authority for the performance of a medical task or drug administration to an unlicensed person.

(3) "On-site supervision" means that the physical presence of the physician assistant is required in the same location (for example, the medical practice office suite) as the unlicensed person to whom the medical task or drug administration has been delegated while the medical task or drug administration is being performed. On-site supervision does not require the physician assistant's presence in the same room.

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

(5) "Task" means a routine, medical service not requiring the special skills of a licensed provider.

(6) "Unlicensed person" means an individual who is not licensed or otherwise specifically authorized by the Revised Code to perform the delegated medical task or drug administration.

(7) "Drug" means the same as in division (E) of section 4729.01 of the Revised Code.

(8) "Supervision agreement" means the document signed by the supervising physician and physician assistant in compliance with section 4730.19 of the Revised Code.

(B) When acting pursuant to a supervision agreement, a physician assistant may delegate the performance of a medical task or, under the conditions specified in section 4730.203 of the Revised Code, the administration of a drug to an unlicensed person.

(1) The physician assistant shall comply with all of the requirements of section 4730.203 of the Revised Code and this rule when delegating a medical task or the administration of a drug.

(2) A physician assistant shall not authorize or permit an unlicensed person to whom a medical task or the administration of a drug is delegated to further delegate the performance of the task or administration to third person.

(3) The physician assistant shall provide on-site supervision of the unlicensed person to whom the medical task or administration of a drug is delegated.

(C) Prior to the delegation of the performance of a medical task or the administration of a drug, the physician assistant shall ensure that each of the following requirements is met:

(1) That the supervision agreement and any applicable healthcare facility policies authorize the physician assistant to delegate the performance of a medical task or the administration of a drug;

(2) That the task or administration of the drug is within that physician assistant's practice authority;

(3) That the task or administration of the drug is indicated for the patient;

(4) That no law prohibits the delegation;

(5) That the unlicensed person to whom the task or drug administration will be delegated is competent to perform that service;

(6) That the task or drug administration itself is one that should be appropriately delegated when considering the following factors:

(a) That the task or drug administration can be performed without requiring the exercise of judgment based on medical knowledge;

(b) That results of the task or drug administration are reasonably predictable;

(c) That the task or drug administration can safely be performed according to exact, unchanging directions;

(d) That the task or drug administration can be performed without a need for complex observations or critical decisions;

(e) That the task or drug administration can be performed without repeated medical assessments;

(f) That the task or drug administration, if performed improperly, would not present life threatening consequences or the danger of immediate and serious harm to the patient; and

(7) That the delegation of the administration of a drug is in compliance with paragraph (D) of this rule.

(D) In addition to the requirements of paragraph (C) of this rule, prior to delegating the administration of a drug, the physician assistant shall ensure that all of the following requirements are met:

(1) The physician assistant holds a current license with a valid prescriber number issued under section 4730.11 of the Revised Code and has been granted physician-delegated prescriptive authority by the supervising physician.

(2) The drug is included in the formulary established under division (A) of section 4730.39 of the Revised Code;

(3) The drug is not a controlled substance;

(4) The drug will not be administered intravenously;

(5) The drug is not an anesthesia agent; and

(6) The drug will not be administered in any of the following locations:

(a) A hospital inpatient care unit, as defined in section 3727.50 of the Revised Code;

(b) A hospital emergency department;

(c) A freestanding emergency department; or

(d) An ambulatory surgical facility licensed under section 3702.30 of the Revised Code.

(E) Violations of this rule.

(1) A violation of any provision of this rule, as determined by the board, shall constitute "a departure from, or the 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.

(2) A violation of any provision of this rule, as determined by the board, shall constitute "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 of the board," as that clause is used in division (B)(3) of section 4730.25 of the Revised Code.

(3) A violation of any provision of this rule that pertains to the administration of drugs, as determined by the board, shall constitute "administering drugs for purposes other than those authorized under this chapter" as that clause is used in division (B)(6) of section 4730.25 of the Revised Code.

Chapter 4730-2 Physician-Delegated Prescriptive Authority

4730-2-01 Definitions. NO CHANGES PROPOSED

As used in Chapter 4730-2 of the Administrative Code:

- (A) "ARC-PA" means the "Accreditation Review Commission on Education for the Physician Assistant."
- (B) "CHEA" means the "Council for Higher Education Accreditation."
- (C) "AAPA" means the "American Academy of Physician Assistants."
- (D) "NCCPA" means the "National Commission on Certification for Physician Assistants."
- (E) "CME" means continuing medical education.
- (F) "ACCME" means the "Accreditation Council for Continuing Medical Education."
- (G) "Contact hour" means a minimum of fifty minutes of education.
- (H) "Licensure registration period" means the period between granting of the initial or renewed license and the next scheduled renewal date for the license.
- (I) "Board" means the state medical board of Ohio.

4730-2-04 Period of on-site supervision of physician-delegated prescriptive authority.

(A) The following definitions are applicable to this rule:

- (1) "Supervision" means the supervising physician maintains oversight of the physician assistant's prescriptive decisions and provides timely review of prescriptions written by the physician assistant.
 - (2) "On-site supervision" means the supervising physician is required to be physically present within the facility where the physician assistant is practicing and available for consultation. The supervising physician is not necessarily required to personally ~~evaluate~~ evaluate a patient to whom a physician assistant is providing service.
 - (3) "Supervising physician" includes a primary supervising physician in instances where the physician assistant has supervision agreements with multiple supervising physicians and one supervising physician is designated to have primary responsibility for the supervision of the physician assistant's prescribing activities during the on-site supervision period.
- (B) Except as provided in division (B) of section 4730.44 of the Revised Code, the first five hundred hours of a physician assistant's exercise of physician-delegated prescriptive authority shall be under the on-site supervision of a supervising physician with whom the physician assistant has a supervision agreement.

(1) The supervising physician shall review and evaluate the physician assistant's competence, knowledge, and skill in pharmacokinetic principles and the application of these principles to the physician assistant's area of practice. The supervising physician shall document the review and evaluation by signing patient charts in a legible manner or documenting the review and evaluation by the use of an electronically generated signature provided that reasonable measures have been taken to prevent the unauthorized use of the electronically generated signature.

(2) The supervising physician shall maintain a record evidencing that the physician assistant has completed at least five hundred hours of on-site supervision and make the record available to the board upon request.

(C) On-site supervision period hours completed may be transferred to an on-site supervision period under a subsequent supervising physician pursuant to the following criteria:

(1) Hours completed may be transferred, not more than one time, when both of the following criteria are met:

(a) The initial supervising physician provides written verification of the activities and number of hours successfully completed by the physician assistant during the period ; and

(b) The subsequent supervising physician approves the transfer of the period hours.

(2) Hours completed under the supervision of the subsequent supervising physician may be transferred to an on-site supervision period under a third supervising physician only upon the board's approval when all of the following conditions are met:

(a) The subsequent supervising physician provides both of the following:

(i) Written verification of the activities and number of hours successfully completed during the period to date; and

(ii) Written explanation of why the transfer of hours is being requested;

(b) The third supervising physician approves the transfer of the hours;

(c) The failure to transfer the hours would result in undue hardship to the physician assistant; and

(d) The granting of the transfer would not jeopardize patient care.

(D) Where the exemption of division (B) of section 4730.44 of the Revised Code is claimed, the supervising physician shall maintain documentation establishing that the physician assistant practiced with prescriptive authority in the other jurisdiction for not less than one thousand hours. The ~~documentation~~ documentation may include a letter from one or more ~~physicians~~ physicians who supervised the physician assistant's prescribing in that jurisdiction verifying that the physician assistant practiced with prescriptive authority in that ~~jurisdiction~~ jurisdiction for not less than one thousand hours or a letter from an appropriate facility administrator verifying that the physician assistant practiced with prescriptive authority for not less than one thousand hours based upon documentation in the physician assistant's personnel file.

4730-2-05 Addition of valid prescriber number after initial licensure.

(A) All applicants for a ~~valid~~ prescriber number subsequent to initial licensure shall submit an endorsement application in the manner determined by the board.

(B) An endorsement application shall be considered complete when all of the following requirements are met:

(1) The records of the board establish that the applicant holds a current, valid license to practice as a physician assistant in Ohio;

(2) All information required by ~~division (E) of section 4730.11~~ section 4730.15 of the Revised Code, including evidence of meeting the educational requirements or practice requirements, as applicable, has been received by the board;

4730-2-06 Physician assistant formulary. TO BE RESCINDED

(A) This formulary, as contained in the appendix to this rule, is established for individuals who hold a current, valid certificate to practice as a physician assistant and either a current, valid provisional certificate to prescribe or a certificate to prescribe issued by the board, and who have been authorized to prescribe pursuant to a board approved supervisory plan or the policies of the health care facility in which the physician assistant is practicing. The formulary does not authorize a physician assistant to prescribe any drug or device used to perform or induce an abortion.

(B) For purposes of the physician assistant formulary:

(1) "CTP" means either a provisional certificate to prescribe or a certificate to prescribe issued by the board pursuant to section 4730.44 of the Revised Code.

(2) "CTP holder may not prescribe" means medications in the category may not be prescribed by any CTP holder for any indication.

(3) "CTP holder may prescribe" means medications in the category may be prescribed by any CTP holder as appropriate.

(4) "Physician initiated/consultation" means that either the supervising physician must initiate the drug after personally evaluating the patient or the physician assistant must consult with the supervising physician by direct, real time communication prior to initiating the drug.

(5) "Therapeutic device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part, or accessory which is intended to affect the structure or any function of the body and which does not achieve any of its primary intended purposes through chemical action within or on the body and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes. Therapeutic device includes any device subject to regulation by the "Food and Drug Administration."

(C) All physician assistant prescribing shall be in compliance with the supervisory plan under which the physician assistant is prescribing or the policies of the health care facility in which the physician assistant is prescribing, as may be restricted by the supervising physician.

(D) All drugs and therapeutic devices shall be prescribed in accordance with the manufacturer's package insert, the "United States Pharmacopoeia," and the minimal standard of care.

(E) Drugs may be prescribed for purposes other than "Food and Drug Administration" indications when both of the following requirements are met:

(1) The purpose is supported by current peer review literature, which emanates from a recognized body of knowledge; and

(2) Prescribing for the purpose is authorized by the supervising physician under whom the physician assistant is prescribing or the policies of the health care facility in which the physician assistant is prescribing.

(F) In order for a physician assistant to prescribe a combination medication, each component drug must be listed on the formulary as "CTP holder may prescribe" or the combination medication itself must be listed on the formulary as "CTP holder may prescribe."

(G) For medications that are denoted "Physician initiated/consultation," both of the following requirements apply:

(1) The supervising physician's initiation of the drug or the prior consultation between the physician assistant and the supervising physician shall be documented in the patient record; and

(2) The physician assistant shall consult with the supervising physician before changing the dosage of the drug or before renewing a prescription when there is a change in patient status. The consultation shall be documented in the patient record.

(H) A drug for which the classification is not included on the formulary shall not be prescribed by a physician assistant until it is reviewed and added to the formulary.

(I) The prescription of oxygen and plasma expanders is regulated by the Ohio state board of pharmacy and requires the physician assistant to hold a current, valid certificate to prescribe.

(J) A physician assistant's prescription of therapeutic devices shall be in compliance with both of the following:

(1) The physician assistant may only prescribe a therapeutic device that has been approved by the "Food and Drug Administration" and which the supervising physician prescribes in the routine course of practice for the specific use approved by the "Food and Drug Administration;" and

(2) The physician assistant shall not prescribe a therapeutic device that federal or state statute, rule, or regulation prohibits the physician assistant from using.

(K) A physician assistant, with or without physician delegated prescriptive authority, may order blood products with physician initiation or consultation, consistent with the physician assistant's supervisory plan or the policies of the health care facility, as applicable.

4730-2-07 Standards for prescribing.

(A) A physician assistant who holds a ~~current valid~~ prescriber number and who has been granted physician-delegated prescriptive authority by a supervising physician may prescribe a drug or therapeutic device provided the prescription is in accordance with all of the following:

(1) The extent and conditions of the physician-delegated prescriptive authority, granted by the supervising physician who is supervising the physician assistant in the exercise of the authority, ~~for the prescription of drugs and devices listed on the formulary set forth rules promulgated by the board;~~

(2) The requirements of Chapter 4730. of the Revised Code;

(3) The requirements of Chapters 4730-1, 4730-2, 4730-4, and 4731-11, ~~and 4731-21~~ of the Administrative Code; and

(4) The requirements of state and federal law pertaining to the prescription of drugs and therapeutic devices.

(B) A physician assistant who holds a ~~current valid~~ prescriber number who has been granted physician-delegated prescriptive authority by a supervising physician shall prescribe in a valid prescriber-patient relationship. This includes, but is not limited to:

(1) Obtaining a thorough history of the patient;

(2) Conducting a physical examination of the patient;

(3) Rendering or confirming a diagnosis;

(4) Prescribing medication, ruling out the existence of any recognized contraindications;

(5) Consulting with the supervising physician when necessary; and

(6) Properly documenting these steps in the patient's medical record.

(C) The physician assistant's prescriptive authority shall not exceed the prescriptive authority of the supervising physician under whose supervision the prescription is being written, including but not limited to, any restrictions imposed on the physician's practice by action of the United States drug enforcement administration or the state medical board of Ohio.

(D) A physician assistant holding a ~~current valid~~ prescriber number and who has been granted physician-delegated prescriptive authority by a supervising physician to prescribe controlled substances shall apply for and obtain the United States drug enforcement administration registration prior to prescribing any controlled substances.

(E) A physician assistant holding a ~~current valid~~ prescriber number and who has been granted physician-delegated prescriptive authority by a supervising physician shall not prescribe any drug or device to perform or induce an abortion.

(F) A physician assistant holding a ~~current valid~~ prescriber number and who has been granted physician-delegated prescriptive authority by a supervising physician shall include on each prescription the physician assistant's license number, and, where applicable, shall include the physician assistant's DEA number.

4730-2-10 Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).

(A) For purposes of this rule:

(1) "Delegate" means an authorized representative who is registered with the Ohio board of pharmacy to obtain an OARRS report on behalf of the physician assistant.

(2) "OARRS" means the "Ohio Automated Rx Reporting System" drug database established and maintained pursuant to section 4729.75 of the Revised Code.

(3) "OARRS" report" means a report of information related to a specified patient generated by the drug database established and maintained pursuant to section 4729.75 of the Revised Code.

(4) "Reported drugs" means all the drugs listed in rule ~~4729-37-02~~ 4729:8-2-01 of the Administrative Code that are required to be reported to the drug database established and maintained pursuant to section 4729.75 of the Revised Code, including controlled substances in schedules II, III, IV, and V.

(B) Standards of care:

(1) The accepted and prevailing minimal standards of care require that when prescribing a reported drug, a physician assistant shall take into account all of the following:

(a) The potential for abuse of the reported drug;

(b) The possibility that use of the reported drug may lead to dependence;

(c) The possibility the patient will obtain the reported drug for a nontherapeutic use or distribute it to other persons; and

(d) The potential existence of an illicit market for the reported drug.

(2) In considering whether a prescription for a reported drug is appropriate for the patient, the physician assistant shall use sound clinical judgment and obtain and review an OARRS report consistent with the provisions of this rule.

(C) A physician assistant shall obtain and review an OARRS report to help determine if it is appropriate to prescribe an opioid analgesic, benzodiazepine, or other reported drug to a patient as provided in this paragraph and paragraph (F) of this rule:

(1) A physician assistant shall obtain and review an OARRS report before prescribing an opioid analgesic or benzodiazepine to a patient, unless an exception listed in paragraph (H) of this rule is applicable.

(2) A physician assistant shall obtain and review an OARRS report when a patient's course of treatment with a reported drug other than an opioid analgesic or benzodiazepine has lasted more than ninety days, unless an exception listed in paragraph (H) of this rule is applicable.

(3) A physician assistant shall obtain and review an OARRS report when any of the following red flags pertain to the patient:

- (a) Selling prescription drugs;
 - (b) Forging or altering a prescription;
 - (c) Stealing or borrowing reported drugs;
 - (d) Increasing the dosage of reported drugs in amounts that exceed the prescribed amount;
 - (e) Suffering an overdose, intentional or unintentional;
 - (f) Having a drug screen result that is inconsistent with the treatment plan or refusing to participate in a drug screen;
 - (g) Having been arrested, convicted, or received diversion or intervention in lieu of conviction for a drug related offense while under the care of the physician assistant or the physician assistant's supervising physician;
 - (h) Receiving reported drugs from multiple prescribers, without clinical basis;
 - (i) Traveling with a group of other patients to the physician assistant's office where all or most of the patients request controlled substance prescriptions;
 - (j) Traveling an extended distance or from out of state to the physician assistant's office;
 - (k) Having a family member, friend, law enforcement officer, or health care professional express concern related to the patient's use of illegal or reported drugs;
 - (l) A known history of chemical abuse or dependency;
 - (m) Appearing impaired or overly sedated during an office visit or exam;
 - (n) Requesting reported drugs by street name, color, or identifying marks;
 - (o) Frequently requesting early refills of reported drugs;
 - (p) Frequently losing prescriptions for reported drugs;
 - (q) A history of illegal drug use;
 - (r) Sharing reported drugs with another person; or
 - (s) Recurring visits to non-coordinated sites of care, such as emergency departments, urgent care facilities, or walk-in clinics to obtain reported drugs.
- (D) A physician assistant who decides to utilize an opioid analgesic, benzodiazepine, or other reported drug in any of the circumstances within paragraphs (C)(2) and (C)(3) of this rule shall take the following steps prior to issuing a prescription for the opioid analgesic, benzodiazepine, or other reported drug:
- (1) Review and document in the patient record the reasons why the physician assistant believes or has reason to believe that the patient may be abusing or diverting drugs;

(2) Review and document in the patient's record the patient's progress toward treatment objectives over the course of treatment;

(3) Review and document in the patient record the functional status of the patient, including activities for daily living, adverse effects, analgesia, and aberrant behavior over the course of treatment;

(4) Consider using a patient treatment agreement including more frequent and periodic reviews of OARRS reports and that may also include more frequent office visits, different treatment options, drug screens, use of one pharmacy, use of one provider for the prescription of reported drugs, and consequences for non-compliance with the terms of the agreement. The patient treatment agreement shall be maintained as part of the patient record; and

(5) Consider consulting with or referring the patient to a substance abuse specialist.

(E) Frequency for follow-up OARRS reports:

(1) For a patient whose treatment with an opioid analgesic or benzodiazepine lasts more than ninety days, a physician assistant shall obtain and review an OARRS report for the patient at least every ninety days during the course of treatment, unless an exception listed in paragraph (G) of this rule is applicable.

(2) For a patient who is treated with a reported drug other than an opioid analgesic or benzodiazepine for a period lasting more than ninety days, the physician assistant shall obtain and review an OARRS report for the patient at least annually following the initial OARRS report obtained and reviewed pursuant to paragraph (C)(2) of this rule until the course of treatment utilizing the reported drug has ended, unless an exception in ~~paragraph~~ paragraph (H) of this rule is applicable.

(F) When a physician assistant or their delegate requests an OARRS report in compliance with this rule, a physician assistant shall document receipt and review of the OARRS report in the patient record, as follows:

(1) Initial reports requested shall cover at least the twelve months immediately preceding the date of the request;

(2) Subsequent reports requested shall, at a minimum, cover the period from the date of the last report to present;

(3) If the physician assistant practices primarily in a county of this state that adjoins another state, the physician assistant or their delegate shall also request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county; and

(4) If an OARRS report regarding the patient is not available, the physician assistant shall document in the patient's record the reason that the report is not available and any efforts made in follow-up to obtain the requested information.

(G) Review of the physician assistant's compliance with this rule shall be included as an activity in the quality assurance plan required by division (F) of section 4730.21 of the Revised Code and rule 4730-1-05 of the Administrative Code.

(H) A physician assistant shall not be required to review and assess an OARRS report when prescribing an opioid analgesic, benzodiazepine, or other reported drug under the following

circumstances, unless a physician assistant believes or has reason to believe that a patient may be abusing or diverting reported drugs:

(1) The reported drug is prescribed to a hospice patient in a hospice care program as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill;

(2) The reported drug is prescribed for administration in a hospital, nursing home, or residential care facility;

(3) The reported drug is prescribed in an amount indicated for a period not to exceed seven days;

(4) The reported drug is prescribed for the treatment of cancer or another condition associated with cancer.

Chapter 4730-3 Criminal Records Checks PROPOSED TO BE RESCINDED (Will be covered under Chapter 4731-4)

4730-3-01 Definitions.

(A) "Applicant for an license" means a person seeking an initial license to practice as a physician assistant pursuant to Chapter 4730. of the Revised Code.

(B) "Applicant for a restored license" includes a person seeking restoration of a license to practice pursuant to Chapter 4730. of the Revised Code.

(C) "Criminal records check" has the same meaning as in division (E) of section 109.572 of the Revised Code.

(D) "BCI" means the "Ohio Bureau of Criminal Identification and Investigation."

(E) "FBI" mean the "Federal Bureau of Investigation."

4730-3-02 Criminal records checks.

(A) An applicant for an initial license or for a restored license pursuant to Chapter 4730. of the Revised Code, shall submit fingerprints, required forms, and required fees to BCI for completion of BCI and FBI criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the "National WebCheck" program (available at <http://www.ohioattorneygeneral.gov/>) pay any processing fee charged by the entity, and cause the entity to submit both of the following to BCI, with the "State Medical Board of Ohio" designated to receive the results:

(a) The applicant's electronic fingerprints; and

(b) The applicant's payment of fees for the BCI and FBI criminal records checks.

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send the forms required for the criminal records checks to the applicant's address.

Upon receipt of the forms, the applicant shall have their fingerprints processed, pay any processing fees charged by the entity and cause the entity to submit to BCI all of the following, with the "State Medical Board of Ohio" designated to receive the results:

(a) A fingerprint card bearing the prints of the applicant's ten fingers;

(b) The applicant's completed request for exemption from the electronic fingerprint submission requirement; and

(c) The applicant's payment of fees for BCI and FBI criminal records checks.

(B) The board shall maintain the criminal records check reports in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.

(C) The board shall not accept the results of a criminal records check submitted by an entity other than BCI.

(D) In reviewing the results of criminal records checks to determine whether the applicant should be granted an initial or restored certificate to practice, the board may consider all of the following:

- (1) The nature and seriousness of the crime;
- (2) The extent of the applicant's past criminal activity;
- (3) The age of the applicant when the crime was committed;
- (4) The amount of time that has elapsed since the applicant's last criminal activity;
- (5) The conduct and work activity of the applicant before and after the criminal activity;
- (6) Whether the applicant has completed the terms of any probation or deferred adjudication;
- (7) Evidence of the applicant's rehabilitation;
- (8) Whether the applicant fully disclosed the arrest or conviction to the board; and
- (9) Any other factors the board considers relevant.

4730-4-01

Definitions.

- (A) "Office-based opioid treatment" or "OBOT" means medication-assisted treatment, as that term is defined in this rule, in a private office or public sector clinic that is not otherwise regulated, by practitioners authorized to prescribe outpatient supplies of medications approved by the United States food and drug administration for the treatment of opioid addiction or dependence, prevention of relapse of opioid addiction or dependence, or both. OBOT includes treatment with all controlled substance medications approved by the United States food and drug administration for such treatment. OBOT does not include treatment that occurs in the following settings:
- (1) A state or local correctional facility, as defined in section 5163.45 of the Revised Code;
 - (2) A hospital, as defined in section 3727.01 of the Revised Code;
 - (3) A provider certified to provide residential and inpatient substance use disorder services, including withdrawal management, by the Ohio department of mental health and addiction services;
 - (4) An opioid treatment program certified by SAMHSA and accredited by an independent SAMHSA-approved accrediting body; or
 - (5) A youth services facility, as defined in section 103.75 of the Revised Code.
- (B) "SAMHSA" means the United States substance abuse and mental health services administration.
- (C) "Medication-assisted treatment" means alcohol or drug addiction services that are accompanied by medication that has been approved by the United States food and drug administration for the treatment of substance use disorder, prevention of relapse of substance use disorder, or both.
- (D) "Substance use disorder" includes misuse, dependence, and addiction to alcohol and/or legal or illegal drugs, as determined by diagnostic criteria in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition" or "DSM-5."
- (E) "OARRS" means the "Ohio Automated Rx Reporting System" drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (F) For purposes of the rules in Chapter 4730-4 of the Administrative Code:
- (1) "Qualified behavioral healthcare provider" means the following who is practicing within the scope of the professional license:

- (a) Board certified addictionologist, board certified psychiatrist, or psychiatrist, licensed under Chapter 4731. of the Revised Code;
 - (b) Licensed independent chemical dependency counselor-clinical supervisor, licensed independent chemical dependency counselor, licensed chemical dependency counselor III, or licensed chemical dependency counselor II, or licensed chemical dependency counselor assistant licensed under Chapter 4758. of the Revised Code;
 - (c) Professional clinical counselor, licensed professional counselor, licensed independent social worker, licensed social worker, or marriage and family therapist, licensed under Chapter 4757. of the Revised Code;
 - (d) Advanced practice registered nurse, licensed as a clinical nurse specialist under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health clinical nurse specialist issued by the American nurses credentialing center;
 - (e) Advanced practice registered nurse, licensed as a nurse practitioner under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health nurse practitioner issued by the American nurses credentialing center;
 - (f) Psychologist, as defined in division (A) of section 4732.01 of the Revised Code, licensed under Chapter 4732. of the Revised Code;
 - (g) Advanced practice registered nurse, licensed under Chapter 4723. of the Revised Code, who holds subspecialty certification as a certified addiction registered nurse-advanced practice issued by the addictions nursing certification board.
- (2) Nothing in this paragraph shall be construed to prohibit a physician assistant licensed under Chapter 4730. of the Revised Code who practices under a supervision agreement with a board certified addiction psychiatrist, board certified addictionologist, or psychiatrist who is licensed as a physician under Chapter 4731. of the Revised Code, from providing services within the normal course of practice and expertise of the supervising physician, including addiction services, other mental health services, and physician delegated prescriptive services in compliance with Ohio and federal laws and rules.
- (G) "Community addiction services provider," has the same meaning as in section 5119.01 of the Revised Code.

- (H) "Community mental health services provider" has the same meaning as in section 5119.01 of the Revised Code.
- (I) "Induction phase" means the phase of opioid treatment during which maintenance medication dosage levels are adjusted until a patient attains stabilization.
- (J) "Stabilization phase" means the medical and psychosocial process of assisting the patient through acute intoxication and withdrawal management to the attainment of a medically stable, fully supported substance-free state, which may include the use of medications.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	4730.07, 4730.55
Rule Amplifies:	4730.55, 4730.56

4730-4-03

Office-based treatment for opioid addiction.

(A) A physician assistant who provides OBOT shall comply with the following requirements:

- (1) Before initiating OBOT, the physician assistant shall comply with section 3719.064 of the Revised Code.
- (2) Comply with all federal and state laws and regulations governing the prescribing of the medication;
- (3) Complete at least eight hours of "Category 1" continuing medical education relating to substance abuse and addiction every two years. Courses completed in compliance with this requirement shall be accepted toward meeting the continuing medical education requirement for biennial renewal of the physician assistant's license; and
- (4) Only provide OBOT if the provision of OBOT is within the supervising physician's normal course of practice and expertise.

(B) The physician assistant who provides OBOT shall perform and document an assessment of the patient.

(1) The assessment shall include all of the following:

- (a) A comprehensive medical and psychiatric history;
- (b) A brief mental status exam;
- (c) Substance abuse history;
- (d) Family history and psychosocial supports;
- (e) Appropriate physical examination;
- (f) Urine drug screen or oral fluid drug testing;
- (g) Pregnancy test for women of childbearing age and ability;
- (h) Review of the patient's prescription information in OARRS;
- (i) Testing for human immunodeficiency virus;
- (j) Testing for hepatitis B;
- (k) Testing for hepatitis C; and

- (1) Consideration of screening for tuberculosis and sexually-transmitted diseases in patients with known risk factors.
 - (2) For other than the toxicology tests for drugs and alcohol, appropriate history, substance abuse history, and the pregnancy test, the physician assistant may satisfy the assessment requirements by reviewing records from a physical examination and laboratory testing of the patient that was conducted within a reasonable period of time prior to the visit.
 - (3) If any part of the assessment cannot be completed prior to the initiation of OBOT, the physician assistant shall document the reasons in the medical record.
- (C) The physician assistant who provides OBOT shall establish and document a treatment plan that includes all of the following:
 - (1) The physician assistant's rationale for selection of the specific drug to be used in the medication-assisted treatment;
 - (2) Patient education;
 - (3) The patient's written, informed consent;
 - (4) Random urine-drug screens;
 - (5) A signed treatment agreement that outlines the responsibilities of the patient and the physician assistant; and
 - (6) A plan for psychosocial treatment, pursuant to paragraph (E) of this rule.
- (D) The physician assistant shall provide OBOT in accordance with an acceptable treatment protocol for assessment, induction, stabilization, maintenance, and tapering. Acceptable protocols are any of the following:
 - (1) SAMHSA treatment improvement protocol publications for medication assisted treatment available from the SAMHSA website at: <https://store.samhsa.gov/>.
 - (2) "National Practice Guideline for the Use of Medications in the Treatment of Addiction Involving Opioid Use," approved by the American society of addiction medicine in 2015, available from the website of the American society of addiction medicine at: <https://www.asam.org/>.
- (E) The physician assistant shall refer and work jointly with a qualified behavioral healthcare provider, community mental health services provider, or community addiction services provider, as those terms are defined in rule 4730-4-01 of the

Administrative Code, to determine the optimal type and intensity of psychosocial treatment for the patient and document the treatment plan in the patient record.

- (1) The treatment shall, at a minimum, include a psychosocial needs assessment, supportive counseling, links to existing family supports, and referral to community services.
 - (2) The treatment shall include at least one of the following interventions, unless reasons for exception are documented in the patient record:
 - (a) Cognitive behavioral treatment;
 - (b) Community reinforcement approach;
 - (c) Contingency management/motivational incentives;
 - (d) Motivational interviewing; or
 - (e) Behavioral couples counseling.
 - (3) The treatment plan shall include a structure for revision of the treatment plan if the patient does not adhere to the original plan.
 - (4) When clinically appropriate or if the patient refuses treatment from a qualified behavioral healthcare provider, community mental health services provider, or community addiction services provider, as defined in rule 4730-4-01 of the Administrative Code, the physician assistant shall ensure that the OBOT treatment plan requires the patient to participate in a twelve step program. If the patient is required to participate in a twelve step program, the physician assistant shall require the patient to provide documentation of on-going participation in the program.
 - (5) If the physician assistant refers the patient to a qualified behavioral healthcare provider, community addiction services provider, or community mental health services provider, the physician assistant shall document the referral and the physician assistant's maintenance of meaningful interactions with the provider in the patient record.
- (F) The physician assistant who provides OBOT shall offer the patient a prescription for a naloxone kit.
- (1) The physician assistant shall ensure that the patient receives instruction on the kit's use including, but not limited to, recognizing the signs and symptoms of overdose and calling 911 in an overdose situation.

- (2) The physician assistant shall offer the patient a new prescription for naloxone upon expiration or use of the old kit.
- (3) The physician assistant shall be exempt from this requirement if the patient refuses the prescription. If the patient refuses the prescription the physician assistant shall provide the patient with information on where to obtain a kit without a prescription.
- (G) In addition to paragraphs (A) through (F) of this rule, the physician assistant who provides OBOT using buprenorphine products shall comply with all of the following requirements:

 - (1) The provision shall be in compliance with the United States food and drug administration approved "Risk Evaluation and Mitigation Strategy" for buprenorphine products, which can be found on the United States food and drug administration website at the following address: <https://www.accessdata.fda.gov/scripts/cder/remis/index.cfm>. With the exception of those conditions listed in paragraph (G)(2) of this rule, a physician assistant who treats opioid use disorder with a buprenorphine product shall only prescribe buprenorphine/naloxone combination products for use in OBOT.
 - (2) The physician assistant shall prescribe buprenorphine without naloxone (buprenorphine mono-product) only in the following situations, and shall fully document the evidence for the decision to use buprenorphine mono-product in the medical record:

 - (a) When a patient is pregnant or breast-feeding;
 - (b) When converting a patient from buprenorphine mono-product to buprenorphine/naloxone combination product;
 - (c) In formulations other than tablet or film form for indications approved by the United States food and drug administration;
 - (d) For withdrawal management when a buprenorphine/naloxone combination product is contraindicated, with the contraindication included in the patient record; or
 - (e) When the patient has an allergy to or intolerance of a buprenorphine/naloxone combination product, after explaining to the patient the difference between an allergic reaction and symptoms of opioid withdrawal precipitated by buprenorphine or naloxone, and with documentation included in the patient record.

- (3) Due to a higher risk of fatal overdose when buprenorphine is prescribed with other opioids, benzodiazepines, sedative hypnotics, carisoprodol, or tramadol, the physician assistant shall only co-prescribe these substances when it is medically necessary.
- (a) The physician assistant shall verify the diagnosis for which the patient is receiving the other drug and coordinate care with the prescriber for the other drug, including whether it is possible to taper the drug to discontinuation. If the physician assistant prescribing buprenorphine is the prescriber of the other drug, the physician assistant shall taper the other drug to discontinuation, if it is safe to do so. The physician assistant shall educate the patient about the serious risks of the combined use.
- (b) The physician assistant shall document progress with achieving the tapering plan.
- (4) During the induction phase the physician assistant shall not prescribe a dosage that exceeds the recommendation in the United States food and drug administration approved labeling, except for medically indicated circumstances as documented in the medical record. The physician assistant shall see the patient at least once a week during this phase.
- (5) During the stabilization phase, when using any oral formulation of buprenorphine, the physician assistant shall increase the daily dosage of buprenorphine in safe and effective increments to achieve the lowest dose that avoids intoxication, withdrawal, or significant drug craving.
- (a) During the first ninety days of treatment, the physician assistant shall prescribe no more than a two-week supply of buprenorphine product containing naloxone.
- (b) Starting with the ninety-first day of treatment and until the completion of twelve months of treatment, the physician assistant shall prescribe no more than a thirty-day supply of the buprenorphine product containing naloxone.
- (6) The physician assistant shall take steps to reduce the chances of buprenorphine diversion by using the lowest effective dose, appropriate frequency of office visits, pill counts, and checks of OARRS. The physician assistant shall also require urine drug screens, serum medication levels, or oral fluid drug testing at least twice per quarter for the first year of treatment and at least once per quarter thereafter.

- (7) When using any oral formulation of buprenorphine, the physician assistant shall document in the medical record the rationale for prescribed doses exceeding sixteen milligrams of buprenorphine per day. The physician assistant shall not prescribe a dosage exceeding twenty-four milligrams of buprenorphine per day.
- (8) The physician assistant shall incorporate relapse prevention strategies into the counseling or assure that they are addressed by a qualified behavioral healthcare provider, as defined in rule 4730-4-01 of the Administrative Code, who has the education and experience to provide substance abuse counseling.
- (9) The physician assistant may treat a patient using the administration of an extended-release, injectable, or implanted buprenorphine product.
 - (a) The physician assistant shall strictly comply with any required risk evaluation and mitigation strategy for the drug.
 - (b) The physician assistant shall prescribe an extended-release buprenorphine product strictly in accordance with the United States food and drug administration's approved labeling for the drug's use.
 - (c) The physician assistant shall document in the patient record the rationale for the use of the extended-release buprenorphine product.
 - (d) The physician assistant who orders or prescribes an extended release, injectable, or implanted buprenorphine product shall require it to be administered by an Ohio licensed health care provider acting in accordance with the scope of their professional license.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	4730.07, 4730.55
Rule Amplifies:	4730.20, 4730.55, 4730.56

4730-4-04

Medication-assisted treatment using naltrexone.

(A) In addition to the requirements in paragraphs (A) through (F) of rule 4730-4-03 of the Administrative Code, the physician assistant using naltrexone to treat opioid use disorder shall comply with all of the following requirements:

(1) Prior to treating a patient with naltrexone, the physician assistant shall inform the patient about the risk of opioid overdose if the patient ceases naltrexone and then uses opioids. The physician assistant shall take measures to ensure that the patient is adequately detoxified from opioids and is no longer physically dependent prior to treatment with naltrexone.

(2) The physician assistant shall use oral naltrexone only for treatment of patients who can be closely supervised and who are highly motivated.

(a) The dosage regime shall strictly comply with the United States food and drug administration approved labeling for naltrexone hydrochloride tablets.

(b) The patient shall be encouraged to have a support person administer and supervise the medication. Examples of a support person are a family member, close friend, or employer.

(c) The physician assistant shall require urine drug screens, serum medication levels, or oral fluid drug testing at least every three months for the first year of treatment and at least every six months thereafter.

(d) The physician assistant shall incorporate relapse prevention strategies into counseling or assure that they are addressed by a qualified behavioral healthcare provider, as defined in rule 4730-4-01 of the Administrative Code, who has the education and experience to provide substance abuse counseling.

(B) The physician assistant may treat a patient with extended-release naltrexone for opioid dependence or for co-occurring opioid and alcohol use disorders.

(1) The physician assistant should consider treatment with extended-release naltrexone for patients who have issues with treatment adherence.

(2) The injection dosage shall strictly comply with the United States food and drug administration approved labeling for extended-release naltrexone.

(3) The physician assistant shall incorporate relapse prevention strategies into counseling or assure that they are addressed by a qualified behavioral healthcare provider, as defined in rule 4730-4-01 of the Administrative Code, who has the education and experience to provide substance abuse counseling.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	4730.07, 4730.55
Rule Amplifies:	4730.55, 4730.56

4731-4-01 Definitions.

(A) "Applicant for an initial license or certificate to practice" includes a person seeking an initial license or certificate to practice under Chapter 4730, an initial certificate to practice as a physician, massage therapist, or cosmetic therapist under Chapter 4731, of the Revised Code, as an anesthesiologist assistant under 4759., Chapter 4760. of the Revised Code, as an acupuncturist or oriental medicine practitioner under 4761., Chapter 4762., 4774., or 4778. of the Revised Code.

(B) "Applicant for a restored license or certificate to practice" includes a person seeking restoration of a license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4760., 4761., or 4762., 4774., or 4778. of the Revised Code.

(C) "Criminal records check" has the same meaning as in division (~~EE~~) of section 109.572 of the Revised Code.

(D) BCI means the "Ohio Bureau of Criminal Identification and Investigation."

(E) "FBI" means the "Federal Bureau of Investigation."

4731-4-02 Criminal records checks.

(A) An applicant for an initial license or certificate to practice or for a restored license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4760., 4761., or 4762., 4774., or 4778. of the Revised Code, shall submit fingerprints, required forms, and required fees to BCI for completion of BCI and FBI criminal records checks.

(1) An applicant who is present in Ohio shall use the services of an entity that has been designated by the Ohio attorney general to participate in the "National WebCheck" program (available at <http://www.ohioattorneygeneral.gov/>), and pay any processing fee charged by the entity, and ~~cause the entity to submit both of the following to BCI,~~ with the "State Medical Board of Ohio" designated to receive the results:-

~~(a) The applicant's electronic fingerprints; and~~

~~(b) The applicant's payment of fees for the BCI and FBI criminal records checks.~~

(2) An applicant who resides in a state or jurisdiction other than Ohio shall either appear in Ohio in order to comply with the requirements of paragraph (A)(1) of this rule or request that the board send/provide the forms required for/to complete the criminal records checks ~~to the applicant's address.~~

Upon receipt of the forms, the applicant shall have their/his or her fingerprints processed, and pay any applicable processing fees ~~charged by the entity, and cause the entity to submit to BCI all of the following, with the "State Medical Board of Ohio" designated to receive the results:-~~

~~(a) A fingerprint card bearing prints of the applicant's ten fingers;~~

~~(b) The applicant's completed request for exemption from the electronic fingerprint submission requirement; and~~

~~(c) The applicant's payment of fees for the BCI and FBI criminal records checks.~~

(B) The board shall maintain the criminal records check reports in a manner that ensures the confidentiality of the results, prevents disclosure pursuant to a public records request, and complies with applicable state and federal requirements.

(C) The board shall not accept the results of a criminal records check submitted by an entity other than BCI.

(D) In reviewing the results of criminal records checks to determine whether the applicant should be granted an initial or restored certificate to practice, the board may consider all of the following:

- (1) The nature and seriousness of the crime;
- (2) The extent of the applicant's past criminal activity;
- (3) The age of the applicant when the crime was committed;
- (4) The amount of time that has elapsed since the applicant's last criminal activity;
- (5) The conduct and work activity of the applicant before and after the criminal activity;
- (6) Whether the applicant has completed the terms of any probation or deferred adjudication;
- (7) Evidence of the applicant's rehabilitation;
- (8) Whether the applicant fully disclosed the arrest or conviction to the board; and
- (9) Any other factors the board considers relevant.

RESCIND:

- Chapters 4730-3; 4774-2; and 4778-2
- Rule 4759-4-11

- Rule 4761-5-07 is filed with JCARR for rescission.

Chapter 4731-11 Controlled Substances

4731-11-01 Definitions.

As used in Chapter 4731-11 of the Administrative Code:

(A) "Controlled substance" means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V pursuant to the provisions of Chapter 3719. of the Revised Code.

(B) "Controlled substance stimulant" means any drug, compound, mixture, preparation, or substance which is classified as a stimulant in controlled substance schedule II, III, or IV listed in section [3719.41](#) of the Revised Code, or which is classified as a stimulant in controlled substances schedule II, III, or IV pursuant to section [3719.43](#) or [3719.44](#) of the Revised Code.

(C) "Cross-coverage" means an agreement between an Ohio-licensed physician and another Ohio licensed physician or healthcare provider acting within the scope of their professional license under which the physician provides medical services for an active patient, as that term is defined in paragraph (D) of rule this rule, of the other physician or healthcare provider who is temporarily unavailable to conduct the evaluation of the patient.

(1) This type of agreement includes on-call coverage for after hours and weekends.

(2) The medical evaluation required by paragraph (C) of rule [4731-11-09](#) of the Administrative Code may be a limited evaluation conducted through interaction with the patient.

(D) For purposes of paragraph (D) of rule [4731-11-09](#) of the Administrative Code, "active patient" as that term is used in paragraph (C) of this rule, means that within the previous twenty-four months the physician or other healthcare provider acting within the scope of their professional license conducted at least one in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine as that term is defined in 21 C.F.R. 1300.04, in effect as of the effective date of this rule.

(E) "Utilize a controlled substance or controlled substance stimulant" means to prescribe, administer, dispense, supply, sell or give a controlled substance or controlled substance stimulant.

(F) "Recognized contraindication" means any contraindication to the use of a drug which is listed in the United States food and drug administration (hereinafter, "F.D.A.") approved labeling for the drug, or which the board determines to be accepted as a contraindication.

(G) "The board" means the state medical board of Ohio.

(H) "BMI" means body mass index, calculated as a person's weight in kilograms divided by height in meters squared.

(I) "Physician" means an individual holding a certificate under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and practicing within his or her scope of practice as defined by section [4731.51](#) of the Revised Code.

(J) "Board certified addictionologist or addiction psychiatrist" means a medical doctor or doctor of osteopathic medicine and surgery who holds one of the following certifications:

(1) Subspecialty board certification in addiction psychiatry from the american board of psychiatry and neurology;

(2) Board certification in addiction medicine from the american board of addiction medicine;

(3) Certification from the American society of addiction medicine;

(4) Subspecialty certification in addiction medicine from the American board of preventive medicine; or

(5) Board certification with additional qualification in addiction medicine from the American osteopathic association.

(K) "Office based opioid treatment", or "OBOT", means treatment of opioid addiction utilizing a schedule III, IV or V controlled substance narcotic.

(L) "Acute pain" means pain that normally fades with healing, is related to tissue damage, significantly alters a patient's typical function and is expected to be time limited and not more than six weeks in duration.

(M) "Minor" has the same meaning as in section [3719.061](#) of the Revised Code.

(N) "Morphine equivalent daily dose (MED)" means a conversion of various opioid analgesics to a morphine equivalent dose by the use of accepted conversion tables provided by the state of Ohio board of pharmacy at: <https://www.ohiopmp.gov/> (effective 2017).

(O) "Extended-release or long-acting opioid analgesic" means an opioid analgesic that:

(1) Has United States food and drug administration approved labeling indicating that it is an extended-release or controlled release formulation;

(2) Is administered via a transdermal route; or

(3) Contains methadone.

(P) "Opioid analgesic" has the same meaning as in section [3719.01](#) of the Revised Code and means a controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including but not limited to the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

(Q) "Hospice care program" has the same meaning as in section [3712.01](#) of the Revised Code.

(R) "Palliative care" has the same meaning as in section [3712.01](#) of the Revised Code.

(S) "Terminal condition" has the same meaning as in section [2133.01](#) of the Revised Code.

(T) "Medication therapy management" has the same meaning as in rule 4729:5-12-01 of the Administrative Code.

(U) "Subacute pain" means pain that has persisted after reasonable medical efforts have been made to relieve it and continues either episodically or continuously for more than six weeks but less than twelve weeks following initial onset of pain. It may be the result of underlying medical disease or condition, injury, medical or surgical treatment, inflammation, or unknown cause.

(V) "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve it and continues either episodically or continuously for twelve or more weeks following initial onset of pain. It may be the result of an underlying medical disease or condition, injury, medical treatment, inflammation, or unknown cause. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

(W) "Board certification in hospice and palliative care" means either of the following:

(1) Subspecialty certification in hospice and palliative medicine granted by a certification board that is a member of the American board of medical specialties.

(2) Certification of added qualification in hospice and palliative medicine by the American osteopathic association bureau of medical specialties.

Replaces: 4731-21-01

Effective: 12/23/2018

Five Year Review (FYR) Dates: 1/31/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4731.052](#), [4731.05](#), [4730.39](#), [3719.062](#)

Rule Amplifies: [3719.062](#), [4731.74](#), [4731.052](#), [4730.39](#)

Prior Effective Dates: 4731-11-01: 11/17/1986, 10/31/1998, 09/01/2000, 01/31/2015, 03/23/2017, 08/31/2017, 12/07/2017

4731-21-01: 11/11/1998, 11/30/2008, 8/31/2007

4731-11-02 General provisions.

(A) A physician shall not utilize a controlled substance other than in accordance with all of the provisions of this chapter of the Administrative Code.

(B) A physician shall not utilize a controlled substance without taking into account the drug's potential for abuse, the possibility the drug may lead to dependence, the possibility the patient will obtain the drug for a nontherapeutic use or to distribute to others, and the possibility of an illicit market for the drug.

(C) A physician shall complete and maintain accurate medical records reflecting the physician's examination, evaluation, and treatment of all the physician's patients. Patient medical records shall accurately reflect the utilization of any controlled substances in the treatment of a patient and shall indicate the diagnosis and purpose for which the controlled substance is utilized, and any additional information upon which the diagnosis is based.

(D) A physician shall obey all applicable provisions of sections [3719.06](#), [3719.07](#), [3719.08](#) and [3719.13](#) of the Revised Code and the rules promulgated thereunder, all prescription issuance rules adopted under Chapter 4729. of the Revised Code, and all applicable provisions of federal law governing the possession, distribution, or use of controlled substances.

(E) Violations of this rule:

(1) A violation of any provision of this rule, as determined by the board, shall constitute any or all of the following: "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; and "a departure from, or the failure to conform to, minimal standards of care of similar physicians 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) A violation of paragraph (C) of this rule shall further constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section [4731.22](#) of the Revised Code.

Effective: 12/23/2018

Five Year Review (FYR) Dates: 12/31/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4730.39](#), [4731.05](#)

Rule Amplifies: [3719.06](#), [3719.07](#), [3719.08](#), [3719.13](#), [4730.39](#), [4731.22](#)

Prior Effective Dates: 11/17/1986, 09/01/2000, 09/30/2008, 12/31/2015, 08/31/2017

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 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 of the patient; and
 - (c) Rule out the existence of any recognized contra-indications to the use of the controlled 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 disorder, hyperkinetic syndrome), and/or related disorders;
 - (c) The treatment of drug-induced or trauma-induced brain dysfunction;
 - (d) The differential diagnostic psychiatric evaluation of depression;
 - (e) The treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as antidepressants;
 - (f) As adjunctive therapy in the treatment of the 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) 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.

Replaces: 4731-11-02, 4731-11-03, 4731-11-05

Effective: 12/31/2015

Five Year Review (FYR) Dates: 12/31/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 11/17/86; 10/31/98; 9/1/00, 4/30/2009

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 anorexiants 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.

Replaces: 4731-11-04

Effective: 2/29/2016

Five Year Review (FYR) Dates: 02/28/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 11/17/86; 10/31/98; 6/30/00

4731-11-04.1 Controlled substances: utilization for chronic weight management.

(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.

Effective: 12/31/2015

Five Year Review (FYR) Dates: 12/31/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

[4731-11-05 \[Rescinded\].](#)

Effective: 12/31/2015

Five Year Review (FYR) Dates: 07/01/2015

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 2/1/88, 9/1/00

4731-11-06 Waivers for new uses. [Rescinded].

Rescinded eff 9-30-08

4731-11-07 Research utilizing controlled substances.

The provisions of this chapter of the Administrative Code shall not apply to or in any way prohibit research conducted under the auspices of an accredited medical school, or research which meets both of the following conditions:

(A) The U.S. food and drug administration has approved an investigational new drug ("IND") application for the research or has notified the researchers that the proposed study is exempt from the "IND" regulations; and

(B) The research is conducted in conformance with the approval granted by either of the following:

(1) An institutional review board of a hospital or medical center accredited by the "Joint Commission," "Healthcare Facilities Accreditation Program" or other accrediting body approved by the board; or

(2) An institutional review board accredited by the association for the accreditation of human research protection programs.

Replaces: 4731-11-07

Effective: 9/30/2015

Five Year Review (FYR) Dates: 09/30/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 12/1/94

4731-11-08 Utilizing controlled substances for self and family members.

(A) Accepted and prevailing standards of care presuppose a professional relationship between a patient and physician when the physician is utilizing controlled substances. By definition, a physician may never have such a relationship with himself or herself. Thus, a physician may not self-prescribe or self-administer controlled substances. This paragraph does not prohibit a physician from obtaining a schedule V controlled substance for personal use in conformance with state and federal laws, in the same manner that a non-physician may obtain a schedule V controlled substance.

(B) Accepted and prevailing standards of care require that a physician maintain detached professional judgment when utilizing controlled substances in the treatment of family members. A physician shall utilize controlled substances when treating a family member only in an emergency situation which shall be documented in the patient's record.

(C) For purposes of this rule, "family member" means a spouse, parent, child, sibling or other individual in relation to whom a physician's personal or emotional involvement may render that physician unable to exercise detached professional judgment in reaching diagnostic or therapeutic decisions.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 11/11/98, 3/15/01, 9/30/08

4731-11-09 Prescribing to persons not seen by the physician.

(A) Except as provided in paragraph (D) of this rule, a physician shall not prescribe, personally furnish, otherwise provide, or cause to be provided, any controlled substance to a person on whom the physician has never

conducted a physical examination.

(B) Except as provided in paragraph (C) of this rule, a physician shall not prescribe, personally furnish, otherwise provide, or cause to be provided, any prescription drug that is not a controlled substance to a person on whom the physician has never conducted a physical examination.

(C) A physician may prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is not a controlled substance to a person on whom the physician has never conducted a physical examination and who is at a location remote from the physician by complying with all of the following requirements:

- (1) The physician shall establish the patient's identity and physical location;
- (2) The physician shall obtain the patient's informed consent for treatment through a remote examination;
- (3) The physician shall request the patient's consent and, if granted, forward the medical record to the patient's primary care provider or other health care provider, if applicable, or refer the patient to an appropriate health care provider or health care facility;
- (4) The physician shall, through interaction with the patient, complete a medical evaluation that is appropriate for the patient and the condition with which the patient presents and that meets the minimal standards of care, which may include portions of the evaluation having been conducted by other Ohio licensed healthcare providers acting within the scope of their professional license;
- (5) The physician shall establish or confirm, as applicable, a diagnosis and treatment plan, which includes documentation of the necessity for the utilization of a prescription drug. The diagnosis and treatment plan shall include the identification of any underlying conditions or contraindications to the recommended treatment;
- (6) The physician shall document in the patient's medical record the patient's consent to treatment through a remote evaluation, pertinent history, evaluation, diagnosis, treatment plan, underlying conditions, any contraindications, and any referrals to appropriate health care providers, including primary care providers or health care facilities;
- (7) The physician shall provide appropriate follow-up care or recommend follow-up care with the patient's primary care provider, other appropriate health care provider, or health care facility in accordance with the minimal standards of care;
- (8) The physician shall make the medical record of the visit available to the patient;
- (9) The physician shall use appropriate technology that is sufficient for the physician to conduct all steps in this paragraph as if the medical evaluation occurred in an in-person visit.

(D) A physician may prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is a controlled substance to a person on whom the physician has not conducted a physical examination and who is at a location remote from the physician in any of the following situations:

- (1) The person is an active patient, as that term is defined in paragraph (D) of rule [4731-11-01](#) of the Administrative Code, of an Ohio licensed physician or other health care provider who is a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between them and the physician complies with all steps of paragraph (C) of this rule;
- (2) The patient is physically located in a hospital or clinic registered with the United States drug enforcement administration to personally furnish or provide controlled substances, when the patient is being treated by an Ohio licensed physician or other healthcare provider acting in the usual course of their practice and within the scope of their professional license and who is registered with the United States drug enforcement administration to prescribe or otherwise provide controlled substances in Ohio.
- (3) The patient is being treated by, and in the physical presence of, an Ohio licensed physician or healthcare provider acting in the usual course of their practice and within the scope of their professional license, and who is

registered with the United States drug enforcement administration to prescribe or otherwise provide controlled substances in Ohio.

(4) The physician has obtained from the administrator of the United States drug enforcement administration a special registration to prescribe or otherwise provide controlled substances in Ohio.

(5) The physician is the medical director, hospice physician, or attending physician for a hospice program licensed pursuant to Chapter 3712. of the Revised Code and both of the following conditions are met:

(a) The controlled substance is being provided to a patient who is enrolled in that hospice program, and

(b) The prescription is transmitted to the pharmacy by a means that is compliant with Ohio board of pharmacy rules.

(6) The physician is the medical director of, or attending physician at, an institutional facility, as that term is defined in rule [4729-17-01](#) of the Administrative Code, and both of the following conditions are met:

(a) The controlled substance is being provided to a person who has been admitted as an inpatient to or is a resident of an institutional facility, and

(b) The prescription is transmitted to the pharmacy by a means that is compliant with Ohio board of pharmacy rules.

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

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

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

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

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

(G) For purposes of this rule, "informed consent" means a process of communication between a patient and physician discussing the risks and benefits of, and alternatives to, treatment through a remote evaluation that results in the patient's agreement or signed authorization to be treated through an evaluation conducted through appropriate technology when the physician is in a location remote from the patient.

(H) This rule shall not apply to any prescribing situations specifically authorized by the Revised Code or Administrative Code.

(I) For purposes of this rule, "patient" means a person for whom the physician provides healthcare services or the person's representative.

Replaces: 4731-11-09

Effective: 3/23/2017

Five Year Review (FYR) Dates: 03/23/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#) ; [4731.74](#)

Rule Amplifies: [4731.22](#) ; [4731.74](#)

Prior Effective Dates: 10/1/99; 8/31/06; 11/30/10

4731-11-11 Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).

(A) For purposes of this rule:

- (1) "Delegate" means an authorized representative who is registered with the Ohio board of pharmacy to obtain an OARRS report on behalf of a physician;
- (2) "OARRS" means the "Ohio Automated Rx Reporting System" drug database established and maintained pursuant to section [4729.75](#) of the Revised Code.
- (3) "OARRS report" means a report of information related to a specified patient generated by the drug database established and maintained pursuant to section [4729.75](#) of the Revised Code.
- (4) "Personally furnish" means the distribution of drugs by a prescriber to the prescriber's patients for use outside the prescriber's practice setting.
- (5) "Reported drugs" means all the drugs listed in rule [4729-37-02](#) of the Administrative Code that are required to be reported to the drug database established and maintained pursuant to section [4729.75](#) of the Revised Code, including controlled substances in schedules II, III, IV, and V.

(B) Standards of care:

- (1) The accepted and prevailing minimal standards of care require that when prescribing or personally furnishing a reported drug, a physician shall take into account all of the following:
 - (a) The potential for abuse of the reported drug;
 - (b) The possibility that use of the reported drug may lead to dependence;
 - (c) The possibility the patient will obtain the reported drug for a nontherapeutic use or distribute it to other persons; and
 - (d) The potential existence of an illicit market for the reported drug.
- (2) In considering whether a prescription for or the personally furnishing of a reported drug is appropriate for the patient, the physician shall use sound clinical judgment and obtain and review an OARRS report consistent with the provisions of this rule.

(C) A physician shall obtain and review an OARRS report to help determine if it is appropriate to prescribe or personally furnish an opioid analgesic, benzodiazepine, or reported drug to a patient as provided in this paragraph and paragraph (F) of this rule:

- (1) A physician shall obtain and review an OARRS report before prescribing or personally furnishing an opiate analgesic or benzodiazepine to a patient, unless an exception listed in paragraph (G) of this rule is applicable.
- (2) A physician shall obtain and review an OARRS report when a patient's course of treatment with a reported drug other than an opioid analgesic or benzodiazepine has lasted more than ninety days, unless an exception listed in paragraph (G) of this rule is applicable.
- (3) A physician shall obtain and review an OARRS report when any of the following red flags pertain to the patient:
 - (a) Selling prescription drugs;
 - (b) Forging or altering a prescription;
 - (c) Stealing or borrowing reported drugs;
 - (d) Increasing the dosage of reported drugs in amounts that exceed the prescribed amount;

- (e) Suffering an overdose, intentional or unintentional;
 - (f) Having a drug screen result that is inconsistent with the treatment plan or refusing to participate in a drug screen;
 - (g) Having been arrested, convicted, or received diversion or intervention in lieu of conviction for a drug related offense while under the physician's care;
 - (h) Receiving reported drugs from multiple prescribers, without clinical basis;
 - (i) Traveling with a group of other patients to the physician's office where all or most of the patients request controlled substance prescriptions;
 - (j) Traveling an extended distance or from out of state to the physician's office;
 - (k) Having a family member, friend, law enforcement officer, or health care professional express concern related to the patient's use of illegal or reported drugs;
 - (l) A known history of chemical abuse or dependency;
 - (m) Appearing impaired or overly sedated during an office visit or exam;
 - (n) Requesting reported drugs by street name, color, or identifying marks;
 - (o) Frequently requesting early refills of reported drugs;
 - (p) Frequently losing prescriptions for reported drugs;
 - (q) A history of illegal drug use;
 - (r) Sharing reported drugs with another person; or
 - (s) Recurring visits to non-coordinated sites of care, such as emergency departments, urgent care facilities, or walk-in clinics to obtain reported drugs.
- (D) A physician who decides to utilize an opioid analgesic, benzodiazepine, or other reported drug in any of the circumstances within paragraphs (C)(2) and (C)(3) of this rule, shall take the following steps prior to issuing a prescription for or personally furnishing the opioid analgesic, benzodiazepine, or other reported drug:
- (1) Review and document in the patient record the reasons why the physician believes or has reason to believe that the patient may be abusing or diverting drugs;
 - (2) Review and document in the patient's record the patient's progress toward treatment objectives over the course of treatment;
 - (3) Review and document in the patient record the functional status of the patient, including activities for daily living, adverse effects, analgesia, and aberrant behavior over the course of treatment;
 - (4) Consider using a patient treatment agreement including more frequent and periodic reviews of OARRS reports and that may also include more frequent office visits, different treatment options, drug screens, use of one pharmacy, use of one provider for the prescription or personally furnishing of reported drugs, and consequences for non-compliance with the terms of the agreement. The patient treatment agreement shall be maintained as part of the patient record; and
 - (5) Consider consulting with or referring the patient to a substance abuse specialist.

(E) Frequency for follow-up OARRS reports:

- (1) For a patient whose treatment with an opioid analgesic or benzodiazepine lasts more than ninety days, a physician shall obtain and review and OARRS report for the patient at least every ninety days during the course of treatment, unless an exception listed in paragraph (G) of this rule is applicable.

(2) For a patient who is treated with a reported drug other than an opioid analgesic or benzodiazepine for a period lasting more than ninety days, the physician shall obtain and review an OARRS report for the patient at least annually following the initial OARRS report obtained and reviewed pursuant to paragraph (C)(2) of this rule until the course of treatment utilizing the reported drug has ended, unless an exception in paragraph (G) of this rule is applicable.

(F) When a physician or their delegate requests an OARRS report in compliance with this rule, a physician shall document receipt and review of the OARRS report in the patient record, as follows:

(1) Initial reports requested shall cover at least the twelve months immediately preceding the date of the request:

(2) Subsequent reports requested shall, at a minimum, cover the period from the date of the last report to present;

(3) If the physician practices primarily in a county of this state that adjoins another state, the physician or their delegate shall also request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county; and

(4) If an OARRS report regarding the patient is not available, the physician shall document in the patient's record the reason that the report is not available and any efforts made in follow-up to obtain the requested information.

(G) A physician shall not be required to review and assess an OARRS report when prescribing or personally furnishing an opioid analgesic, benzodiazepine, or other reported drug under the following circumstances, unless a physician believes or has reason to believe that a patient may be abusing or diverting reported drugs:

(1) The reported drug is prescribed or personally furnished to a hospice patient in a hospice care program as those terms are defined in section [3712.01](#) of the Revised Code, or any other patient diagnosed as terminally ill;

(2) The reported drug is prescribed for administration in a hospital, nursing home, or residential care facility;

(3) The reported drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days;

(4) The reported drug is prescribed or personally furnished for the treatment of cancer or another condition associated with cancer; and

(5) The reported drug is prescribed or personally furnished to treat acute pain resulting from a surgical or other invasive procedure or a delivery.

Replaces: 4731-11-11

Effective: 12/31/2015

Five Year Review (FYR) Dates: 12/31/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.055](#)

Rule Amplifies: [4731.055](#)

Prior Effective Dates: 11/30/11

4731-11-12 Office based opioid treatment.

(A) For the purposes of this rule:

(1) "Office Based Opioid Treatment," or "OBOT," means treatment of opioid addiction utilizing a "Schedule III, IV, or V" controlled substance narcotic.

(2) "Board certified addictionologist or addiction psychiatrist" means a medical doctor or doctor of osteopathic medicine and surgery who holds one of the following certifications:

- (a) Subspecialty board certification in addiction psychiatry from the American board of psychiatry and neurology;
 - (b) Board certification in addiction medicine from the American board of addiction medicine;
 - (c) Certification from the American society of addiction medicine; or
 - (d) Board certification with additional qualification in addiction medicine from the American osteopathic association.
- (B) A physician shall provide OBOT in compliance with all of the provisions of this rule.
- (1) The physician shall comply with all federal and state laws applicable to OBOT;
 - (2) Prior to providing OBOT, the physician shall conduct an assessment meeting the following requirements:
 - (a) The assessment shall include, at a minimum, an appropriate history and physical, mental status exam, substance use history, appropriate lab tests, pregnancy test for women of childbearing years, toxicology tests for drugs and alcohol, and "hepatitis B" and "hepatitis C" screens.
 - (b) For other than the toxicology tests for drugs and alcohol, appropriate history, substance abuse history, hepatitis "B" and "C" screens and the pregnancy test, the physician may satisfy the assessment requirements by reviewing records from a physical examination of the patient that was conducted by a physician within a reasonable period of time prior to the visit. For purposes of this paragraph, "physician" means an individual holding a certificate under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and practicing within his or her scope of practice as defined by section [4731.51](#) of the Revised Code, or an individual practicing in another state where the individual holds an active and unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and practicing within his or her scope of practice.
 - (3) The physician shall practice in accordance with an acceptable treatment protocol for assessment, induction, stabilization, maintenance and tapering. Acceptable protocols are any of the following:
 - (a) "Clinical Guidelines For the Use of Buprenorphine in the Treatment of Opioid Addiction" protocol approved by the substance abuse and mental health services administration in 2004, (available from the substance abuse and mental health services administration website at <http://samhsa.gov/>);
 - (b) The low dose protocol approved by the Ohio department of alcohol and drug addiction services in or about 2011 (available from the Ohio department of mental health and addiction services website at <http://mha.ohio.gov/>); or
 - (c) Any protocol for OBOT approved by the Ohio department of mental health and addiction services and available from the Ohio department of mental health and addiction services website at <http://mha.ohio.gov>.
 - (4) The physician shall diagnose an opioid disorder utilizing the criteria contained in the diagnostic and statistical manual of mental disorders, 4th or 5th edition.
 - (5) The physician shall develop an individualized treatment plan for each patient
 - (6) The physician shall require each patient to actively participate in appropriate behavioral counseling or treatment for their addiction and shall document at each visit that the patient is attending sufficient behavioral health treatment.
 - (a) The physician shall maintain meaningful interactions with the qualified chemical dependency professional, addiction treatment provider, or other behavioral health professional who is treating the patient.
 - (b) If the physician is a psychiatrist, board certified addictionologist, or board certified addiction psychiatrist, the physician may personally provide behavioral health treatment for the addiction.

(c) If the physician determines that the patient cannot reasonably be required to obtain professional treatment or if the patient has successfully completed professional treatment, the physician shall require the patient to actively participate in a recovery care program such as alcoholics anonymous, narcotics anonymous, or other appropriate twelve step program, and to document attendance at program meetings.

(i) For at least the first year the physician shall require the patient to attend the meetings at least three times weekly.

(ii) Following the first year, the physician shall determine the frequency with which the patient shall be required to attend the meetings.

(iii) The physician shall document in the patient record the reasons that the patient cannot reasonably be required to obtain professional treatment.

(7) The physician shall provide OBOT utilizing a drug product that has been specifically approved by the United States food and drug administration for use in maintenance and detoxification treatment. A physician shall not provide OBOT utilizing a drug product that has not been specifically approved by the United States food and drug administration for use in maintenance and detoxification treatment.

(8) The physician shall comply with all of the following:

(a) During the first twelve months of treatment, the physician shall not prescribe, personally furnish, or administer more than a thirty day supply of OBOT medications at one time.

(b) The physician shall personally meet with and evaluate the patient at each visit during the first twelve months of OBOT, and shall document an assessment and plan for continuing treatment.

(c) After twelve months of OBOT, the physician shall personally meet with and evaluate the patient at least every three months, unless more frequent meetings are indicated.

(9) The physician shall not provide OBOT to a patient whom the physician knows or should know is receiving other controlled substances for more than twelve consecutive weeks on an outpatient basis from any provider, without having consulted with a board certified addictionologist or addiction psychiatrist, who has recommended the patient receive OBOT. If the physician is a board certified addictionologist or addiction psychiatrist, the consultation is not required.

(10) The physician shall not prescribe, personally furnish, or administer greater than 16 milligrams of buprenorphine per day to a patient, except in one of the following situations:

(a) The dosage greater than 16 milligrams was established before the effective date of this rule;

(b) The physician is a board certified addictionologist or addiction psychiatrist and has determined that a dosage greater than 16 milligrams is required for the patient, and has documented patientspecific reasons for the need for a dosage greater than 16 milligrams in the patient's record; or

(c) The physician has consulted with a board certified addictionologist or addiction psychiatrist who has recommended a dosage greater than 16 milligrams and that fact is documented in the patient's medical record.

(11) The physician shall access OARRS for each patient no less frequently than every ninety days, and shall document receipt and assessment of the information received.

(12)) The physician shall provide ongoing toxicological testing in compliance with all of the following:

(a) The physician shall assure that any inoffice kit used is "Clinical Laboratory Improvement Amendments" waived.

(b) The physician shall require toxicological testing be performed at least monthly for the first six months, then randomly at least once every three months thereafter.

(c) The physician may accept the results of toxicological testing performed by a treatment program or pursuant to a court order to satisfy the requirements of paragraph (B)(12)(b) of this rule.

(d) A screen is failed if the result is inconsistent with the treatment plan. A physician shall address failed screens in a clinically appropriate manner.

(13) Each physician who provides OBOT shall complete at least eight hours of "Category I" continuing medical education relating to substance abuse and addiction every two years. Courses completed in compliance with this rule shall be accepted toward meeting the physician's "Category I" continuing medical education requirement for biennial renewal of the physician's certificate.

(C) Notwithstanding the provisions of this rule, a physician may provide OBOT to a pregnant patient during the term of her pregnancy and for two months thereafter, in compliance with the minimal standards of care.

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

(1) "Failure to maintain minimal standards applicable to the selection or administration of drugs," and "failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as those clauses are used in division (B)(2) of section [4731.22](#) of the Revised Code, and "a departure from, or the failure to conform to, minimal standards of care of similar physicians 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) A violation of paragraph (B)(7) of this rule shall further constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section [4731.22](#) of the Revised Code.

Effective: 1/31/2015

Five Year Review (FYR) Dates: 01/31/2020

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

4731-11-13 Prescribing of opiate analgesics for acute pain.

(A) For the treatment of acute pain, the physician shall comply with the following:

(1) Extended-release or long-acting opioid analgesics shall not be prescribed for treatment of acute pain;

(2) Before prescribing an opioid analgesic, the physician shall first consider non- opioid treatment options. If opioid analgesic medications are required as determined by a history and physical examination, the physician shall prescribe for the minimum quantity and potency needed to treat the expected duration of pain, with a presumption that a three-day supply or less is frequently sufficient and that limiting the duration of opioid use to the necessary period will decrease the likelihood of subsequent chronic use or dependence;

(3) In all circumstances where opioid analgesics are prescribed for acute pain:

(a) Except as provided in paragraph (B) of this rule, the duration of the first opioid analgesic prescription for the treatment of an episode of acute pain shall be:

(i) For adults, not more than a seven-day supply with no refills;

(ii) For minors, not more than a five-day supply with no refills. A physician shall comply with section [3719.061](#) of the Revised Code, including but not limited to obtaining from the parent, guardian, or another adult who is authorized to consent to the minor's medical treatment written consent prior to prescribing an opioid analgesic to a minor;

(iii) The seven-day limit for adults and five-day limit for minors may be exceeded for pain that is expected to persist for longer than seven days based on the pathology causing the pain. In this circumstance, the reason that the limits are being exceeded and the reason that a non-opioid medication was not appropriate to treat the patient's conditions shall be documented in the patient's medical record. The number of days of the prescription shall not exceed the amount required to treat the expected duration of the pain as noted in paragraph (A) (2) of this rule; and

(iv) If a patient is allergic to or otherwise unable to tolerate the initially prescribed opioid medication, a prescription for a different, appropriate opioid may be issued at any time during the initial seven or five-day dosing period and shall be subject to all other provisions of this rule. The allergy and/or intolerance shall be documented in the patient's medical record. The patient or the minor patient's parent, guardian or another adult who is authorized to consent to the minor's medical treatment must be provided education of the safe disposal of the unused medication.

(b) The patient, or a minor's parent or guardian, shall be advised of the benefits and risks of the opioid analgesic, including the potential for addiction, and the advice shall be documented in the patient's medical record; and

(c) The total morphine equivalent dose (MED) of a prescription for opioid analgesics for treatment of acute pain shall not exceed an average of thirty MED per day, except when all of the following apply:

(i) The patient suffers from medical conditions, surgical outcomes or injuries of such severity that pain cannot be managed within the thirty MED average limit as determined by the treating physician based upon prevailing standards of medical care, such as:

(a) Traumatic crushing of tissue;

(b) Amputation;

(c) Major orthopedic surgery;

(d) Severe burns

(ii) The physician determines that exceeding the thirty MED average limit is necessary based on the physician's clinical judgment and the patient's needs.

(iii) The physician shall document in the patient's medical record the reason for exceeding the thirty MED average and the reason it is the lowest dose consistent with the patient's medical condition.

(iv) Only the prescribing physician for the conditions in paragraph (A)(3) (c)(i) of this rule may exceed the thirty MED average. The prescribing physician shall be held singularly accountable for prescriptions that exceed the thirty MED average.

(v) In circumstances when the thirty MED average is exceeded, the dose shall not exceed the dose required to treat the severity of the pain as noted in paragraph (A) (2) of this rule.

(d) Prescriptions that exceed the five or seven day supply or thirty MED average daily dose are subject to additional review by the state medical board. The dosage, days supplied, and condition for which the opioid analgesic is prescribed will be considered as part of this additional review.

(B) The requirements of paragraph (A) of this rule apply to treatment of acute pain and do not apply when an opioid analgesic is prescribed:

(1) To an individual who is a hospice patient or in a hospice care program;

(2) To an individual receiving palliative care;

(3) To an individual who has been diagnosed with a terminal condition; or

(4) To an individual who has cancer or another condition associated with the individual's cancer or history of cancer.

(C) This rule does not apply to prescriptions for opioid analgesics for the treatment of opioid addiction utilizing a schedule III, IV or V controlled substance narcotic that is approved by the federal drug administration for opioid detoxification or maintenance treatment.

(D) This rule does not apply to inpatient prescriptions as defined in Chapter 4729. of the Revised Code.

Effective: 8/31/2017

Five Year Review (FYR) Dates: 08/31/2022

Promulgated Under: [119.03](#)

Statutory Authority: [3719.062](#), [4731.05](#)

Rule Amplifies: [3719.062](#)

4731-11-14 Prescribing for subacute and chronic pain.

(A) Prior to treating, or continuing to treat subacute or chronic pain with an opioid analgesic, the physician shall first consider and document non-medication and non-opioid treatment options.

(1) If opioid analgesic medications are required as determined by a history and physical examination, the physician shall prescribe for the minimum quantity and potency needed to treat the expected duration of pain and improve the patient's ability to function.

(2) The physician shall comply with the requirements of rule [4731-11-02](#) of the Administrative Code.

(B) Before prescribing an opioid analgesic for subacute or chronic pain, the physician shall complete or update and document in the patient record assessment activities to assure the appropriateness and safety of the medication including:

(1) History and physical examination including review of previous treatment and response to treatment, patient's adherence to medication and non-medication treatment, and screening for substance misuse or substance use disorder;

(2) Laboratory or diagnostic testing or documented review of any available relevant laboratory or diagnostic test results. If evidence of substance misuse or substance use disorder exists, diagnostic testing shall include urine drug screening;

(3) Review the results of an OARRS check in compliance with rule [4731-11-11](#) of the Administrative Code;

(4) A functional pain assessment which includes the patient's ability to engage in work or other purposeful activities, the pain intensity and its interference with activities of daily living, quality of family life and social activities, and the physical activity of the patient;

(5) A treatment plan based upon the clinical information obtained, to include all of the following components:

(a) Diagnosis;

(b) Objective goals for treatment;

(c) Rationale for the medication choice and dosage; and

(d) Planned duration of treatment and steps for further assessment and follow-up.

(6) Discussion with the patient or guardian regarding:

(a) Benefits and risks of the medication, including potential for addiction and risk of overdose; and

(b) The patient's responsibility to safely store and appropriately dispose of the medication.

(7) The physician shall offer a prescription for naloxone to the patient receiving an opioid analgesic prescription under any of the following circumstances:

(a) The patient has a history of prior opioid overdose;

(b) The dosage prescribed exceeds a daily average of eighty MED or at lower doses if the patient is co-prescribed a benzodiazepine, sedative hypnotic drug, carisprodal, tramadol, or gabapentin; or

(c) The patient has a concurrent substance use disorder.

(C) Prior to increasing the opioid dosage to a daily average of fifty MED or greater the physician shall complete and document the following in the patient's medical record:

(1) The physician shall review and update the assessment completed in paragraph (B) of this rule, if needed. The physician may rely on an appropriate assessment completed within a reasonable time if the physician is satisfied that he or she may rely on that information for purposes of meeting the further requirements of this chapter of the Administrative Code;

(2) The physician shall update or formulate a new treatment plan, if needed;

(3) The physician shall obtain from the patient or the patient's guardian written informed consent which includes discussion of all of the following:

(a) Benefits and risks of the medication, including potential for addiction and risk of overdose.

(b) The patient's responsibility to safely store and appropriately dispose of the medication.

(4) Except when the patient was prescribed an average daily dosage that exceeded fifty MED before the effective date of this rule, the physician shall document consideration of the following:

(a) Consultation with a specialist in the area of the body affected by the pain;

(b) Consultation with a pain management specialist;

(c) Obtaining a medication therapy management review by a pharmacist; and

(d) Consultation with a specialist in addiction medicine or addiction psychiatry, if aberrant behaviors indicating medication misuse or substance use disorder are noted.

(5) The physician shall consider offering a prescription for naloxone to mitigate risk of overdose.

(D) Prior to increasing the opioid dosage to a daily average of eighty MED or greater, the physician shall complete all of the following:

(1) Enter into a written pain treatment agreement with the patient that outlines the physician's and patient's responsibilities during treatment and requires the patient or patient guardian's agreement to all of the following provisions:

(a) Permission for drug screening and release to speak with other practitioners concerning the patient's condition or treatment;

(b) Cooperation with pill counts or other checks designed to assure compliance with the treatment plan and to minimize the risk of misuse or diversion;

(c) The understanding that the patient shall only receive opioid medications from the physician treating the chronic pain unless there is written agreement among all of the prescribers of opioids outlining the responsibilities and boundaries of prescribing for the patient; and

(d) The understanding that the dosage may be tapered if not effective or if the patient does not abide by the treatment agreement.

(2) Offer a prescription for naloxone to the patient as described in paragraph (B) of this rule.

(3) Except when the patient was prescribed an average daily dosage that exceeded eighty MED before the effective date of this rule, obtain at least one of the following based upon the patient's clinical presentation:

(a) Consultation with a specialist in the area of the body affected by the pain;

(b) Consultation with a pain management specialist;

(c) Obtain a medication therapy management review; or

(d) Consultation with a specialist in addiction medicine or addiction psychiatry if aberrant behavior indicating medication misuse or substance use disorder may be present.

(E) The physician shall not prescribe a dosage that exceeds an average of one hundred twenty MED per day. This prohibition shall not apply in the following circumstances:

(1) The physician holds board certification in pain medicine or board certification in hospice and palliative care;

(2) The physician has received a written recommendation for a dosage exceeding an average of one hundred twenty MED per day from a board certified pain medicine physician or board certified hospice and palliative care physician who based the recommendation on a face-to-face visit and examination of the patient. The prescribing physician shall maintain the written recommendation in the patient's record; or

(3) The patient was receiving an average daily dose of one hundred twenty MED or more prior to the effective date of this rule. The physician shall follow the steps in paragraph (E)(2) of this rule prior to escalating the patient's dose.

(F) During the course of treatment with an opioid analgesic at doses below the average of fifty MED per day, the physician shall provide periodic follow-up assessment and documentation of the patient's functional status, the patient's progress toward treatment objectives, indicators of possible addiction, drug abuse or drug diversion and the notation of any adverse drug effects.

(G) During the course of treatment with an opioid analgesic at doses at or above the average of fifty MED per day, the physician shall complete and document in the patient record the following no less than every three months:

(1) Review of the course of treatment and the patient's response and adherence to treatment.

(2) The assessment shall include a review of any complications or exacerbation of the underlying condition causing the pain through appropriate interval history, physical examination, any appropriate diagnostic tests, and specific treatments to address the findings.

(3) The assessment of the patient's adherence to treatment including any prescribed non-pharmacological and non-opioid treatment modalities;

(4) Rationale for continuing opioid treatment and nature of continued benefit, if present.

(5) The results of an OARRS check in compliance with rule [4731-11-11](#) of the Administrative Code.

(6) Screening for medication misuse or substance use disorder. Urine drug screen should be obtained based on clinical assessment of the physician with frequency based upon presence or absence of aberrant behaviors or other indications of addiction or drug abuse.

(7) Evaluation of other forms of treatment and the tapering of opioid medication if continued benefit cannot be established.

(H) This rule does not apply to the physician who prescribes an opioid in any of the following situations:

(1) The medication is for a patient in hospice care.

(2) The patient has terminal cancer or another terminal condition, as that term is defined in section [2133.01](#) of the Revised Code.

(I) This rule does not apply to inpatient prescriptions as defined in Chapter 4729. of the Revised Code.

Replaces: 4731-21-02, 4731-21-06

Effective: 12/23/2018

Five Year Review (FYR) Dates: 12/23/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.052](#), [4731.05](#), [4730.39](#), [4730.07](#), [3719.062](#)

Rule Amplifies: [3719.062](#), [4731.052](#), [4730.39](#)

Prior Effective Dates: 11/11/1998, 11/30/2008, 8/31/2017

Chapter 4731-13 Hearings

4731-13-01 Representatives; appearances.

(A) As used in this chapter of the Administrative Code:

(1) "Respondent" means a person who is requesting or has requested a hearing as provided in Chapter 119. of the Revised Code.

(2) "Representative of record" means one person designated by each party to be the party's agent for purposes of receipt of service pursuant to this chapter of the Administrative Code.

(3) "Hearing" means the adjudication hearing held pursuant to Chapter 119. of the Revised Code when a hearing is requested by an applicant or licensee for whom the Board has proposed formal action under Sections [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#), or [4778.14](#) of the Revised Code.

(4) "Summary Suspension" means the pre-hearing suspension of the license under division (G) of section [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#), or [4778.14](#) of the Revised Code.

(B) The respondent may represent himself or herself or may be represented by an attorney or attorneys who shall be admitted to the practice of law in Ohio. Each attorney representing the respondent shall enter his or her appearance in writing. The respondent may authorize his or her attorney or attorneys to represent the respondent in all facets of a hearing before the board. .

(C) If the respondent is self represented, he or she shall be deemed the representative of record for purposes of service pursuant to this chapter of the Administrative Code. If the respondent is represented by one attorney, that attorney shall be deemed the representative of record for purposes of service pursuant to this chapter of the Administrative Code. If the respondent is represented by more than one attorney, the respondent shall designate one of those attorneys as the representative of record for purposes of service pursuant to this chapter of the Administrative Code.

(D) Each representative from the office of the attorney general shall enter his or her appearance in writing. The office of the attorney general shall identify one attorney from that office as the representative of record for purposes of service pursuant to this chapter of the Administrative Code.

(E) The respondent shall not be required to appear personally at any hearing provided he or she has not been subpoenaed. If a respondent has not been subpoenaed to appear at hearing, a respondent may present his or her position, arguments or contentions in writing.

(F) An attorney who has filed notice of appearance with the board shall withdraw his or her representation of a respondent by filing a written notice of withdrawal with the board.

(G) An attorney who has been designated as a respondent's representative of record for purposes of service pursuant to this chapter of the Administrative Code shall remain the representative of record for that party until a representative of that party files a written notice designating another attorney or the respondent as the representative of record.

(H) Except as otherwise provided under Chapter 119. of the Revised Code, communications from the board or its hearing examiner shall be sent to the representative of record for each party.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#) ; [4731.23](#)

Prior Effective Dates: 6/30/89, 3/17/97; 2/28/04

4731-13-02 Filing request for hearing.

(A) In order to request a hearing pursuant to Chapter 119. of the Revised Code, the respondent or the respondent's attorney or attorneys shall file a written request for a hearing in accordance with rule [4731-13-08](#) of the Administrative Code. The request shall be filed within thirty days of the date of mailing of the board's notice of opportunity for hearing upon which service is perfected, of the date of personal service of the board's notice of opportunity for hearing or of the date of publication of the board's notice of opportunity for hearing in accordance with Chapter 119. of the Revised Code, whichever occurs first. The date of mailing of the board's notice of opportunity for hearing shall be the date postmarked on the certified mail receipt.

(B) A respondent properly filing a request for a hearing, whether personally or by attorney or attorneys, shall be entitled to such hearing within fifteen days but not sooner than seven days after such request has been filed unless both parties agree otherwise or a continuance is granted pursuant to section [119.09](#) of the Revised Code and rule [4731-13-06](#) of the Administrative Code.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-03 Authority and duties of hearing examiners.

(A) Hearings shall be conducted before hearing examiner pursuant to section [4731.23](#) of the Revised Code.

(B) All hearings shall be open to the public, but the hearing examiner conducting a hearing may close the hearing to the extent necessary to protect compelling interests and rights or to comply with statutory requirements. In the event the hearing examiner determines to close the hearing, the hearing examiner shall state the reasons in the public record.

(C) The hearing examiner shall conduct hearings in such a manner as to prevent unnecessary delay, maintain order and ensure the development of a clear and adequate record.

(D) The authority of the hearing examiner shall include, but not be limited to, authority to:

- (1) Administer oaths and affirmations;
- (2) Order issuance of subpoenas and subpoenas duces tecum to require the attendance of witnesses at hearings and depositions in lieu of live testimony and to require the production of evidence for hearings and depositions in lieu of live testimony;
- (3) Examine witnesses and direct witnesses to testify;
- (4) Make rulings on the admissibility of evidence;
- (5) Make rulings on procedural motions, whether such motions are oral or written;
- (6) Hold prehearing conferences;
- (7) Request briefs before, during or following the hearing;
- (8) Prepare entries, proposed findings, proposed orders or reports and recommendations pursuant to rule [4731-13-15](#) of the Administrative Code;
- (9) Make rulings on requests to broadcast, record, televise or photograph the hearing;
- (10) Take such other actions as may be necessary to accomplish the purposes of paragraph (C) of this rule; and

(11) Determine the order in which any hearing shall proceed.

(E) The authority of the hearing examiner shall not include authority to grant motions for dismissal of charges, or modify, compromise or settle charges or allegations.

(F) The hearing examiner shall have such other powers, duties, and authority as are granted by statutes or rules.

(G) All rulings on evidence and motions and on any other procedural matters shall be subject to review by the board upon presentation of the proposed findings of facts and conclusions of law of the hearing examiner. When such rulings warrant, the board may remand the matter to the attorney hearing examiner.

(H) The hearing examiner may assist the board by reviewing the evidence in matters that have been subject to a notice of opportunity for hearing but for which no timely hearing request has been filed. In such matters the hearing examiner may prepare proposed findings and a proposed order for the board's consideration.

(I) Briefs provided under paragraph (D)(7) of this rule shall comply with the requirements set forth in rule 4731-13-07.1 of the Administrative Code.

Effective: 9/30/2018

Five Year Review (FYR) Dates: 7/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#), [119.07](#), [4731.23](#)

Prior Effective Dates: 06/30/1989, 02/28/2004, 07/31/2016

4731-13-04 Consolidation.

Upon motion by either party, or upon the initiative of the hearing examiner, the hearing examiner may consolidate two or more hearings into a single hearing, unless either party objects for good cause .

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.08](#), [119.09](#), [4731.23](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-05 Intervention.

Petitions to intervene shall not be permitted.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 6/30/89

4731-13-06 Continuance of hearing.

(A) Except in matters of summary suspension, the board or the board through its hearing examiner, shall continue the initially scheduled hearing upon its own motion in order to more efficiently and effectively conduct its business unless the circumstances establish that a continuance would not serve the interest of justice. The new hearing date shall be set according to the case management schedule approved by the board for the type of violation alleged and available from the board's website at <http://med.ohio.gov/>. In setting the new hearing date, the hearing examiner shall make a reasonable attempt to obtain input from the parties. Upon motion of at least one of the parties demonstrating extraordinary circumstances, the hearing examiner may approve a special case management schedule.

(B) A hearing shall be continued only with the approval of the board or its hearing examiner based upon a written motion of a party or upon the initiative of the hearing examiner.

(C) A motion for a continuance shall not be granted unless good cause and proper diligence is demonstrated..

(1) Before granting any continuance, consideration shall be given to harm to the public which may result from delay in proceedings.

(2) In no event will a motion for a continuance requested less than fourteen days prior to the scheduled date of the hearing be granted unless it is demonstrated that good cause exists which would justify the granting of a continuance.

(D) No continuance of a hearing for a summary suspension shall be granted without the written agreement of the respondent or the respondent's attorney or attorneys and of the board through its secretary and supervising member.

(E) If a continuance is granted, the entry granting the continuance shall specify the dates to which the hearing is continued and shall be set in accordance with the case management schedule. Upon motion of at least one of the parties demonstrating extraordinary circumstances, the hearing examiner may approve a special case management schedule.

(F) Hearings shall not be continued due to the unavailability of a subpoenaed witness without approval of the hearing examiner.

(1) The hearing examiner may hold the record open to accept a deposition in lieu of live testimony of a subpoenaed witness.

(2) The procedures set forth in rules [4731-13-20](#) and 4731-13- 20.1 of the Administrative Code shall apply to any deposition in lieu of live testimony taken pursuant to this rule.

Replaces: 4731-13-06

Effective: 9/30/2016

Five Year Review (FYR) Dates: 09/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.08](#), [119.09](#), [4731.22](#), [4731.23](#)

Prior Effective Dates: 6/30/89, 3/27/97, 5/31/02, 2/28/04

4731-13-07 Motions.

(A) Except as otherwise provided under Chapter 4731-13 of the Administrative Code or Chapter 119. of the Revised Code, all motions, unless made upon the record at hearing, shall be made in writing. A written motion shall state with particularity the relief or order sought, shall be accompanied by a memorandum setting forth the grounds therefore, and shall be filed in compliance with rule [4731-13-08](#) of the Administrative Code. Except in cases of summary suspensions pursuant to division (G) of section [4731.22](#) of the Revised Code, all prehearing motions except motions for continuance pursuant to rule [4731-13-06](#) of the Administrative Code and motions to quash pursuant to paragraph (F) of rule [4731-13-13](#) of the Administrative Code, shall be made no later than fourteen days before the date of hearing unless express exception is granted by the hearing examiner or by this chapter.

(1) If filed by email, motions and supporting or opposing memoranda shall be filed as attachments to emails, and not be incorporated into the body of the email itself.

(2) All supporting or opposing memoranda shall comply with rule 4731-13-07.1 of the Administrative Code.

(B) All motions, together with any supporting documentation, shall be served as provided in rule [4731-13-09](#) of the Administrative Code.

(C) Any response to a prehearing motion shall be filed within ten days after service of that motion, or at such other time as is fixed by the hearing examiner. A movant may reply to a response only with the permission of the hearing examiner.

(D) Before ruling upon a written motion, the hearing examiner shall consider all memoranda and supporting documents filed. The hearing examiner shall enter a written ruling and shall issue copies to each representative of record. The ruling on all motions made at hearing shall be included in the hearing transcript except where the hearing examiner elects to take the motion under advisement and issue a written ruling at a later time. The hearing examiner shall include in each written ruling on a motion a statement of the reasons therefore.

(E) Except as otherwise provided in this chapter or Chapter 119. of the Revised Code, rulings on all motions filed subsequent to the issuance of the report and recommendation shall be rendered by the board or, if the board is not in session, by its president or the vice president if the president is unavailable acting on its behalf.

(1) Responses to motions shall be filed no later than three days after service of the motion as set forth in the certificate of service attached to the served copy of the motion. A movant may reply to a response only with the permission of the board through its president or vice president if the president is unavailable, and only under extraordinary circumstances, such as an assertion that a material inaccuracy of fact or law was provided in the response.

(2) Motions for extension of time for filing objections shall be filed on or prior to the deadline for filing the objections. A motion for extension of time for filing objections filed after the deadline will not be considered absent extraordinary circumstances, as determined by the board through its president or vice president if the president is unavailable.

Effective: 9/30/2018

Five Year Review (FYR) Dates: 4/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#), [4731.23](#)

Prior Effective Dates: 06/30/1989, 02/28/2004

4731-13-07.1 Form and page limitations for briefs and memoranda.

(A) All hearing briefs provided under paragraph (D)(7) of rule [4731-13-03](#) of the Administrative Code and memoranda filed under rule [4731-13-07](#) of the Administrative Code shall be provided or filed subject to the following requirements:

(1) The body text of a brief or memorandum shall be set in a legible typeface of at least twelve points, either single-spaced or double-spaced.

(2) A brief or memorandum shall not exceed fifteen pages exclusive of the certificate of service and the appendix unless an exception is granted in advance pursuant to paragraph (A)(3) of this rule.

(3) Upon motion by either party, or upon the initiative of the hearing examiner, the hearing examiner may authorize briefs or memoranda that exceed fifteen pages, up to a maximum of thirty pages exclusive of the certificate of service and the appendix, in matters that involve complex legal issues. Unless made upon the record at hearing, a motion for such a determination shall be filed no later than seven days prior to the deadline for filing the brief or memorandum.

(4) If a reply memorandum is authorized pursuant to paragraph (C) of rule [4731-13-07](#) of the Administrative Code, that memorandum shall not exceed seven pages exclusive of the certificate of service and the appendix.

(B) Briefs provided in contravention of the requirements set forth in paragraph (A) of this rule will be accepted for filing, however, pages beyond the fifteen page limit shall not be considered. Memoranda filed in contravention of the requirements set forth in paragraph (A) of this rule will be accepted for filing.

Effective: 9/30/2018

Five Year Review (FYR) Dates: 09/30/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#), [4731.23](#)

4731-13-08 Filing.

(A) A document is "filed" when it is received and time stamped in the offices of the board. For documents received via e-mail, the time stamp provided by the board's computer shall be the time of receipt. Documents received after five p.m. eastern standard time shall not be considered for filing until the next business day.

(B) An original of any document required to be served by Chapter 4731-13 of the Administrative Code shall be filed with the board not more than three days after service.

(C) All filings shall be addressed to the board to the attention of its hearing unit.

Replaces: 4731-13-08

Effective: 7/31/2016

Five Year Review (FYR) Dates: 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-09 Service.

To be considered by the board and its hearing examiner, any document required by Chapter 4731-13 of the Administrative Code to be served shall:

(A) Be served either personally, by regular mail, by facsimile, or by e-mail. Service is complete on the date of mailing, e-mailing, facsimile or personal service of the document.

(B) Contain the name, address, and telephone number of the person submitting the document and shall be appropriately captioned to indicate the name of the respondent.

(C) Have a certificate of service on it. A certificate of service shall be signed and contain the following:

(1) The date of service;

(2) The method by which service was made;

(3) The address where service was made; and

(4) The name of the person or authority who was served.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-10 Computation and extension of time.

(A) The date of occurrence of the event causing time to run is not counted in the computation of any time limit under Chapter 4731-13 of the Administrative Code. The last day of the period is included in the computation of

the time limit. If the last day of a period is not a regular business day, the time period runs through the end of the next regularly scheduled business day.

(B) The board or its hearing examiner may extend the time for filing or responding to motions and briefs.

(1) Requests for extension of time shall be made in writing and filed as provided in rule [4731-13-08](#) of the Administrative Code prior to the expiration of any applicable time limit.

(2) Requests for extension of time shall be addressed to the attention of the board's hearing unit.

(3) Requests for extension of time shall be served as provided in rule [4731-13-09](#) of the Administrative Code.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-11 Notice of hearings.

Notice specifying the date, time and place set for hearing shall be mailed by certified mail to the representatives of record , except that notice of changes to the date, time or place set for hearing shall be mailed by regular mail, e-mail or facsimile if a representative of each party participated in the selection of the new date, time or place.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-12 Transcripts.

(A) Duplicate transcripts of the stenographic record taken of hearings may be obtained directly from the court reporter at the requestor's expense prior to receipt of the original transcript by the board, except as otherwise restricted by 4731-13-31 of the Administrative Code.

(B) Upon request made to the board's hearing unit, a copy of the original hearing transcripts may be reviewed at the board offices. Additional copies may be prepared at the requestor's expense and shall be provided by the board within a reasonable period of time.

(C) Original transcripts shall not be removed from the board offices.

(D) Any portion of a hearing transcript which contains information that is required to be kept confidential pursuant to any state or federal law shall be sealed and made part of the hearing record. Confidential portions of hearing transcripts shall be provided only to agents of the parties for purposes of the administrative hearing and shall not be disseminated to any other persons.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-13 Subpoenas for purposes of hearing.

(A) Upon written request, the board shall issue subpoenas for purposes of hearing to compel the attendance and testimony of witnesses and production of books, records and papers. Each subpoena shall indicate on whose behalf the witness is required to testify. Copies of such subpoenas shall be issued to each representative of record.

(B) For purposes of a hearing conducted pursuant to Chapter 119. of the Revised Code, subpoena requests shall specify the name and address of the individual to be served and the date and time at which the individual is to appear. With respect to the production of books, records and papers, such request may not specify a date of compliance less than fourteen days prior to hearing.

(C) Except upon leave of the board or its hearing examiner, subpoena requests are to be filed with the board as provided in rule [4731-13-08](#) of the Administrative Code at least twenty-one days in advance of the requested date of compliance in order to allow sufficient time for preparation and service of the subpoenas.

(D) In the event that the number of subpoenas requested appears to be unreasonable, the board or its hearing examiner may require a showing of necessity therefore and, in the absence of such showing, may limit the number of subpoenas. Absent such a limitation, subpoenas shall be issued within seven days of request. Failure to issue subpoenas within this time may constitute sufficient grounds for the granting of a continuance.

(E) After the hearing has commenced the hearing examiner may order the issuance of subpoenas for purposes of hearing to compel the attendance and testimony of witnesses and production of books, records and papers. Copies of such subpoenas shall be issued to each representative of record.

(F) Upon motion and for good cause, the hearing examiner may order any subpoena be quashed. Motions to quash shall be made in the manner provided in rules [4731-13-07](#) and [4731-13-08](#) of the Administrative Code, except that motions to quash shall be filed at least seven days prior to the date of compliance. The non-moving party may file a response no later than five days after service of the motion to quash or at least one day prior to the date of compliance whichever is earlier. Unless a motion to quash has been granted, a witness shall attend the hearing to which he or she was subpoenaed. The board shall make a reasonable attempt to contact any witness whose subpoena has been quashed.

(G) Witnesses shall not be subpoenaed to prehearing conferences.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 6/30/89, 3/27/97, 2/28/04

4731-13-14 Mileage reimbursement and witness fees.

(A) Mileage shall be paid in the same manner as that allowed in the court of common pleas in criminal cases in the county of hearing.

(B) The respondent shall not subpoena him or her self.

(C) Mileage and witness fees shall be returned by anyone who fails to appear at the hearing for which he or she was subpoenaed.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#) ; [119.09](#) ; [119.094](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-15 Reports and recommendations.

(A) Within thirty days following the close of a hearing conducted under Chapter 119. of the Revised Code, the hearing examiner shall submit a written report setting forth proposed findings of fact and conclusions of law and a recommendation of the action to be taken by the board. The hearing shall not be considered closed until such time as the record is complete, as determined by the hearing examiner.

(B) A copy of such written report shall be issued to each representative of record. The copy issued to the respondent's representative of record shall be accompanied by notice of the date the report and recommendation is to be considered by the board.

(C) Either representative of record may, within ten days of receipt of the hearing examiner's report and recommendation, file written objections to the report and recommendation. Only those objections filed in a timely manner shall be considered by the board before approving, modifying, or disapproving the hearing examiner's recommendation, unless otherwise determined by the board.

(D) Upon written request, the board may grant extensions of the time within which to file objections to the report and recommendation. In the event that the board is not in session, the president of the board may grant such extensions.

(E) Unless otherwise determined by the board based upon written motion of a party, the board shall consider the hearing examiner's report and recommendation and any objections thereto at its next regularly scheduled meeting after the time for filing objections has passed. At that time, the board may do any or all of the following: order additional testimony to be taken: permit the introduction of further documentary evidence; or act upon the report and recommendation. For purposes of taking such additional testimony or documentary evidence, the board may remand to the hearing examiner.

(F) Any motion to reopen the hearing record for purposes of introducing newly discovered material evidence that with reasonable diligence, could not have been discovered and produced at the hearing shall be filed in the manner provided in rules [4731-13-07](#) and [4731-13-08](#) of the Administrative Code. Such motion to reopen shall be filed not later than fourteen days prior to the scheduled consideration by the board of the hearing examiner's report and recommendation, unless the newly discovered material evidence, with reasonable diligence, could not have been discovered earlier than fourteen days prior to the scheduled consideration by the board. The other party shall have an opportunity to file, not later than seven days prior to the scheduled consideration by the board of the hearing examiner's report and recommendation, a memorandum contra to said motion.

Any submission of documentation or evidence received by the board after the close of the record and prior to the date of consideration of the hearing examiner's report and recommendation by the board shall be deemed a motion to reopen the record pursuant to this rule. If such motion is filed prior to the issuance of the hearing examiner's report and recommendation, the hearing examiner shall rule on the motion. If such motion is filed subsequent to the issuance of the hearing examiner's report and recommendation, the board shall rule on the motion. All submitted materials must be accompanied by an affidavit from the moving party that sets forth how the evidence is material, how the evidence is newly discovered, and why it could not have been produced at hearing. The affidavit must also show that the party made a reasonably diligent effort to obtain the material prior to hearing. Failure to comply with the requirements of this rule shall result in the exclusion of the submitted material unless the moving party shows good cause and the board votes to admit the document or evidence.

(G) Without leave of the board, no party shall be permitted to address the board at the time of consideration of the hearing examiner's report and recommendation. Any request for such leave shall be filed by motion no less than five days prior to the date the report and recommendation is to be considered by the board. No such leave shall be granted unless the opposing representative of record has been actually notified of the request , unless otherwise determined by the board.

(H) If a request to address the board is granted, the opposing party may also address the board.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#), [4731.23](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-16 Reinstatement or restoration of certificate.

Any disciplinary action taken by the board which results in a suspension from practice shall either lapse by its own terms or contain a written statement of the conditions under which the certificate may be reinstated or restored, unless terms for reinstatement or restoration are otherwise governed by statute.

Such conditions may include but are not limited to:

- (A) Submission of a written application for reinstatement or restoration;
- (B) Payment of all appropriate fees, civil penalties, and fines as provided in Chapter 4731. of the Revised Code;
- (C) Mental or physical examination;
- (D) Additional education or training;
- (E) Reexamination;
- (F) Practice limitations;
- (G) Participation in counseling programs;
- (H) Demonstration that the respondent can resume practice in compliance with acceptable and prevailing standards.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.07](#), [119.09](#), [4731.22](#), [4731.23](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-17 Settlements, dismissals, and voluntary surrenders.

(A) Settlement shall be negotiated on behalf of the board by the secretary and supervising member of the board. Any settlement agreement containing terms not in conformity with the disciplinary guidelines adopted by the board must have the concurrence of the board's president prior to execution.

(B) Any matter which is the subject of a hearing may be settled by the parties. If settlement negotiations continue after the final day of hearing, the parties shall, within ten days of the final day of hearing, jointly present the hearing examiner with written notice specifying a period of time, not to exceed thirty days, during which the record shall be held open for purposes of negotiation.

(1) If the hearing record has closed or closes during the period of time specified in the parties' joint notice, such notice shall toll the hearing examiner's thirty-day time period for issuance of findings of fact and conclusions of law pursuant to section [4731.23](#) of the Revised Code.

(2) If, at the conclusion of the time period specified by the parties' joint notice, the hearing examiner has not received appropriate written notice that a settlement agreement has been executed, the tolling of the hearing examiner's thirty-day period for issuance of findings of fact and conclusions of law shall cease, no further settlement negotiations shall be undertaken, and no settlement agreement shall be executed in lieu of the filing of a report and recommendation by the hearing examiner and the issuance of a final order by the board.

(C) Before being submitted to the board for ratification, all settlement agreements shall be in writing and shall be signed by the respondent and by the respondent's attorney, if any.

(D) Signed settlement agreements shall be submitted to the board for ratification.

(E) If the Board ratifies a settlement agreement, the following shall sign the ratified agreement:

(1) The secretary and supervising member of the board shall sign the ratified agreement.

(2) If the settlement agreement was negotiated prior to the issuance of a notice of opportunity for hearing, an appropriate board staff attorney shall sign the ratified agreement.

(3) If the settlement was negotiated subsequent to the issuance of a notice of opportunity for hearing, an attorney from the office of the attorney general shall sign the ratified agreement..

(F) A notice of dismissal may be entered at any time prior to the filing of the report and recommendation. If negotiations continue after the final day of hearing, the procedures in paragraph (B) of this rule shall be followed. A notice of dismissal shall be authorized and signed by the board's secretary and supervising member.

(G) This rule shall neither apply to nor limit the authority granted the board under division (M) of section [4731.22](#) of the Revised Code with regard to the surrender of a license or certificate or the withdrawal of an application for a license or certificate.

(H) In the event that the board issues an amended notice of opportunity for hearing, the original notice of opportunity for hearing is automatically superseded by the amended notice. To request a hearing pursuant to Chapter 119. of the Revised Code, the respondent must file a new hearing request in response to the amended notice of opportunity for hearing. For purposes of this chapter of the Administrative Code, "amended cite" means a cite in which there has been a substantive alteration to one or more factual allegations or statutory charges, other than correction of a clerical or technical error, that relates to the allegations set forth in the original notice.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.06](#), [119.07](#), [119.09](#), [4731.23](#)

Prior Effective Dates: 6/30/89, 3/27/97, 2/28/04

4731-13-18 Exchange of documents and witness lists.

(A) At the time the hearing examiner schedules the hearing with input from the parties, a case management schedule shall be created which will include the deadline dates for each party to provide a list of both the witnesses and the documents intended to be introduced at hearing.

(B) Upon motion of any party, failure without good cause to provide the list of witnesses and documents by the deadline date established in the case management schedule may result in exclusion from the hearing of such testimony or documents.

(C) The hearing examiner shall set, in the case management schedule, the deadline dates by which the parties shall exchange hearing exhibits, identify lay and expert witnesses and exchange written reports from expert witnesses.

(1) Absent extraordinary circumstances, the failure of a party to produce an exhibit under the terms of the case management schedule shall result in the exclusion of that exhibit from evidence at hearing.

(2) Absent extraordinary circumstances, the failure of a party to identify a lay or expert witness under the terms of the case management schedule shall result in the exclusion of that witness' testimony at hearing.

(3) Absent extraordinary circumstances, the failure of a party to produce a written report from an expert witness under the terms of the case management schedule shall result in the exclusion of the witness' expert testimony at hearing.

(D) A party shall notify the hearing examiner of any deficiency in the materials provided by the other party within a reasonable period of time after discovery of the deficiency.

(E) A party shall notify the hearing examiner of any failure by the other party to comply with a deadline imposed pursuant to this rule within seven days of the failure to comply.

(F) Any witness who intends to testify as an expert, including the respondent, must submit a written report. A written report by an expert shall set forth the opinions to which the expert witness will testify and the bases for such opinions. This paragraph will not preclude the respondent from testifying as a fact witness.

(G) Any exhibit exchanged by the parties which is a patient record or which contains information that is required to be kept confidential pursuant to any state or federal law may be provided only to agents of the parties for purposes of the administrative hearing and shall not be disseminated to any other person or entity.

Replaces: 4731-13-18

Effective: 7/31/2016

Five Year Review (FYR) Dates: 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#) ; [4731.23](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-19 Prehearing conference. [Rescinded].

Rescinded eff 2-28-04

4731-13-20 Depositions in lieu of live testimony.

(A) Upon written motion of any party, and upon service of that motion to the other party's representative of record, the hearing examiner may order that the testimony of a prospective witness be taken by deposition in lieu of live testimony. The hearing examiner may grant the motion if it appears probable that:

(1) The prospective witness will be unavailable to attend or will be prevented from attending a hearing;

(2) The testimony of the prospective witness is material; and

(3) In the case of an expert witness, a showing of the unavailability of the expert to attend shall not be necessary for the hearing examiner's consideration of the motion to take a deposition in lieu of live testimony.

(B) The testimony shall be taken under such conditions and terms as the hearing examiner shall set forth. Moreover, the hearing examiner may order the production of any designated books, papers, documents or tangible objects, so long as not privileged, at the same time and place.

(C) The parties shall agree to the time and place for taking the deposition in lieu of live testimony. Depositions in lieu of live testimony shall be conducted in the same county in which the hearing is conducted unless otherwise agreed to by the parties. If the parties are unable to agree, the hearing examiner shall set the time or fix the place of deposition.

(D) At a deposition in lieu of live testimony taken under this rule, each party shall have the right, as at hearing, to fully examine witnesses.

(E) The transcript of a deposition in lieu of live testimony taken under this rule shall be offered into evidence at hearing. The cost of preparing a transcript of any testimony taken by deposition in lieu of live testimony which is submitted as evidence at the hearing shall be borne by the board.

(F) The expense of any video deposition shall be borne by the requestor.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#); [4731.23](#)

Prior Effective Dates: 6/30/89, 3/27/97, 2/28/04

4731-13-20.1 Electronic testimony.

(A) Upon written motion of any party, and upon service of that motion to the other party's representative of record, the hearing examiner may order that the testimony of a prospective witness be taken by telephonic or real-time video testimony. The hearing examiner may grant the motion if it appears probable that:

- (1) The prospective witness will be unavailable to attend or will be prevented from attending a hearing; and
- (2) The testimony of the prospective witness is material.

(B) The testimony shall be taken under such conditions and terms as the hearing examiner shall set forth. Moreover, the hearing examiner may order the production of any designated books, papers, documents or tangible objects, so long as not privileged, at the same time and place.

(C) The hearing examiner shall set the time and fix the place of telephonic or real-time video testimony.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#); [4731.23](#)

4731-13-21 Prior action by the state medical board.

The hearing examiner shall admit evidence of any prior action entered by the board against the respondent. Such evidence shall include a certified copy of the final order in that prior action, and may also include other certified documents pertaining to that action.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#), [4731.23](#)

Prior Effective Dates: 6/30/89, 3/27/97, 2/28/04

4731-13-22 Stipulation of facts.

Parties may, by stipulation, agree on any or all facts involved in proceedings before the hearing examiner. The hearing examiner may thereafter require development of any fact the hearing examiner deems necessary.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-23 Witnesses.

(A) All witnesses at any hearing before the hearing examiner shall testify under oath or affirmation.

(B) A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent is limited to protection of that witness's rights, and that legal counsel may neither examine nor cross-examine any witnesses.

(C) The board may institute contempt proceedings pursuant to section [119.09](#) of the Revised Code, if a witness refuses to answer a question ruled proper at a hearing or disobeys a subpoena.

(D) For purposes of this chapter:

(1) A sitting board member is an individual who is currently a member of the board.

(2) A presiding board member is a sitting board member who has a decisive role in the outcome of the matter in question and who is neither the secretary nor the supervising member as appointed pursuant to Chapter 4731. of the Revised Code.

(3) A non-presiding board member is a sitting board member who does not have a decisive role in the outcome of the matter in question due to recusal, absence or other reason.

(4) A presiding hearing examiner is a hearing examiner who is assigned to the matter in question pursuant to section [4731.23](#) of the Revised Code.

(5) A non-presiding hearing examiner is a hearing examiner who is not assigned to the matter in question pursuant to section [4731.23](#) of the Revised Code.

(E) Neither a presiding board member nor a presiding hearing examiner shall be a competent witness in any adjudication proceeding. Evidence from other persons relating to the mental processes of a presiding board member or a presiding hearing examiner shall not be admissible.

(F) Unless the testimony of a non-presiding board member or a non-presiding hearing examiner is material to the factual allegations set forth in the notice of opportunity for hearing, neither a non-presiding board member nor a non-presiding hearing examiner shall be a competent witness in any adjudication proceeding.

(G) A sitting board member shall not be subpoenaed to provide expert testimony.

(H) Any party may move for a separation of witnesses. Expert witnesses shall not be separated.

(I) Upon commencement of a hearing, each party shall inform the hearing examiner of the identity of each potential witness for his or her cause who is present in the hearing room. Failure to so identify potential witnesses may be grounds for their later disqualification as witnesses.

(J) A witness may, in the discretion of the attorney hearing examiner, testify as to an ultimate issue of fact. An expert witness may testify regarding the appropriate treatment for impairment.

Effective: 9/30/2016

Five Year Review (FYR) Dates: 05/05/2016 and 09/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#); [4731.23](#)

Prior Effective Dates: 6/30/89, 3/27/97, 2/28/04

4731-13-24 Conviction of a crime.

A certified copy of a plea of guilty to, or a judicial finding of guilt of any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#), [4731.22](#)

Prior Effective Dates: 6/30/89

4731-13-25 Evidence.

(A) The "Ohio Rules of Evidence" may be taken into consideration by the board or its hearing examiner in determining the admissibility of evidence, but shall not be controlling. The "Ohio Rules of Evidence" are readily

available to attorneys and may be found at libraries, bookstores and on the internet at www.supremecourt.ohio.gov/LegalResources/Rules/evidence/

(B) The hearing examiner may permit the use of electronic or photographic means for the presentation of evidence.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#); [4731.23](#)

Prior Effective Dates: 6/30/89; 2/28/04

4731-13-26 Broadcasting and photographing administrative hearings.

If the hearing examiner determines that broadcasting, televising, recording or taking of photographs in the hearing room would not distract participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair administrative hearing, the broadcasting, televising, recording or taking of photographs during hearing proceedings open to the public may be permitted under the following conditions and upon request:

(A) Requests for permission for the broadcasting, televising, recording or taking of photographs in the hearing room shall be made in writing to the hearing examiner prior to the commencement of the hearing, and shall be made a part of the record of the proceedings;

(B) Permission is expressly granted prior to commencement of the hearing in writing by the hearing examiner and is made a part of the record of the proceedings;

(C) If the permission is granted, the hearing examiner shall specify the place or places in the hearing room where operators and equipment are to be positioned;

(D) The filming, videotaping, recording or taking of photographs of witnesses who object thereto shall not be permitted.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 6/30/89, 2/28/04

4731-13-27 Sexual misconduct evidence.

In those cases where sexual misconduct has been alleged:

(A) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's sexual activity with the offender, and only to the extent that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(B) Prior to taking testimony or receiving evidence of any sexual activity of the victim, the hearing examiner shall resolve the admissibility of the proposed evidence in a closed hearing. The victim may be represented by counsel in that hearing or other proceedings to resolve the admissibility of evidence upon approval by the hearing examiner.

(C) Nothing in this rule shall be construed as limiting the authority of the hearing examiner to close a hearing as provided under paragraph (B) of rule [4731-13-03](#) of the Administrative Code.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 10/31/89, 2/28/04

4731-13-28 Supervision of hearing examiners.

The hearing examiners shall perform their duties under the supervision and direction of the board's executive director, provided that the board, other than the secretary and supervising member, shall have exclusive authority to impose discipline based on the substance of the hearing examiners' reports and recommendations.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.05](#), [4731.23](#)

Prior Effective Dates: 3/27/97, 2/28/04

4731-13-29 Requirements for pre-hearing exchange of information. [Rescinded].

Rescinded eff 2-28-04

4731-13-30 Prehearing conference.

With or without written motion from any party, the hearing examiner may schedule a prehearing conference to address any matter related to preparation for or conduct of a hearing. The prehearing conference may be in person or by telephone. No witness testimony shall be taken during a prehearing conference. Any documents presented at the prehearing conference shall be made part of the hearing record. If a transcript of the proceeding is prepared, the transcript shall be made part of the hearing record.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#), [4731.23](#)

Prior Effective Dates: 3/27/97, 2/28/04

4731-13-31 Transcripts of prior testimony.

(A) Any transcript of prior testimony of a witness may be used for the purpose of refreshing the recollection, contradicting the testimony or impeaching the credibility of that witness. If only a part of a transcript is offered into evidence by a party, the other party may offer any other part.

(B) A transcript of testimony and exhibits from a prior proceeding may be introduced for any purpose if that prior proceeding concerns the basis for the board's allegations against the respondent. Upon offering part of a transcript or exhibit from a prior proceeding, the offering party may be required by the other party to present any other part of the offered item which should in fairness be considered contemporaneously with it.

(C) Nothing in this paragraph shall be construed to permit the taking of depositions for purposes other than those set forth in rule [4731-13-20](#) of the Administrative Code.

(D) Nothing in this rule shall be construed to limit the use of a prior statement by a respondent as set forth in rule [4731-13-32](#) of the Administrative Code.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 2/28/04

4731-13-32 Prior statements of the respondent.

Prior statements of the respondent shall not be excluded on the basis of hearsay.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 2/28/04

4731-13-33 Physicians' Desk Reference.

The board or its hearing examiner may utilize the "Physicians' Desk Reference" (PDR) for information regarding the FDA approved labeling for dangerous drugs. The edition(s) of the PDR utilized shall be the edition(s) contemporaneous with the allegations set forth in the notice of opportunity for hearing upon which the hearing is based. The "PDR" is a well-known and readily available text. It may be found at libraries, bookstores or on the internet at www.pdr.net.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 2/28/04

4731-13-34 Ex parte communication.

(A) The members of the board shall base their decisions on any matter subject to hearing only on the evidence of record. No information acquired by a member of the board in any way other than by review of the evidence of record shall be considered by such member in that member's decision on a matter subject to hearing. The receipt of information about a matter subject to hearing outside the evidence of record shall not disqualify the member from participating in the decision on that matter unless the member excuses himself or herself from participation in the decision on the ground that he or she cannot restrict his or her decision on the matter to the evidence of record.

(B) Except as otherwise provided under this chapter or by statute, no hearing examiner or member of the board shall initiate or consider ex parte communications concerning a substantive matter related to a pending hearing. Nothing contained herein, however, shall preclude the hearing examiner from nonsubstantive ex parte communications on procedural matters and matters affecting the efficient conduct of adjudicatory hearings.

(C) The hearing examiner and members of the board shall disclose on the public record the source of any ex parte or attempted ex parte communications pertaining to a substantive issue. If the recipient of the ex parte communication determines that he or she can no longer render an impartial decision, the recipient shall recuse himself or herself from further participation in consideration of the matter.

(D) If requested by any party, the recipient of the ex parte communication shall file with the board an affidavit setting forth the substance of the ex parte communication. The affidavit shall be sealed, held as proffered material and maintained with the hearing record.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 2/28/04

4731-13-35 Severability.

(A) Except as otherwise provided under this chapter or by statute, a rule promulgated under this chapter shall apply only to those administrative proceedings for which the notice of opportunity for hearing was mailed to respondent, or his representative, on or after the effective date of the particular rule.

(B) If any provision of the rules in this chapter of the Administrative Code or if the application of any provision of the rules in this chapter of the Administrative Code is held invalid, the invalidity shall not affect any other provision of the rules in this chapter, or the application of any other provision of the rules in this chapter, that can be given effect without the invalid provision or application, and, to this end, the provisions of the rules in this chapter are hereby declared severable.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [119.09](#)

Prior Effective Dates: 2/28/04

4731-13-36 Disciplinary actions.

For purposes of Chapters 4730., 4731., 4760., 4762., 4774., and 4778. of the Revised Code and Chapters 4730., 4731., 4774., and 4778. of the Administrative Code:

(A) "Permanent revocation" means the permanent loss of a certificate to practice in Ohio and the inability, at any time, to reapply for or hold any certificate to practice in Ohio. An individual whose certificate has been permanently revoked shall forever thereafter be ineligible to hold any certificate to practice, and the board shall not accept from that individual an application for reinstatement or restoration of the certificate or for issuance of any new certificate.

(B) "Revocation" means the loss of a certificate to practice in Ohio. An individual whose certificate has been revoked shall be eligible to submit an application for a new certificate. The application for a new certificate shall be subject to all requirements for certification in effect at the time the application is submitted. In determining whether to grant such an application, the board may consider any violations of Chapters 4730., 4731., 4760., 4762., 4774., and 4778. of the Revised Code, whichever is applicable, that were committed by the individual before or after the revocation of the individual's certificate, including those that formed the basis for the revocation. All disciplinary action taken by the board against the revoked certificate shall be made a part of the board's records for any new certificate granted under this rule.

(C) "Suspension" means the temporary loss of a certificate to practice in Ohio. A suspension shall be imposed for either a definite term or an indefinite term.

(1) An order for a definite term of suspension shall specify the time period of the suspension. A certificate which has been suspended for a definite term shall be reinstated at the conclusion of the specified time period.

(2) An order for an indefinite term of suspension shall contain a written statement of the conditions under which the certificate may be reinstated. Such conditions may include, but are not limited to, the following:

(a) A minimum time period of suspension;

(b) Submission of a written application for reinstatement;

(c) Payment of all appropriate fees, civil penalties, and fines as provided in Chapters 4730., 4731., 4760., 4762., 4774., and 4778. of the Revised Code;

(d) Mental or physical examination;

(e) Additional education or training;

(f) Reexamination;

(g) Participation in counseling programs;

- (h) Demonstration that the certificate holder can resume practice in compliance with acceptable and prevailing standards;
- (i) Satisfactory completion of all terms, conditions or limitations placed upon the certificate holder through a board-approved consent agreement or board order;
- (j) Passage of an examination to determine present fitness to resume practice, pursuant to section [4731.222](#) of the Revised Code; and
- (k) Acceptance of conditions of probation or practice limitations.

(D) "Limitation" means to preclude the certificate holder from engaging in a particular conduct or activity, to impose conditions on the manner in which that conduct or activity may be performed, or to require the certificate holder to abide by specific conditions in order to continue practicing medicine. A limitation shall be either temporary or permanent.

(E) "Probation" means a situation whereby the certificate holder shall continue to practice only under conditions specified by the board. Failure of the certificate holder to comply with the conditions of probation may result in further disciplinary action being imposed by the board. The probation period shall be for either a definite or an indefinite term. If probation is for an indefinite term, the board shall establish a minimum probation period and the board shall release the certificate holder from the conditions of probation upon completion of the minimum probation period and upon the board's determination that the purpose of probation has been fulfilled.

(F) "Reprimand" means the certificate holder is formally and publicly reprimanded in writing.

(G) "No Further Action" means that the board finds that a violation occurred but declines to impose any disciplinary sanction. No further action shall be ordered by the board under circumstances where the board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted.

(H) "Dismissal" means that the board finds that no violation occurred.

(I) "Grant of Application for Certificate" means that the board grants an application for a certificate to practice. In matters where disciplinary violations have been alleged against an applicant for a certificate, the grant of an application for certificate may be accompanied by a suspension, limitation, probation, reprimand or no further action.

(J) "Permanent Denial" and "Permanent Refusal to Register or Reinstate" mean the permanent denial of an application for a certificate to practice in Ohio. An individual whose application for a certificate has been permanently denied shall forever thereafter be ineligible to apply to the board for any certificate to practice, and the board shall not accept from that individual an application for issuance of any certificate.

(K) "Denial" and "Refusal to Register to Reinstate" mean the denial of an application for a certificate to practice in Ohio. An individual whose application for a certificate has been denied shall be eligible to submit a new application for a certificate. The new application shall be subject to all requirements for certification in effect at the time the new application is submitted. In determining whether to grant a new application, the board may consider any violations of Chapters 4730., 4731., 4760., 4762., 4774., and 4778. of the Revised Code, whichever is applicable, that were committed by the individual before or after the denial of the individual's previous application, including those that formed the basis for the denial.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#), [4778.12](#)

Rule Amplifies: [119.09](#), [4730.25](#), [4731.22](#), [4731.23](#), [4760.13](#), [4762.13](#), [4774.13](#), [4778.14](#)

Prior Effective Dates: 2/28/04

Chapter 4731-14 Pronouncement of Death

4731-14-01 Pronouncement of death.

(A) Only an individual holding one of the following current certificates or licenses may pronounce a person dead:

- (1) A certificate to practice medicine and surgery or osteopathic medicine and surgery issued under section [4731.14](#) or [4731.29](#) of the Revised Code;
- (2) A training certificate issued under section [4731.291](#) of the Revised Code;
- (3) A clinical research faculty certificate issued under section [4731.293](#) of the Revised Code;
- (4) A special activities certificate issued under section [4731.294](#) of the Revised Code;
- (5) A certificate of authority to practice as a certified nurse practitioner or clinical nurse specialist issued under section [4723.42](#) of the Revised Code, when the holder acts in compliance with section [4723.36](#) of the Revised Code;
- (6) A license to practice as a registered nurse issued under section [4723.09](#) of the Revised Code, when the holder acts in compliance with section [4723.36](#) of the Revised Code.
- (7) A license to practice as a physician assistant issued under section [4730.12](#) of the Revised Code, when the holder acts in compliance with section [4730.202](#) of the Revised Code;
- (8) A certificate of conceded eminence issued under section [4731.297](#) of the Revised Code;
- (9) A certificate to practice podiatric medicine and surgery issued under section [4731.56](#), [4731.57](#), or [4731.571](#) of the Revised Code.

(B) A physician holding a current certificate to practice medicine or surgery or osteopathic medicine and surgery issued under section [4731.14](#) or [4731.29](#) of the Revised Code may pronounce a person dead without personally examining the body of the deceased only if a competent observer has recited the facts of the deceased's present medical condition to the physician and the physician is satisfied that death has occurred.

(C) For purposes of this rule a competent observer shall mean one of the following:

- (1) A licensed practical nurse holding a current license issued under Chapter 4723. of the Revised Code;
- (2) An EMT-Basic holding a current certificate issued under section [4765.30](#) of the Revised Code;
- (3) An EMT-intermediate holding a current certificate issued under section [4765.30](#) of the Revised Code;
- (4) A EMT - paramedic holding a current certificate issued under section [4765.30](#) of the Revised Code;
- (5) A chiropractor holding a current certificate issued under Chapter 4734. of the Revised Code;
- (6) An individual authorized to pronounce a person dead under paragraph (A) of this rule;
- (7) A coroner's investigator as referenced in section [313.05](#) of the Revised Code.

Replaces: 4731-14-01

Effective: 6/30/2016

Five Year Review (FYR) Dates: 06/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.053](#)

Rule Amplifies: [4723.36](#), [4730.202](#), [4731.053](#), [4731.291](#), [4731.293](#), [4731.294](#), [4731.297](#), [4731.34](#), [4731.51](#)

Prior Effective Dates: 5/10/90, 5/31/02, 2/28/04, 6/30/07

Chapter 4731-15 Reporting Requirements

4731-15-01 Licensee reporting requirement; exceptions.

(A) Licensees of the board shall be required to report as listed below:

(1) Subject to paragraph (B) of this rule, any individual licensed under Chapter 4731. of the Revised Code or any association or society of individuals licensed under Chapter 4731. of the Revised Code shall report to the board a belief that a violation of Chapter 4730., Chapter 4731., Chapter 4760. of Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board has occurred.

(2) Subject to paragraph (B) of this rule, any physician assistant or any association or society of physician assistants shall report to the board a belief that a violation of Chapter 4730. or 4731. of the Revised Code, or any rule of the board has occurred.

(3) Subject to paragraph (B) of this rule, any anesthesiologist assistant or any association or society of anesthesiologist assistants shall report to the board a belief that a violation of Chapter 4731. or 4760. of the Revised Code, or any rule of the board has occurred.

(4) Subject to paragraph (B) of this rule, any acupuncturist or any association or society of acupuncturists shall report to the board a belief that a violation of Chapter 4731. or 4762. of the Revised Code, or any rule of the board has occurred.

(5) Subject to paragraph (B) of this rule, any radiologist assistant or any association of radiologist assistants shall report to the board a belief that a violation of Chapter 4731. or 4774. of the Revised Code, or any rule of the board has occurred.

(B) An individual, association or society shall be relieved of the obligation to report under paragraph (A) of this rule if one of the following requirements is met:

(1) The individual or organization is an approved treatment provider under section [4731.25](#) of the Revised Code or the individual is an employee, agent or representative of an approved treatment provider, and

(a) The practitioner maintains participation in treatment or aftercare in accordance with section [4731.25](#) of the Revised Code and any rules of the board adopted pursuant to that section; and

(b) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760. Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than 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, as provided 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[^] ef division (B)(6) of section [4762.13](#) of the Revised Code, or division (B)(6) of section [4774.13](#) of the Revised Code.

(2) The individual is a member of an impaired practitioner committee, or the equivalent, established by a hospital or its medical staff, or is a representative or agent of a committee or program sponsored by a professional association of individuals licensed under Chapter 4731. of the Revised Code to provide peer assistance to practitioners with substance abuse problems, and

(a) The practitioner has been referred for examination to an approved treatment program;

(b) The practitioner co-operates with the referral for examination and any determination that he or she should enter treatment; and

(c) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760.^ of Chapter 4762.. or Chapter 4774. of the Revised Code, or any rule of the board, other than 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, as provided 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, or division (B)(6) of section [4774.13](#) of the Revised Code.

(3) The individual reasonably believes all of the following:

(a) The practitioner has been referred for examination to an approved treatment program;

(b) The practitioner co-operates with the referral for examination and any determination that he or she should enter treatment; and

(c) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760., or Chapter 4762.. or Chapter 4774. of the Revised Code, or any rule of the board, other than 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, as provided 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, or division (B)(6) of section [4774.13](#) of the Revised Code.

(4) The individual is a member of a review committee described in section [2305.25](#) of the Revised Code and the sole source for the belief that a violation has occurred and there has been evidence or other matters produced or presented during the proceedings of such committee.

(5) The individual is otherwise prohibited from reporting to the board by a superseding state or federal law.

(6) For purposes of this paragraph any individual licensed under Chapter 4730., Chapter 4731., Chapter 4760., or Chapter 4762.. or Chapter 4774. of the Revised Code, or any association or society of individuals so licensed, shall report a practitioner who has, at any time during or following treatment, experienced a relapse, as that term is defined in rule [4731-16-01](#) of the Administrative Code. The relapsing practitioner shall self-report the relapse.

(C) For purposes of paragraphs (B)(1)(b), (B)(2)(c), and (B)(3)(c) of this rule, violations of provisions of Chapter 4730., Chapter 4731., Chapter 4760., or Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than 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, need not be reported if all of the following requirements are met, but if any or all of the following conditions are not met, the individual or organization shall report to the board all violations which are believed to have occurred:

(1) All acts or omissions by the practitioner which would otherwise have constituted violations occurred while the practitioner was impaired; and

(2) The practitioner has not been criminally convicted based on any such acts or omissions; and

(3) There is no reason to believe that such acts or omissions might have an adverse impact on other individuals.

(D) For purposes of section [4730.32](#), section [4731.224](#), section [4760.16](#), section [4762.16](#), or section [4774.16](#) of the Revised Code, and this rule, "reason to believe" or "a belief" does not require absolute certainty or complete unquestioning acceptance, but only an opinion that a violation has occurred based upon firsthand knowledge or reliable information.

(E) Any report required under paragraph (A) of this rule shall be made to the board within forty-eight hours. Reporting of any belief that a violation has occurred to a review committee as described in section [2305.251](#) of the Revised Code or any entity other than the board does not discharge the duty or obligation to report to the board. In cases where the secretary and supervising member determined that peer review is being conducted by a review committee as described in section [2305.251](#) of the Revised Code for purposes of denying, determining, changing or modifying the scope of the licensee's clinical privileges, they may defer further investigation by the board while awaiting the outcome of that peer review.

(F) Any individual licensed by the board or any association or society of individuals who are by the board who reports to the board a belief that a violation of Chapter 4731., Chapter 4730., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board has occurred shall be considered to be reporting pursuant to the requirements of section [4730.32](#), [4731.224](#), [4760.16](#), [4762.16](#), or [4774.16](#) of the Revised Code and shall be immune from civil liability as provided by division (H) of section [4730.32](#), division (H) of section [4731.224](#), division (H) of section [4760.16](#), division (H) of section [4762.16](#), or division (H) of section [4774.16](#) of the Revised Code and paragraph (A) of rule [4731-15-05](#) of the Administrative Code. The individual, association, or society may remain anonymous by complying with all of the following actions:

(1) The individual, association, or society shall request and shall be assigned a confidential identifying number by the board.

(2) The individual, association, or society shall be responsible for notifying the board that he or she is a licensee or is an association or society of licensees and shall be responsible for maintaining the confidential identifying number in order to verify compliance with the reporting obligations of section [4730.32](#) of the Revised Code, section [4731.224](#) of the Revised Code, section [4760.16](#) of the Revised Code, section [4762.16](#) of the Revised Code, or section [4774.16](#) of the Revised Code and this chapter.

(G) Each report pursuant to this rule shall include:

(1) The name of the practitioner or other individual in violation;

(2) The violation which is believed to have occurred; and

(3) The date(s) of and place(s) of occurrence(s), if known.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4760.16](#), [4762.13](#), [4762.16](#), [4774.13](#), [4774.16](#)

Prior Effective Dates: 09/01/1991, 09/01/1999, 02/28/2004, 06/30/2005, 03/31/2010

4731-15-02 Healthcare facility reporting requirement.

(A) The chief administrator or executive officer of any healthcare facility as defined in section [3702.51](#) of the Revised Code, including a hospital, healthcare facility operated by a health insuring corporation, ambulatory surgical facility or similar facility, shall report to the board any formal disciplinary action against any individual licensed under Chapter 4730., 4731., 4760., 4762., or 4774. of the Revised Code within sixty days after its completion.

(B) "Formal disciplinary action" means any procedure resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence, medical malpractice, or drug or alcohol abuse. Clinical privileges means the authorization by the healthcare facility to a person licensed under Chapter 4730, 4731., 4760., 4762., or 4774. of the Revised Code for the provision of health care services.

(C) Formal disciplinary actions shall include:

(1) Summary actions, actions that take effect notwithstanding any appeal rights that may exist and actions that result in an individual surrendering clinical privileges while under investigation during proceedings regarding the action being taken or in return for not being investigated or having proceedings held, resulting in revocation, restriction, reduction, or termination of privileges for the violations or reasons set forth in paragraph (B) of this rule; and

(2) Actions resulting in refusal or denial of clinical privileges for the violations or reasons set forth in paragraph (B) of this rule;

(D) Formal disciplinary actions shall not include any action taken for the sole reason of failure to maintain records on a timely basis, failure to pay dues, or failure to attend staff, department or section meetings.

(E) Formal disciplinary actions need not be reported if:

- (1) The practitioner has been referred for examination to an approved treatment program; and
- (2) The practitioner cooperates with the referral for examination and any determination that he should enter treatment; and

There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than 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, as provided 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, or division (B)(6) of section [4774.13](#) of the Revised Code.

(F) Each report shall include:

- (1) The name and address of the facility reporting;
- (2) The practitioner's name and license number;
- (3) The action taken by the facility;
- (4) The date of the action taken by the facility;
- (5) The effective date of the action taken by the facility; and
- (6) A summary of the underlying facts leading to the action.

(G) A facility's timely filing with the board of a copy of the national practitioner data bank adverse action report shall satisfy the reporting requirement of this rule when, upon contact by the board, the reporting facility verifies that the filing of the report has been approved by the peer review committee which reviewed the case or by the governing board of the facility

(H) Any request for patient records by the board as provided under division (A) of section [4730.32](#) of the Revised Code, division (A) of section [4731.224](#) of the Revised Code, division (A) of section [4760.16](#) of the Revised Code, division (A) of section [4762.16](#) of the Revised Code, or division (A) of section [4774.16](#) of the Revised Code shall be made by certified mail directed to the chief administrator or executive officer of the facility. Failure to provide the board with the requested certified copies of patient records within thirty days of receipt of that request shall constitute a failure to comply with the applicable reporting requirements, unless the board has granted a prior extension in writing.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4760.16](#), [4762.13](#), [4762.16](#), [4774.13](#), [4774.16](#)

Prior Effective Dates: 09/01/2001, 02/28/2004, 03/31/2010

[4731-15-03 Malpractice reporting requirement.](#)

(A) Any insurer providing professional liability insurance or any other entity that seeks to indemnify the professional liability of any person holding a valid certificate issued pursuant to Chapter 4730., 4731., 4760. or 4762. of the Revised Code shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment which exceeds twenty-five thousand dollars.

(B) For purposes of division (D) of section [4730.32](#) of the Revised Code, division (D) of section [4731.224](#) of the Revised Code, division (D) of section [4760.16](#) of the Revised Code, division (D) of section [4762.16](#) of the Revised Code and this rule:

(1) The amount of payment shall mean the aggregate gross settlement, not including court costs or other litigation costs;

(2) The present value of future payments shall be utilized in calculating the aggregate gross settlement in cases of structured payments;

(3) In cases involving multiple defendants where payment exceeds twenty-five thousand dollars but no specific allocation is made in the disposition of the claim, a report shall be filed with the board for each of the defendants upon whose behalf the payment is made;

(4) Payments made solely for damages not arising from patient care need not be reported;

(5) The waiver of an outstanding debt is not construed as a payment.

(C) Each notification to the board shall include the following:

(1) The name and address of the person submitting the notification;

(2) The identity of the insurer or other indemnifying entity;

(3) The name and address of the insured who is the subject of the claim;

(4) The name of the person filing the written claim;

(5) The date of final disposition;

(6) The amount of payment;

(7) If applicable, the identity of the court in which the final disposition took place.

(D) The timely filing of a national practitioner data bank medical malpractice payment report by the insurer with the board shall satisfy the reporting requirement as set forth in paragraphs (A) to (D) of this rule.

(E) The reports received under division (D) of section [4730.32](#) of the Revised Code, division (D) of section [4731.224](#) of the Revised Code, division (D) of section [4762.16](#) of the Revised Code and this rule shall be listed for periodic review by the secretary and supervising member at least once every three months. Based upon that review, they shall determine the need to investigate possible violations of Chapter 4730., or 4731., 4760. or 4762. of the Revised Code or any rule of the board.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#), [4760.16](#), [4762.16](#)

Prior Effective Dates: 09/01/1991, 02/28/2004, 03/31/2010

4731-15-04 Professional society reporting.

(A) Any professional association or society composed primarily of doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, practitioners of the limited branches of medicine, anesthesiologist assistants, physician assistants^ of acupuncturists, or radiologist assistants that suspends or revokes an individual's membership in that society for violations of professional ethics or for reasons of professional incompetence or professional malpractice shall report that action to the board within sixty days after a final decision.

(B) Each report shall include:

- (1) The licensee's name and license number;
- (2) The action taken; and
- (3) A summary of the underlying facts leading to the action.

(C) A professional association or society that reports an adverse action to the national practitioner data bank (NPDB) may satisfy the reporting requirement of this rule by timely filing a copy of the NPDB adverse action report with the board.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: 4730.007, [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#)

Rule Amplifies: [4730.32](#), [4731.224](#), [4760.16](#), [4762.16](#), [4774.16](#)

Prior Effective Dates: 09/01/1991, 02/28/2004, 03/31/2010

4731-15-05 Liability; reporting forms; confidentiality and disclosure.

(A) Any person, health care facility, association, society, or insurer who reports to the board or who refers an impaired practitioner to an approved treatment program shall not be subject to suit for civil damages as a result of the report, referral, or provision of information.

(B) The board shall provide, upon request, forms for reporting under the provisions of section [4730.32](#) of the Revised Code, section [4731.224](#) of the Revised Code, section [4760.16](#) of the Revised Code, section [4762.16](#) of the Revised Code, section [4774.16](#) of the Revised Code, and this chapter of the Administrative Code.

(C) When a national practitioner data bank report form is accepted by the board for the purpose of satisfying the requirements of section [4731.224](#) of the Revised Code and this chapter of the Administrative Code, the board shall redact the following information prior to disclosing the report as authorized under section [4731.224](#) of the Revised Code and this chapter of the Administrative Code:

- (1) National practitioner data bank identification number of the reporting entity, and
- (2) All national practitioner data bank references and federal form indicia.

(D) Summaries, reports, and records received and maintained by the board pursuant to section [4730.32](#) of the Revised Code, section [4731.224](#) of the Revised Code, section [4760.16](#) of the Revised Code, section [4762.16](#) of the Revised Code, section [4774.16](#) of the Revised Code and this chapter of the Administrative Code shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters which are the subject of such reporting to the board.

(1) The board may only disclose the summaries and reports to hospital committees which are involved in or recredentialing the practitioner or in reviewing the practitioner's clinical privileges, and in credentialing or recredentialing or reviewing the clinical privileges of the supervising physician of a practitioner licensed pursuant to Chapter 4730., 4760., 4762., or 4774. of the Revised Code. Such disclosure may be made through an independent credentialing service if the service merely communicates the information to the hospital committees and maintains strict confidentiality as provided in a written agreement with the board.

(2) Reports filed by an individual licensee pursuant to division (B) of section [4730.32](#) of the Revised Code, division (B) of section [4731.224](#) of the Revised Code, division (B) of section [4760.16](#) of the Revised Code, division (B) of section [4762.16](#) of the Revised Code, division (B) of section [4774.16](#) of the Revised Code and rule [4731-16-01](#) of the Administrative Code shall not be disclosed.

(E) Except for reports filed by an individual licensee pursuant to division (B) of section [4730.32](#) of the Revised Code, division (B) of section [4731.224](#) of the Revised Code, division (B) of section [4760.16](#) of the Revised Code, division (B) of section [4762.16](#) of the Revised Code, division (B) of section [4774.16](#) of the Revised Code and rule [4731-15-01](#) of the Administrative Code, a copy of any reports or summaries received by the board pursuant to

section [4730.32](#) of the Revised Code, section [4731.224](#) of the Revised Code, section [4760.16](#) of the Revised Code, section [4762.16](#) of the Revised Code, section [4774.16](#) of the Revised Code and Chapter 4731-15 of the Administrative Code shall be sent to the practitioner by the board. The certificate holderpractitioner shall have the right to file a statement with the board concerning the correctness or relevance of the information. Such statement, upon receipt by the board, shall at all times accompany that part of the record in contention.

(F) The board need not accept reports, summaries, or statements that consist of or include proceedings or records of review committees as described in section [2305.25](#) of the Revised Code. If the board determines that materials submitted are unacceptable, it shall return those materials to the submitting individual or entity, and provide an opportunity for submission of appropriate materials.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4760.13](#), [4760.16](#), [4762.13](#), [4762.16](#), [4774.13](#), [4774.16](#)

Prior Effective Dates: 09/01/1991, 02/28/2004, 03/31/2010

Chapter 4731-16 Impaired Practitioners

4731-16-01 Definitions.

As used in this chapter of the Administrative Code:

(A) "Impairment" means 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. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.

(B) "Relapse" means any use of, or obtaining for the purpose of using, alcohol or a drug or substance that may impair ability to practice, by someone who has received a diagnosis of and treatment for chemical dependency or abuse, except pursuant to the directions of a treating physician who has knowledge of the patient's history and of the disease of addiction, or pursuant to the direction of a physician in a medical emergency. An instance of use that occurs during detoxification treatment or inpatient or residential treatment before a practitioner's disease of addiction has been brought into remission does not constitute a relapse.

(C) "Approved treatment provider" means a treatment provider approved pursuant to section [4731.25](#) of the Revised Code and this chapter of the Administrative Code.

(D) "The board" means the state medical board of Ohio.

(E) "Sobriety" means abstinence from alcohol, and from drugs or substances that may impair ability to practice, except pursuant to the directions of a treating physician who has knowledge of the patient's history and of the disease of addiction, or pursuant to the direction of a physician in a medical emergency.

(F) "Order" for a controlled substance or other drug means a preprinted order or standing order as defined in rule [4729-5-01](#) of the Administrative Code.

(G) "Impaired physician committee" includes health committees, physician assistance committees, peer support committees, and similar bodies.

(H) "Massage therapist or cosmetic therapist" means a person who holds or has applied for a certificate to practice massage therapy or cosmetic therapy, or both, and who does not currently hold or have a pending application for any other certificate issued by the board.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007, 01/31/2009

4731-16-02 General procedures in impairment cases.

(A) Should the board have reason to believe that any licensee or applicant suffers from impairment, as that term is used 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, it may compel the individual to submit to a mental or physical examination, or both.

(1) Such examinations shall be undertaken by an approved treatment provider designated by the board.

(2) The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired.

(3) Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual's control.

(B) In cases where the only disciplinary action initiated against the individual is for violation of 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 the following general pattern of action shall be followed:

(1) Upon identification by the board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations as set forth in paragraph (A) of this rule. The examination must meet all requirements of rule [4731-16-05](#) of the Administrative Code.

(a) If the examination or examinations fail to disclose impairment, no action shall be initiated pursuant to 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 unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment.

(b) If the examination or examinations disclose impairment, or if the board has other reliable, substantial and probative evidence demonstrating impairment, the board shall initiate proceedings to suspend the license or deny the applicant. The board may issue an order of summary suspension as provided in division (G) of section [4730.25](#) of the Revised Code, division (G) of section [4731.22](#) of the Revised Code, division (G) of section [4760.13](#) of the Revised Code or division (G) of section [4762.13](#) of the Revised Code.

(2) The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:

(a) The individual has relapsed during or following treatment;

(b) The individual has applied for or requested treatment in lieu of conviction of a criminal charge or intervention in lieu of conviction of a criminal charge, or has applied for or requested entry into a similar diversion or drug intervention program;

(c) The individual has pled guilty to or has had a judicial finding of guilt of a criminal offense that involved the individual's personal use or abuse of any controlled substance.

(3) Before being eligible to apply for reinstatement of a license suspended under this paragraph the impaired individual must demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's certificate. Such demonstrations 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 all required treatment, as follows:

(i) Except as provided in paragraph (B)(3)(a)(ii) of this rule, the required treatment shall include inpatient or residential treatment that extends a minimum of twenty-eight days with the following exception: If the individual has previously completed an inpatient or residential treatment program of at least twenty-eight days and maintained sobriety for at least one year following completion of that inpatient or residential treatment, the treatment required shall be determined by the treatment provider.

(ii) If the impaired individual is a massage therapist or cosmetic therapist who does not meet the criteria set forth in paragraph (B)(3)(iii) of this rule, the required treatment shall include intensive outpatient treatment meeting the requirements of paragraph (A)(13) of rule [4731-16-08](#) of the Administrative Code. The required intensive outpatient treatment must include a minimum of twenty treatment sessions over no less than five consecutive weeks with the following exception: If the massage therapist or cosmetic therapist has previously completed an intensive outpatient treatment program of at least twenty treatment sessions over no less than five consecutive weeks and has maintained sobriety for at least one year following completion of that intensive outpatient treatment, the treatment required shall be determined by the treatment provider.

(iii) If the impaired individual is a massage therapist or cosmetic therapist who was investigated by the board for possible impairment as part of a previous application for or while holding any certificate issued by the board other

than a certificate to practice massage therapy or cosmetic therapy, the required treatment shall be in compliance with paragraph (B)(3)(a)(i) of this rule.

(b) Evidence of continuing full compliance with an aftercare contract that meets the requirements of rule [4731-16-10](#) of the Administrative Code, and with any consent agreement or order of the board then in effect;

(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 such assessments and shall describe the basis for this determination. A physician who is the medical director of a treatment provider approved under section [4731.25](#) of the Revised Code and this chapter of the Administrative Code may perform such an assessment without prior board approval.

(4) Subject to the provisions of paragraph (D) of this rule, the board may reinstate a license suspended under this paragraph after the demonstration described in paragraph (B)(3) of this rule and after the individual has entered into a written consent agreement which conforms to the requirements set forth in rule [4731-16-06](#) of the Administrative Code, or after the board has issued a final order in lieu of a consent agreement.

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

(C) In cases where the board has initiated a disciplinary action for violations of any provisions of Chapter 4731., Chapter 4730., Chapter 4760. or Chapter 4762. of the Revised Code or any of its rules in addition to 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, the general pattern of action described in paragraph (B) of this rule will be followed with the following exceptions:

(1) If the board permanently revokes a license, the individual shall not be eligible for further consideration for licensure or license reinstatement;

(2) If the board imposes a period of ineligibility for licensure, the individual shall not be eligible for licensure or license reinstatement until the period of ineligibility has lapsed;

(3) If the board imposes an indefinite period of ineligibility, licensure or license reinstatement shall depend upon successful completion of the requirements in paragraphs (B)(3) and (B)(4) of this rule and determination by the board that the period of suspension or ineligibility served is commensurate with the violations found.

(D) Except as provided in this paragraph, an individual who has relapsed during or following treatment shall be ineligible to apply for reinstatement for at least ninety days following the date of license suspension for a first relapse, for at least one year following the date of license suspension for a second relapse, and for at least three years following the date of license suspension for a third relapse. An individual who suffers a relapse, as that term is defined in paragraph (B) of rule [4731-16-01](#) of the Administrative Code, will not be subjected to suspension or other board discipline based on that relapse if all of the following conditions are met:

(1) The relapse was the first ever suffered by the individual;

(2) The relapse occurred under circumstances that the board finds minimized the probability that the individual would either provide patient care while under influence of alcohol or drugs or leave patients without necessary care while under the influence of alcohol or drugs;

(3) The relapse involved a single occasion of use for less than one day;

(4) The individual self-reported the relapse within forty-eight hours in accordance with rule [4731-15-01](#) of the Administrative Code;

- (5) The individual does not thereafter suffer another relapse;
- (6) The board does not obtain evidence of acts, conduct or omissions that would support the imposition of discipline, apart from the relapse itself;
- (7) The relapse does not lead to the individual being charged with any criminal offense;
- (8) The individual reported the relapse to an approved treatment provider within forty-eight hours, submitted to evaluation as requested by the approved treatment provider, and obtained any additional treatment recommended;
- (9) The individual suspended practice until the approved treatment provider reported in writing to the board that it had made a clear determination that the individual was capable of practicing according to acceptable and prevailing standards of care; and
- (10) The approved treatment provider provides the board a full report of the evaluation, and the board's secretary and supervising member decide that there are not circumstances warranting the initiation of disciplinary action.

Replaces: 4731-16-02

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007, 01/31/2009

4731-16-03 Mental or physical impairment. [Rescinded].

Rescinded eff 6-30-07

4731-16-04 Other violations.

For purposes of board disciplinary action for violations of any board rule or any provision of Chapter 4731. Chapter 4730. Chapter 4760. or Chapter 4762. of the Revised Code other than division (B)(26) of section [4731.22](#) of the Revised Code, division (B)(5) of section [4730.25](#) 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, impairment shall not excuse acts which result in conviction or which might, as determined by the board, have an adverse impact on other individuals. Such acts shall constitute independent basis for disciplinary action.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002

4731-16-05 Examinations.

(A) Any examination ordered by the board under division (F)(2) of section [4730.25](#) of the Revised Code, division (B)(26) of section [4731.22](#) of the Revised Code, division (F)(2) of section [4760.13](#) of the Revised Code or division (F)(2) of section [4762.13](#) of the Revised Code in order to determine impairment, or any examination of an applicant for or a holder of a certificate issued under Chapter 4730., Chapter 4731., Chapter 4760. or Chapter 4762. of the Revised Code performed by an approved treatment provider shall include all of the following:

- (1) Urine screening or blood alcohol testing, or both, with legal chain of custody and forensic capability protocol;
- (2) Comprehensive evaluation pertinent to the reasons for referral, including:
 - (a) Complete medical history and physical examination;

(b) Psychiatric evaluation and mental status examination;

(c) Comprehensive chemical use history; and

(3) One of the following assessment standards, as applicable:

(a) Except as provided in paragraph (A)(3)(b) of this rule, observation of the individual in an inpatient setting for at least seventy-two consecutive hours, unless the approved treatment provider diagnoses the individual as chemically dependent and formulates a treatment plan in a shorter time period.

(b) If the individual is a massage therapist or cosmetic therapist who does not meet the criteria set forth in paragraph (A)(3)(c) of this rule:

(i) In-depth assessment, including use of a structured interview, by a physician, registered nurse or nurse practitioner who has specialized training in addiction medicine or treatment of addiction, or by a licensed independent chemical dependency counselor or licensed chemical dependency counselor III;

(ii) Routine laboratory tests, to include complete blood count and liver function studies;

(iii) Corroborating interviews of at least two persons who are close to the individual;

(iv) Administration of the "Beck Depression Inventory" and the "Hamilton Anxiety Survey;" and

(v) Any other requirements as identified by the board or treatment provider. Psychiatric evaluation is not required in an examination administered under this paragraph unless the need for such an evaluation is identified by the board of the treatment provider.

(c) If the individual is a massage therapist or cosmetic therapist who was investigated by the board for possible impairment as part of a previous application for or while holding any certificate issued by the board, observation of the individual in an inpatient setting for at least seventy-two consecutive hours, unless the approved treatment provider diagnoses the individual as chemically dependent and formulates a treatment plan in a shorter time period.

(B) A diagnosis made by an approved treatment provider based on an examination ordered by the board under division (F)(2) of section [4730.25](#) of the Revised Code, division (B)(26) of section [4731.22](#) of the Revised Code, division (F)(2) of section [4760.13](#) of the Revised Code or division (F)(2) of section [4762.13](#) of the Revised Code shall be made solely for the purpose of providing evidence for use by the board. A licensee or applicant who undergoes an examination ordered by the board but who refuses to authorize the treatment provider to release reports or information to the board shall be deemed to have failed to submit to the examination due to circumstances within the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence as provided in division (F)(2) of section [4730.25](#) of the Revised Code, division (B)(26) of section [4731.22](#) of the Revised Code, division (F)(2) of section [4760.13](#) of the Revised Code or division (F)(2) of section [4762.13](#) of the Revised Code.

(C) The report issued pursuant to an examination ordered by the board shall be submitted to the board within five days following completion of the examination.

(D) The board may require the certificate holder or applicant to submit to a drug toxicology screen at the time it serves its order to submit to an examination or at any time after it issues the examination order and before the examination is completed.

(1) The drug toxicology screen shall be considered part of the examination.

(2) Refusal to submit to the drug toxicology screen immediately upon such request shall constitute failure to submit to a mental or physical examination ordered by the board and shall constitute an admission of the allegations against the individual, unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence.

(E) An individual ordered by the board to an examination who refuses to authorize the treatment provider to contact any person identified by the treatment provider as being appropriate for the purpose of conducting a corroborating interview as part of the examination shall be deemed to have failed to submit to the examination due to circumstances within the individual's control, and a default and final order may be entered into without the taking of testimony or presentation of evidence.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 10/31/1995, 09/01/1999, 11/30/2002, 06/30/2007, 01/31/2009, 04/30/2009

4731-16-06 Consent agreements and orders for reinstatement of impaired practitioners.

(A) The written consent agreement required under division (F)(2) of section [4730.25](#) of the Revised Code, division (B)(26) of section [4731.22](#) of the Revised Code, division (F)(2) of section [4760.13](#) of the Revised Code or division (F)(2) of section [4762.13](#) of the Revised Code and rule [4731-16-02](#) of the Administrative Code prior to reinstatement of a suspended license, or any board order entered in lieu of a consent agreement, shall require, at a minimum, the following probationary and limiting terms:

- (1) Obedience of all federal, state, and local laws, and all rules governing practice in Ohio;
- (2) Submission of quarterly declarations under penalty of perjury stating whether there has been compliance with all conditions of the consent agreement;
- (3) Periodic appearances before the board or its representatives as requested;
- (4) Notification to the board of departures or absences from Ohio. Periods of departure or absence shall not reduce the probationary term, unless otherwise determined by motion of the board for absences of three months or longer, or by the secretary or the supervising member of the board for absences of less than three months, in instances where the board can be assured that probationary monitoring is otherwise being performed;
- (5) Maintenance of a log of all controlled substances, and other drugs as directed by the board, which the practitioner prescribes, orders, personally furnishes, or administers, where appropriate;
- (6) Prohibition of authority to prescribe, administer, personally furnish, order, or possess controlled substances and, as directed by the board, other substances which may impair ability to practice, where appropriate;
- (7) Abstinence from the use of alcohol;
- (8) Abstinence from the use or personal possession of drugs, except those prescribed, administered, or dispensed by another person so authorized by law who has knowledge of the patient's history and of the disease of addiction;
- (9) Submission of witnessed urine or blood samples upon request of the board, and without prior notice;
- (10) Undertaking and maintaining participation in a self help support group acceptable to the board, such as alcoholics anonymous or narcotics anonymous, with evidence of compliance to be provided to the board in each quarterly report;
- (11) Undertaking psychiatric evaluation, and, where appropriate, continuing treatment acceptable to the board, with evidence of compliance to be provided in each quarterly report;
- (12) Monitoring of progress and status by a physician approved by the board, with reports to be provided to the board quarterly;
- (13) Prior approval by the board of any practice arrangements or any health care field employment, where appropriate;

(14) Copies of the agreement to be provided by the individual to all of the following during the effective period of the agreement or board order:

(a) All employers or prospective employers, entities with which the individual contracts or seeks to contract to provide health services or receive training, the chief of staff at each hospital where the individual has or applies for privileges, and all persons and entities that provide the individual chemical dependency treatment or monitoring; and

(b) By certified mail, the proper licensing authority of any state or jurisdiction in which the individual holds or applies for any professional license.

(15) Contacting an appropriate impaired physicians committee, such as the physician health program, to arrange for assistance in recovery or aftercare;

(16) Continuing compliance with the terms of the aftercare contract entered into with the treatment provider, provided, that where terms of the aftercare contract conflict with the terms of the consent agreement or board order, the terms of the consent agreement or board order shall control;

(17) Continuing authorization, through appropriate written consent forms, for disclosure by the treatment provider to the board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations;

(18) Minimum probationary term of at least five years, except that a practitioner who first applies for licensure or license restoration after receiving treatment for impairment may be given probation of less than five years if the practitioner demonstrates continuous current sobriety of more than one year but less than five years, and a practitioner who first applies for licensure or license restoration after receiving treatment for impairment may be licensed without probation if the practitioner demonstrates continuous current sobriety of at least five years;

(19) Periods during which the probationer is not in compliance with all probationary terms, or during which all probationary monitoring provisions have not yet been implemented, as determined by the secretary of the board, shall not reduce the term of probation;

(20) No requests by the probationer for modifications to probationary terms for at least one year; and

(21) Prohibition of consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

(B) A violation of any term of the consent agreement or board order described in this rule shall constitute grounds to take disciplinary action in accordance with Chapter 119. of the Revised Code.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007

4731-16-07 Treatment provider program obligations.

(A) In order to hold a certificate of good standing pursuant to this chapter of the Administrative Code, a treatment provider must:

(1) 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;

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

- (3) 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;
 - (4) Require a practitioner to suspend practice upon entry into any required inpatient treatment;
 - (5) 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 contract during aftercare;
 - (6) 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;
 - (7) Require that each practitioner who has completed treatment signs an aftercare contract with an approved treatment provider within one week of completion of treatment;
 - (8) 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 physicians committees of all health care institutions at which the practitioner holds clinical privileges. 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 physicians 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 physicians 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;
 - (9) Report to the board the identity of any practitioner who suffers a relapse;
 - (10) Fulfill all recordkeeping requirements applicable under state and federal laws, including the requirements set forth in paragraphs (C) and (D) of this rule; and
 - (11) In furtherance of paragraphs (A)(5), (A)(6), (A)(8), and (A)(9) of this rule, the treatment provider shall require every practitioner who submits for an evaluation or enters treatment to execute a release with respect to issuance of the reports enumerated therein.
- (B) The treatment provider shall not report to the board the identity of a practitioner who has been referred for evaluation or treatment by a party other than the board, so long as the practitioner maintains participation in accordance with requirements of section [4731.25](#) of the Revised Code and the practitioner has not suffered a relapse as defined in section [4731-16-01](#) of the Administrative Code.
- (C) The treatment provider shall complete and maintain records, separate from all other records, containing the following information for each practitioner seen for evaluation or treatment:
- (1) Date of referral and identity of referral source;
 - (2) Date of admission for evaluation;
 - (3) Date treatment recommendations are made;
 - (4) Date referral source is notified of treatment recommendations;
 - (5) Beginning and ending dates of each treatment phase (e.g. - inpatient, intensive outpatient, extended residential treatment, and aftercare);
 - (6) Dates of all reports made under paragraph (A)(8) of this rule, and identities of individuals to whom made;
 - (7) Dates and sources of information received, if any, indicating there are grounds to believe the practitioner has relapsed during or following aftercare;

(8) In the event of the practitioner's refusal to execute appropriate releases under paragraph (B) of this rule, or in the event of revocation of such releases, the date that the referral source is notified that no further information can be given regarding that practitioner under federal law; and

(9) In the event the treatment provider is required to report to the board pursuant to one of the provisions of paragraph (A) of this rule, such report shall be made by telephone to the board's executive director or the executive director's designee as soon as practicable, and confirmed by letter mailed within seventy-two hours after the reporting requirement arises.

(D) No later than two weeks following the end of each one year period during which the treatment provider has held a certificate of good standing under this chapter of the Administrative Code, the treatment provider shall file with the board a report containing all of the following information for that year:

- (1) Number of practitioners referred for evaluation; (including self-referrals);
- (2) Number of practitioners evaluated;
- (3) Number of referral sources by category (e.g., - self-referrals, board referrals, medical society referrals, referrals by colleagues);
- (4) Number of practitioner evaluations which resulted in treatment recommendations for chemical dependency;
- (5) Number of practitioners treated based on the treatment providers own recommendations;
- (6) Number of practitioners treated based on transfer or referral from other treatment providers;
- (7) Number of practitioners who entered each phase of treatment;
- (8) Number of practitioners engaged in each phase of treatment (including those who began treatment in prior years);
- (9) Number of practitioners who successfully completed each phase of treatment;
- (10) Number of practitioners discharged from each phase of treatment other than upon successful completion, and the rationale for each such discharge;
- (11) Number of practitioner relapses identified during aftercare and following aftercare;
- (12) Number and names of practitioners reported to the board under this chapter of the Administrative Code; and
- (13) Number and identities of referral sources notified of the treatment provider's inability to release information under federal law.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007

4731-16-08 Criteria for approval.

(A) Criteria for approval of treatment providers shall include all of the following:

- (1) The philosophy and individualized treatment plan of the program is based on the disease concept.
- (2) The chemical dependency model of treatment is based on a twelve-step program such as alcoholics anonymous.
- (3) The program provides specialized medical and nursing care during detoxification and appropriate health care professionals during treatment phase.

- (4) The evaluation process is an objective, measurable program which uses tools and testing procedures to identify patterns, progression, and stages of recovery at appropriate times in the treatment program. The evaluation shall also emphasize patient self-assessment.
- (5) The treatment provider has a network of referral agencies or professionals which meets the needs of the practitioner and significant others in the event that the needs go beyond the program's expertise or available facilities.
- (6) The treatment provider has a variety of treatment plan options including inpatient detoxification treatment, inpatient or residential treatment, and outpatient services.
- (7) The involvement and treatment of family and significant others is provided.
- (8) The provider gives each patient who has been diagnosed as in need of treatment a written list of approved treatment providers from whom indicated inpatient or residential treatment, outpatient treatment, or aftercare can be obtained.
- (9) The provider holds certification as an alcoholism program or drug treatment program by the Ohio department of alcohol and drug addiction services, or if located outside Ohio, holds appropriate certification or registration with an agency exercising a similar function in the state in which it is located.
- (10) The provider provides advocacy services only at no cost to the patient, or provides such services only after obtaining the signature of the patient acknowledging that he or she has been notified:
- (a) That advocacy is not treatment;
 - (b) That nothing in Chapter 4730., 4731., 4760. or 4762. of the Revised Code or this chapter of the Administrative Code requires a practitioner to obtain aftercare, monitoring or advocacy from the provider of inpatient or extended residential treatment or intensive outpatient treatment, as applicable; and
 - (c) That the practitioner's refusal to obtain aftercare, monitoring, or advocacy services from the provider of inpatient treatment or intensive outpatient treatment, as applicable, shall not constitute grounds to report to the board so long as the practitioner demonstrates that the practitioner has contracted with another approved treatment provider to receive any further recommended treatment.
- (11) The provider has the capability of making an initial examination to determine what type of treatment an impaired practitioner requires.
- (12) The provider requires that each patient who is subject to the jurisdiction of the board, who is determined to be impaired, except as provided in paragraph (A)(13) of this rule, complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, during which the patient shall be prohibited by the terms of the treatment contract from conducting any practice or practice related activities, and after which the provider shall evaluate the patient and determine the necessity for further treatment based solely on clinical grounds. The exceptions in paragraph (C) of this rule notwithstanding, the provider must personally provide the required inpatient or residential treatment and the assessment or must confirm that another approved treatment provider has provided the inpatient or residential treatment and the assessment before providing any outpatient treatment or aftercare. The inpatient or residential treatment program must have a continuing inpatient or residential patient census sufficient to provide an appropriate treatment milieu for patients receiving treatment in the inpatient or residential setting. This paragraph shall not apply to a patient who has previously completed an inpatient or residential treatment program of at least twenty-eight days if the patient was able to maintain sobriety for at least one year following completion of that inpatient or residential treatment.
- (13) The provider requires that a massage therapist or cosmetic therapist who is determined to be impaired and who does not meet the criteria set forth in paragraph (A)(14) of this rule, complete a minimum of twenty treatment sessions over no less than five consecutive weeks of intensive outpatient treatment, after which the provider shall evaluate the patient and determine the necessity for further treatment based solely on clinical grounds. The intensive outpatient treatment must include:

- (a) Witnessed toxicology screens with legal chain of custody and forensic capability performed weekly at therapy sessions;
- (b) At least three twelve-step meetings weekly;
- (c) All treatment sessions lasting a minimum of three hours, not including time spent watching videos or participating in twelve-step meetings;
- (d) Family education lasting at least two hours weekly.

(14) The provider requires that a massage therapist or cosmetic therapist who was investigated by the board for possible impairment as part of a previous application or while holding any certificate by the board other than a certificate to practice as a massage therapist or cosmetic therapist, complete the inpatient or residential treatment required in paragraph (A)(12) of this rule.

(15) If the provider did not hold approval under this chapter prior to January 1, 2001, the provider is accredited by the joint commission on accreditation of health care organizations or by CARF (commission on accreditation of rehabilitation facilities.)

(B) A treatment provider which does not meet the criteria of paragraph (A)(1) or (A)(2) of this rule may nonetheless be considered for approval if it establishes by evidence acceptable to the board that its philosophy, individualized treatment plan, or model of treatment is based on current scientific advances in the field of chemical dependency, and that its success in treatment is comparable or superior to that obtained by treatment providers which meet all the criteria of paragraph (A) of this rule.

(C) A treatment provider that does not meet the criteria of paragraph (A)(3) or (A)(6) of this rule because it does not offer all phases of treatment may nonetheless be considered for approval if it meets both of the following requirements.

(1) If it does not offer detoxification treatment, its policies and procedures are structured to assure that all patients who enter treatment have completed detoxification where detoxification is medically indicated.

(2) If it does not offer one or more required treatment phases (e.g. - inpatient treatment, intensive outpatient treatment, or extended residential treatment), it has affiliation agreements or working relationships with other treatment providers to which patients can be referred for any necessary treatment it does not offer.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007, 01/31/2009

4731-16-09 Procedures for approval.

(A) Following receipt of a completed application for program approval, an investigation shall be conducted by the board with respect to whether the requirements of this chapter of the Administrative Code have been met. An on-site inspection of the program may be conducted.

(B) If the board determines that the treatment provider applying meets the requirements set forth in this chapter of the Administrative Code, it shall issue its certificate of good standing.

A certificate of good standing is valid for three years unless suspended or revoked by the board for cause and is valid only for the program approved. It does not cover other programs operated by the owner. Prior to the end of the three-year period, the board will send a renewal application to the treatment provider to be completed and sent back to the board. An on-site visit may be conducted prior to renewal of the certificate.

(C) A certificate of good standing is not transferable.

(D) The treatment provider shall notify the board of any of the following changes prior to their becoming effective and these changes shall result in reevaluation of any certificate of good standing held by the treatment provider:

- (1) Transfer of ownership of the program; or
- (2) Change in location or locations of the program; or
- (3) Change of directorship.

(E) Upon receipt of notice as provided in paragraph (D) of this rule, the board shall forward the appropriate forms in order to initiate review and investigation to determine whether a new certificate of good standing should be issued. An on-site inspection, maintaining program participant confidentiality, may be conducted in the event of a change of program location.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4731.25](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 10/31/1995, 09/01/1999, 09/30/2001, 06/30/2007

4731-16-10 Aftercare contracts.

(A) Within one week of completing treatment, the practitioner shall enter into an aftercare contract with an approved treatment provider.

(B) . The aftercare contract shall include all of the following requirements:

- (1) Group therapy, support groups, or, when appropriate, an individual counseling, or a combination of the above;
- (2) Periodic, random, unannounced blood or urine screens, or both;
- (3) Mandatory participation in alcoholics anonymous, narcotics anonymous, or a similar twelve-step program, or its equivalent;
- (4) Abstinence from use of alcohol;
- (5) Abstinence from use of drugs, except those prescribed, administered or personally furnished by another person so authorized by law who has knowledge of the patient's history and of the disease of addiction, or those administered by another person so authorized by law during a medical emergency;
- (6) Regular contact with a certified alcoholism counselor, or with a physician qualified by training or experience, or both, to treat chemically dependent persons, who assumes responsibility for monitoring defined aspects of aftercare contract compliance, and who agrees to:
 - (a) Report any noncompliance to the treatment provider; and
 - (b) Report any relapse to the treatment provider and the board;
- (7) A length of contract specified with a minimum of at least two years and at least one hundred and four weekly aftercare sessions, with missed sessions to be made up;
- (8) Professional therapy, where indicated, to resolve family and work-related problems;
- (9) Treatment of any ongoing medical problems to be managed by a physician qualified by training or experience, or both, to provide medical care to chemically dependent persons, provided that where such a physician is unavailable due to geographic or other reasonable constraints, treatment shall be managed by a physician in consultation with one so qualified;
- (10) Referral to other forms of extended care, when indicated; and

(11) Any required supervision or restrictions of practice during aftercare.

Replaces: 4731-16-10

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007

4731-16-11 Revocation, suspension, or denial of certificate of good standing.

(A) The board may refuse to issue or renew, suspend, or revoke a certificate of good standing based upon non-compliance with the provisions of this chapter of the Administrative Code or applicable provisions of Chapter 4731. of the Revised Code.

(B) If the board proposes to refuse to issue or renew, suspend, or revoke a certificate of good standing, the applicant or the certificate holder shall be entitled to a hearing on the issue of such proposed denial or such proposed revocation or suspension. Notice and hearing requirements will comply with the provisions of Chapter 119. of the Revised Code and any rules adopted by the board.

(C) In determining the effective date of any suspension or revocation of a certificate, the board shall take into consideration those practitioners currently receiving treatment in the treatment program or by the treatment provider subject to the revocation or suspension.

(D) If the board refuses to renew, suspends or revokes a certificate of good standing, the treatment provider shall be required to notify those practitioners currently receiving treatment in the treatment program that the certificate of good standing has been suspended or revoked.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4731.25](#)

Rule Amplifies: [4731.25](#)

Prior Effective Dates: 12/01/1991, 09/01/1999

4731-16-12 Out-of-state impairment cases.

(A) If the board orders a certificate holder who neither resides nor physically practices in Ohio to submit to an evaluation under division (B)(26) of section [4731.22](#) of the Revised Code, division (F)(2) of section [4730.25](#) of the Revised Code, division (F)(2) of section [4760.13](#) of the Revised Code or division (F)(2) of section [4762.13](#) of the Revised Code, or commences disciplinary proceedings against such a certificate holder based on an alleged violation of any of those divisions, the board may waive any or all applicable provisions of this chapter of the Administrative Code, if it finds that alternative means exist to protect the public. Factors the board may consider in determining whether the public will be adequately protected include, but are not limited to, the following:

(1) Whether the certificate holder is being monitored by the proper licensing authority in the jurisdiction where the certificate holder resides;

(2) Whether the certificate holder has received or is receiving evaluation and treatment from a treatment provider acceptable to the proper licensing authority in the jurisdictions where the certificate holder resides, and whether the treatment provider has agreed to report to the board on the certificate holder's diagnosis and progress in treatment, and to provide the board copies of all reports required to be submitted to the licensing authority in the jurisdiction where the certificate holder resides, if requested by the board;

(3) Whether the certificate holder is being monitored by a monitoring or advocacy group acceptable to the proper licensing authority in the jurisdiction where the certificate holder resides;

(4) Whether the certificate holder's employer or professional associates are aware of the certificate holder's impairment or alleged impairment.

(B) Grant of a waiver or waivers pursuant to this rule shall be conditioned on the certificate holder agreeing by a signed notarized statement to notify the board in writing of any intent to practice medicine or reside in Ohio, to submit to an evaluation by an approved treatment provider at the certificate holder's expense at that time if requested by the board, and to refrain from commencing practice in Ohio without prior board approval.

(C) A certificate holder who neither resides nor practices in Ohio who is diagnosed or treated for chemical abuse or chemical dependency outside Ohio must report that diagnosis or treatment in renewing his or her certificate. A certificate holder who neither resides nor practices in Ohio who relapses must report that relapse immediately, as required by rule [4731-15-01](#) of the Administrative Code.

(D) If a certificate holder self-reports diagnosis or treatment as required by paragraph (C) of this rule, the board may forgo disciplinary action if it determines that the certificate holder:

(1) Has not been subject to discipline in any other jurisdiction;

(2) Is receiving or has completed treatment with a treatment provider acceptable to the medical licensing authority of the jurisdiction in which he or she resides;

(3) Has not relapsed;

(4) Is participating in or has successfully completed participation in a monitoring program or diversion program acceptable to the medical licensing authority of the jurisdiction in which he or she resides.

(E) A certificate holder who neither resides nor practices in Ohio who relocates to Ohio after being diagnosed or treated for chemical abuse or chemical dependency must submit to an evaluation by a treatment provider approved under section [4731.25](#) of the Revised Code and this chapter of the Administrative Code.

(1) If the certificate holder has less than one year documented sobriety at the time of relocation to Ohio, he or she must submit to an evaluation that meets all the requirements of rule [4731-16-05](#) of the Administrative Code, and must complete two years of aftercare and the applicable treatment as required by paragraph (B)(3) of rule [4731-16-02](#) of the Administrative Code.

(2) If the certificate holder has more than one year but less than five years documented sobriety at the time of relocation to Ohio, he or she must submit to an evaluation that the treatment provider determines to be clinically appropriate, and must obtain the treatment recommended by the treatment provider.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 11/30/2002, 06/30/2007, 01/31/2009

[4731-16-13 Duty to report or refer practitioner, execution of release forms.](#)

(A) Licensees, associations, and societies shall report to the board a belief that a licensee suffers from impairment according to rule [4731-15-01](#) of the Administrative Code. Where the duty to report is relieved pursuant to paragraph (B) of that rule, the following requirements apply:

(1) In order to ascertain the status of the practitioner's progress, the licensee, member, representative, or agent shall contact the approved treatment provider to ascertain the licensee's progress at least once weekly during the first four weeks following referral, and at least once monthly thereafter, and

(2) If at any time the approved treatment provider indicates that the licensee has not continued to participate in accordance with section [4731.25](#) of the Revised Code, or if the approved treatment provider refuses to release

information, the member, representative, or agent shall report to the board all information that led to the belief that the licensee suffers from impairment.

(B) A licensee who has been referred to an approved treatment provider shall execute, and shall not revoke, appropriate release forms to allow the referring party to monitor his progress in treatment.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4731.25](#)

Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.25](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 06/30/2007

4731-16-14 Caffeine, nicotine, and over-the-counter drugs.

The provisions of this chapter of the Administrative Code that prohibit use of drugs or substances do not apply to use of caffeinated foods or beverages, to tobacco products containing nicotine, or to the occasional therapeutic use of drugs available over the counter which lack the ability to alter mood or level of consciousness.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4730.25](#), [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 12/01/1991, 09/01/1999

4731-16-15 Patient rights.

(A) An approved treatment provider shall deal honestly with its patients and afford them the dignity and respect to which they are entitled as human beings.

(B) While it is recognized that the high levels of denial and other defenses often displayed by patients in early recovery may necessitate the use of practices which might otherwise be viewed as coercive or heavy handed, an approved treatment provider shall employ such practices solely in the best interest of the patient. Under no circumstances shall such practices be employed to influence a patient to obtain aftercare or other forms of extended care from any particular treatment provider. Such practice may be employed in appropriate cases to influence a patient to obtain needed extended care from any approved treatment provider which has the capability to provide the care indicated.

(C) An approved treatment provider shall maintain complete and accurate records for the benefit of the patient and the provider of any necessary extended residential treatment, aftercare, or counseling.

(D) An approved treatment provider shall disclose to the patient in writing all known or reasonably anticipated costs of extended care which it proposes to render, and afford the patient the opportunity to obtain cost comparisons from other approved treatment providers.

(E) Each patient who falls under the regulatory authority of the state medical board shall be given a written explanation, approved by the board, of the mandatory reporting requirements contained in Chapter 4730., 4731., 4760., or 4762. of the Revised Code.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4731.25](#)

Rule Amplifies: [4731.25](#)

Prior Effective Dates: 12/01/1991, 09/01/1999, 06/30/2007

4731-16-16 Practice prohibition.

(A) No individual licensed pursuant to Chapter 4730., 4731., 4760., or 4762. of the Revised Code shall practice while receiving a controlled substance for the treatment of opioid dependence. A violation of this section shall

constitute "a departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established" as that language is used in division (B)(6) of section [4731.22](#) of the Revised Code, division (B)(19) of section [4730.25](#) of the Revised Code, division (B)(4) of section [4760.13](#) of the Revised Code, and in division (B)(4) of section [4762.13](#) of the Revised Code.

Five Year Review (FYR) Dates: 11/17/2017 and 11/17/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#)

Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 06/30/2007

4731-16-17 Requirements for one-bite program.

(A) "One-bite program" is a confidential program for treatment of impaired practitioners of the medical board established pursuant to section [4731.251](#) of the Revised Code.

(B) "Monitoring organization" is an entity which conducts the one-bite program and performs monitoring services for impaired practitioners under a contract with the medical board.

(C) "One-bite treatment provider" is an entity approved by the board to provide evaluation and treatment to impaired practitioners participating in the one-bite program.

(D) "Continuing care provider" is an entity approved by the board to provide continuing care to impaired practitioners participating in the one-bite program pursuant to rule 4731-16-21 of the Administrative Code.

(E) Licensees of the board who may be impaired in the ability to practice in accordance with acceptable and prevailing standards of care and who want to participate in the one-bite program shall complete the following requirements:

(1) The licensee shall register with the monitoring organization under contract with the board and obtain a list of the one-bite program treatment providers approved by the board.

(2) If the licensee reports directly to an approved treatment provider, the licensee shall register with the monitoring organization upon referral from the approved treatment provider.

(3) The treatment provider shall conduct an evaluation in accordance with rule [4731-16-05](#) of the Administrative Code.

(4) The treatment provider shall provide the information regarding the diagnosis and eligibility determination to the monitoring organization for confirmation of eligibility.

(5) If the licensee is determined to be impaired and not to be eligible for the one-bite program, the licensee, the monitoring organization and the treatment provider shall report this information to the board.

(F) Once a licensee is determined to be impaired and eligible for the one-bite program, the licensee shall, within three days, report to an approved treatment provider for treatment. The treatment provider shall develop an individualized treatment plan that may include a combination of inpatient, residential, partial hospitalization and/or intensive outpatient treatment.

(1) The licensee shall be required to immediately suspend practice for a minimum of thirty days. The licensee shall suspend practice until the licensee is determined to be able to practice according to acceptable and prevailing standards by the treatment provider and the medical director of the monitoring organization.

(2) The treatment provider shall notify the board and monitoring organization of any licensee who returns to work prior to obtaining the release from the treatment provider and the monitoring organization medical director.

(3) The treatment provider shall notify the board and monitoring organization of any licensee who does not successfully complete the prescribed treatment.

(G) Within one week after successful completion of treatment, the monitoring organization shall ensure that the licensee has entered into an agreement with a board approved continuing care provider.

(1) The monitoring organization shall confirm that the licensee completes continuing care sessions at least one time per week for at least six months following the release from treatment.

(2) The licensee must continue the weekly continuing care meetings until released by the continuing care provider and the medical director of the monitoring organization.

(H) In order to continue participation in the one-bite program, after successful completion of treatment, the licensee shall enter into an agreement with the monitoring organization for monitoring for at least five years. An individual who chooses not to continue in the one-bite program will be subject to the procedures in rule [4731-16-02](#) of the Administrative Code.

(1) The licensee shall be required to provide random, observed toxicology screenings of biological materials, including but not limited to, blood, urine, hair, saliva, breath, or fingernail samples for drugs and alcohol as directed by the monitoring organization with a minimum of two random, observed toxicology screenings per month.

(2) The licensee shall attend drug and alcohol support group meetings (e.g. alcoholics anonymous or narcotics anonymous) as directed by the monitoring organization with a minimum of attendance at ten meetings per month.

(3) The licensee shall be released from monitoring by the medical director of the monitoring organization upon successful completion of monitoring.

(I) Any relapse as defined in paragraph (B) of rule [4731-16-01](#) of the Administrative Code / shall be reported to the board by the medical director of the monitoring organization and the licensee.

(J) The board shall develop guidelines in collaboration with the monitoring organization for the reporting of non-compliance with conditions of the one-bite program. Non-compliance shall be reported to the board by the licensee and the medical director of the monitoring organization.

Effective: 1/31/2019

Five Year Review (FYR) Dates: 01/31/2024

Promulgated Under: [119.03](#)

Statutory Authority: [4731.251](#), [4731.05](#)

Rule Amplifies: [4731.251](#), [4731.252](#)

4731-16-18 Eligibility for one-bite program.

(A) An individual who holds a license issued by the board to practice as a physician, massage therapist, cosmetic therapist, physician assistant, anesthesiologist assistant, radiology assistant, acupuncturist, oriental medicine practitioner, genetic counselor, dietitian, or respiratory care therapist shall be eligible for the one-bite program if all the following requirements are met:

(1) The licensee has been diagnosed with substance use disorder and is impaired in ability to practice in accordance with acceptable and prevailing standards of care.

(2) The licensee has not previously participated in the one-bite program or the reporting exemption under Chapter 4731-15 of the Administrative Code;

(3) The licensee has not had any prior disciplinary action for substance use disorder or impairment by a licensing board in Ohio.

(B) A licensee who fails to complete the program requirements of the one-bite program shall not be eligible for continued participation.

(C) A licensee who relapses, as that term is defined in rule [4731-16-01](#) of the Administrative Code, shall not be eligible for continued participation in the one-bite program.

(D) Participation in the one-bite program does not exempt a licensee from being reported for or subject to discipline under any other violation of the board's statutes and rules.

Effective: 1/31/2019

Five Year Review (FYR) Dates: 01/31/2024

Promulgated Under: [119.03](#)

Statutory Authority: [4731.51](#), [4731.05](#)

Rule Amplifies: [4731.51](#), [4731.52](#)

4731-16-19 Monitoring organization for one-bite program.

(A) The board shall enter into a contract with a monitoring organization to monitor licensees participating in the one-bite program. The monitoring organization shall meet the following criteria:

(1) The monitoring organization shall meet the requirements of section [4731.251](#) of the Revised Code.

(2) The monitoring organization shall provide licensees with a list of treatment providers approved for the one-bite program for the evaluation pursuant to rule [4731-16-05](#) of the Administrative Code.

(3) The medical director of the monitoring organization shall, along with the medical director of the treatment provider, review and determine whether a licensee is able to practice according to acceptable and prevailing standards of care.

(4) The medical director of the monitoring organization shall, along with the continuing care provider, review and determine whether a licensee is eligible for release from continuing care.

(5) The monitoring organization shall enter into monitoring agreements with licensees participating in the one-bite program.

(6) At the request of the board, the medical director of the monitoring organization, or his or her designee, shall provide testimony in any disciplinary proceeding involving a licensee reported to the board by the monitoring organization

(B) The agreements between the monitoring organization and licensee shall establish the monitoring terms for at least five years.

(1) The agreement shall provide that the licensee is required to participate in random observed toxicology screenings of biological materials, including but not limited to blood, urine, hair, saliva, breath, or fingernail samples for drugs or alcohol no less than two times per month.

(2) The agreement shall provide that the licensee shall attend drug and alcohol support group meetings (e.g. alcoholics anonymous or narcotics anonymous) as directed by the monitoring organization with a minimum of ten meetings per month.

(C) The medical director of the monitoring organization shall review each licensee and make a determination as to whether the licensee is released from monitoring.

(D) The monitoring organization shall, within seventy-two hours, report to the board any licensee who fails to comply with the monitoring agreement in accordance with the non-compliance guidelines established by the board and the monitoring organization.

(E) The monitoring organization shall, within seventy-two hours, report any relapse as defined in paragraph (B) of rule [4731-16-01](#) of the Administrative Code to the board.

(F) The monitoring organization shall provide the following reports to the board on a quarterly basis:

- (1) The number and type of licensees referred to the monitoring organization;
- (2) The number and type of licensees under agreement with the monitoring organization;
- (3) The number and type of licensees referred to the board;
- (4) The number and type of licensees who successfully complete the monitoring agreement.
- (5) Information regarding the treatment providers, the type of treatment and length of treatment for licensees in the one-bite program;
- (6) Information regarding source of referrals;
- (7) Other reports as agreed between the board and the monitoring organization.
- (G) The monitoring organization, in consultation with the board, shall provide education to the licensees, treatment providers and continuing care providers regarding eligibility criteria for the one-bite program and the board's statutes, rules and policies regarding impairment.
- (H) The monitoring organization shall, within seventy-two hours, report to the board any failure to complete treatment or continuing care.

Effective: 1/31/2019

Five Year Review (FYR) Dates: 01/31/2024

Promulgated Under: [119.03](#)

Statutory Authority: [4731.251](#), [4731.05](#)

Rule Amplifies: [4731.251](#)

4731-16-20 Treatment providers in the one-bite program.

(A) Criteria for approval of treatment providers for individuals qualifying for the one-bite program shall include all of the following:

- (1) Meet all requirements for treatment providers in rule [4731-16-08](#) of the Administrative Code.
- (2) Medical director is a board-certified addictionologist or board-certified addiction psychiatrist and is experienced in diagnosing and treating physicians and other health care practitioners with substance use disorders;
 - (a) The medical director shall oversee the initial assessment and diagnosis, ongoing treatment processes, including medications, treatment planning and discharge planning.
 - (b) The medical director shall have knowledge and experience with prescribing medications specifically indicated for use in patients with substance use disorders and with medications to be avoided for patients with substance use disorders.
 - (c) The medical director shall have specific training and knowledge regarding the interpretation of the results of toxicology screening for drugs and alcohol.
- (3) A board-certified psychiatrist is available to evaluate and provide treatment for co-occurring mental health conditions.
- (4) Group therapy is supervised by one of the following master's-level or higher qualified behavioral healthcare providers:
 - (a) Board certified addictionologist, board certified addiction psychiatrist, or psychiatrist licensed under Chapter 4731. of the Revised Code;
 - (b) Licensed independent chemical dependency counselor-clinical supervisor, licensed independent chemical dependency counselor, licensed chemical dependency counselor III, or licensed chemical dependency counselor II

licensed under Chapter 4758. of the Revised Code;

(c) Professional clinical counselor, licensed professional counselor, licensed independent social worker, licensed social worker, or marriage and family therapist licensed under Chapter 4757. of the Revised Code;

(d) Advanced practice registered nurse, licensed as a clinical nurse specialist under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health clinical nurse specialist issued by the American nurses credentialing center;

(e) Advanced practice registered nurse, licensed as a nurse practitioner under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health nurse practitioner issued by the American nurses credentialing center;

(f) Psychologist, as defined in division (A) of section [4732.01](#) of the Revised Code, licensed under Chapter 4732. of the Revised Code; or

(g) Advanced practice registered nurse licensed under Chapter 4723. of the Revised Code, who holds subspecialty certification as a certified addiction registered nurse-advanced practice issued by the addictions nursing certification board.

(5) Training regarding the eligibility for the one-bite program shall be provided to all staff on a quarterly basis.

(6) Training regarding the board's statutes, rules and policies regarding impairment and reporting violations shall be provided to all staff on a quarterly basis.

(7) The treatment provider shall be capable of completing evaluations pursuant to rule [4731-16-05](#) of the Administrative Code.

(8) The treatment provider provides abstinence-based education and treatment for all types of substance use disorders.

(9) The treatment provider provides one or more of the following levels of patient care: medical detoxification; inpatient or residential treatment; extended residential treatment; partial hospitalization, intensive outpatient treatment, continuing care or others as necessary.

(10) The treatment provider has the ability to provide extended residential care for patients who require continued treatment of substance use disorders.

(B) The medical director of the treatment provider shall perform an evaluation pursuant to rule [4731-16-05](#) of the Administrative Code to determine the degree of impairment of the licensee and shall develop an individualized treatment plan. The individualized treatment plan may include a combination of in-patient, residential, partial hospitalization and intensive outpatient treatment.

(1) The treatment provider shall require the licensee to immediately suspend practice upon entering into treatment (upon determination of impairment) and not return to practice for at least thirty days. Clearance from the treatment provider medical director and monitoring organization medical director are required for return to practice.

(2) The treatment provider shall notify the monitoring organization of the determination of impairment and the treatment plan.

(3) The treatment plan shall include, at least once per week, group therapy with other patients who work in similar disciplines as the licensee or other professionals.

(4) The treatment plan shall include education regarding the medical board's statutes, rules and policies with respect to impairment.

(5) The treatment plan shall include education and group therapy to assist the patient to transition back to work.

(C) The treatment provider shall report instances of violations of this chapter to the monitoring organization and the board.

(D) The treatment provider shall complete and maintain records for each licensee seen for evaluation or treatment under the one-bite program in accordance with paragraph (C) of rule [4731-16-07](#) of the Administrative Code.

(E) Each quarter, the treatment provider shall provide to the monitoring organization and the board the following records regarding licensees seen for evaluation or treatment under the one-bite program:

- (1) Number of licensees referred for evaluation (including self-referrals);
- (2) Number of licensees evaluated;
- (3) Number of licensees determined to be eligible for one-bite program;
- (4) Number of referral sources by category (e.g., self-referrals, board referrals, medical society referrals, referrals by colleagues);
- (5) Number of licensee evaluations which resulted in treatment recommendations for substance use disorder;
- (6) Number of licensees treated based on the treatment providers own recommendations;
- (7) Number of licensees treated based on transfer or referral from other treatment providers;
- (8) Number of licensees who entered each phase of treatment;
- (9) Number of licensees engaged in each phase of treatment;
- (10) Number of licensees who successfully completed each phase of treatment;
- (11) Number of licensees discharged from each phase of treatment other than upon successful completion, and the rationale for each such discharge;
- (12) Number of licensee relapses identified during continuing care and following continuing care;
- (13) Number and names of licensees reported to the board under this chapter of the Administrative Code.
- (14) Number and identities of referral sources notified of the treatment provider's inability to release information under federal law.

(F) The reports provided to the board shall not contain identifying information for the licensee participating in the one-bite program.

Effective: 1/31/2019

Five Year Review (FYR) Dates: 01/31/2024

Promulgated Under: [119.03](#)

Statutory Authority: [4731.251](#), [4731.05](#)

Rule Amplifies: [4731.251](#), [4731.252](#)

[4731-16-21 Continuing care for one-bite program.](#)

(A) In order to provide continuing care to a licensee in the one-bite program, a continuing care provider shall enter into a continuing care agreement with the licensee. The agreement term shall be established by the continuing care provider but may not be for less than six months.

(B) The continuing care provider shall be approved by the board.

(C) A continuing care provider shall provide therapy led by one of the following master's-level or higher qualified behavioral healthcare providers:

- (1) Board certified addictionologist, board certified addiction psychiatrist, or psychiatrist licensed under Chapter 4731. of the Revised Code;
 - (2) Licensed independent chemical dependency counselor-clinical supervisor, licensed independent chemical dependency counselor, licensed chemical dependency counselor III, or licensed chemical dependency counselor II licensed under Chapter 4758. of the Revised Code;
 - (3) Professional clinical counselor, licensed professional counselor, licensed independent social worker, licensed social worker, or marriage and family therapist licensed under Chapter 4757. of the Revised Code;
 - (4) Advanced practice registered nurse, licensed as a clinical nurse specialist under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health clinical nurse specialist issued by the American nurses credentialing center;
 - (5) Advanced practice registered nurse, licensed as a nurse practitioner under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health nurse practitioner issued by the American nurses credentialing center;
 - (6) Psychologist, as defined in division (A) of section [4732.01](#) of the Revised Code, licensed under Chapter 4732. of the Revised Code; or
 - (7) Advanced practice registered nurse licensed under Chapter 4723. of the Revised Code, who holds subspecialty certification as a certified addiction registered nurse-advanced practice issued by the addictions nursing certification board.
- (D) Continuing care meetings shall be held at least one time per week, with missed meetings made up.
- (1) Continuing care meetings shall be at least one hour in duration.
 - (2) The continuing care provider shall provide status reports for each participating licensee to the monitoring organization no less than quarterly.
- (E) The continuing care provider shall report to the monitoring organization no less than quarterly and shall provide the following documentation to the monitoring organization on a quarterly basis:
- (1) The number and type of licensees entering into continuing care agreements;
 - (2) The number and type of licensees released by the continuing care program;
 - (3) The average length of the continuing care agreements; and
 - (4) The number and type of licensees who relapse.
- (F) The continuing care provider shall report a licensee who relapsed to the board and the monitoring organization. The continuing care provider shall report to the board and the monitoring organization if the licensee fails to comply with the terms of the continuing care agreement.
- (G) Release from continuing care must be reviewed and agreed upon by the medical director of the monitoring organization.

Effective: 1/31/2019

Five Year Review (FYR) Dates: 01/31/2024

Promulgated Under: [119.03](#)

Statutory Authority: [4731.251](#), [4731.05](#)

Rule Amplifies: [4731.251](#)

Chapter 4731-17 Exposure-Prone Invasive Procedure Precautions

4731-17-01 Definitions.

For purposes of this chapter of the Administrative Code:

(A) "Licensee" means any person holding or practicing pursuant to a certificate issued by the board under Chapter 4730., 4731., 4760., 4762., or 4774. of the Revised Code.

(B) "Invasive procedure" means any of the following:

(1) Surgical or procedural entry into tissues, cavities, or organs or repair of major traumatic injuries associated with any of the following: an operating or delivery room, emergency department, or outpatient setting, including physicians' offices; cardiac catheterization and angiographic procedures; a vaginal or cesarean delivery or other invasive obstetric procedure during which bleeding may occur; or the manipulation, cutting, or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists.

(2) Any entry into the hair follicle using an electric modality for the purpose of hair removal.

(3) The practice of acupuncture as defined in section [4762.01](#) of the Revised Code.

(4) The performance of fluoroscopic procedures pursuant to section [4774.08](#) of the Revised Code.

(5) The performance of cosmetic procedures, such as the injection of botulinum toxin, dermal fillers, permanent makeup at a location that is not licensed under the rules in Chapter 3701-9 of the Administrative Code, laser hair removal, and hair replacement procedures.

(C) "FDA" means the United States food and drug administration.

(D) "EPA" means the United States environmental protection agency.

Effective: 12/31/2016

Five Year Review (FYR) Dates: 08/16/2016 and 12/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4731.051](#), [4760.19](#), [4762.19](#), [4774.11](#)

Rule Amplifies: [4730.25](#), [4731.051](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04, 3/31/10

4731-17-02 Universal precautions.

Licensees who perform or participate in invasive procedures shall, in the performance of or participation in any such procedures or functions, be familiar with, observe and rigorously adhere to the acceptable and prevailing standards for universal blood and body fluid precautions to minimize the risk of being exposed to or exposing others to the hepatitis B virus (HBV), the hepatitis C virus (HCV), and the human immunodeficiency virus (HIV). The acceptable and prevailing universal blood and body fluid precautions which the licensee follows shall include at least the following:

(A) Appropriate use of hand washing;

(B) Effective disinfection and sterilization of equipment;

(C) Safe handling and disposal of needles and other sharp instruments; and

(D) Appropriate barrier techniques including wearing and disposal of gloves and other protective garments and devices.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.052](#)

Rule Amplifies: [4731.051](#), [4731.22](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04

4731-17-03 Hand washing.

Licensees who perform or participate in invasive procedures shall follow acceptable and prevailing standards for hand washing which shall include at least the following:

(A) Hands shall be washed appropriately prior to performing or participating in an invasive procedure and after performing or participating in an invasive procedure;

(B) Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids; and

(C) Hands shall be washed immediately after gloves are removed.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.051](#), [4731.22](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04

4731-17-04 Disinfection and sterilization.

Instruments and other equipment classified by the FDA as reusable, used by licensees who perform or participate in invasive procedures shall be appropriately disinfected and sterilized according to acceptable and prevailing standards for disinfection and sterilization which shall include at least the following:

(A) Instruments and devices that enter the patient's vascular system or other normally sterile areas of the body shall be sterilized before being used for each patient;

(B) Instruments and devices that touch intact mucous membranes but do not penetrate the patient's body surfaces shall be sterilized when possible, or undergo high-level disinfection if they cannot be sterilized before using for each patient;

(C) Instruments and devices that are able to withstand repeated exposure to heat shall be heat sterilized. Sterilization shall be accomplished by autoclave, dry heat, unsaturated chemical vapor, ethylene oxide, hydrogen peroxide gas plasma, or any other FDA/EPA-approved method;

(D) Instruments and items that cannot withstand heat sterilization shall be subjected to a high level disinfection process, including compliance with any manufacturer's instructions for disinfection;

(E) Heat sterilizing devices shall be tested for proper function on a weekly basis by means of a biological monitoring system that indicates microorganism kill. Documentation shall be maintained either in the form of a log reflecting dates and person(s) conducting the testing or copies of reports from an independent testing entity. The documentation shall be maintained for a period of at least two years. In the event of a positive biological spore test, the licensee must take immediate remedial action to ensure that heat sterilization is being accomplished;

(F) Surface disinfection:

(1) Environmental surfaces that are contaminated by blood or other body fluids shall be disinfected with a chemical germicide that is registered with the environmental protection agency as a "hospital disinfectant" or sodium hypochlorite and is mycobactericidal at use-dilution. The disinfection process shall be followed before each patient; and

(2) Impervious backed paper, aluminium foil or plastic wrap shall be used to cover surfaces that may be contaminated by blood or other body fluids and that are difficult or impossible to disinfect. The cover shall be removed, discarded and then replaced between patients.

(G) Single use items used in treating a patient, which have become contaminated by blood or other body fluids, shall be discarded and not reused, unless sterilized and reused in accordance with current guidelines established by the FDA. Single use items being reused in treating a patient shall be adequately cleaned and sterilized. Single use items shall not be reused if the items' physical characteristics and quality have been adversely affected or if the items are incapable of being reused safely and effectively for their intended use.

Effective: 12/31/2016

Five Year Review (FYR) Dates: 08/16/2016 and 12/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.051](#)

Rule Amplifies: [4731.051](#), [4731.22](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04

4731-17-05 Handling and disposal of sharps and wastes.

(A) To prevent injuries, no licensee performing or participating in invasive procedures shall recap needles, or purposely bend or break needles or other sharp instruments or items by hand.

(B) After a licensee who is performing or participating in an invasive procedure uses disposable needles, syringes, scalpel blades or other sharp items, the licensee shall place the disposable sharp items used in a puncture-resistant container for disposal. The puncture-resistant container shall be located as close a practicable to the use area.

(C) All sharp items and contaminated wastes shall be disposed of according to requirements established by federal, local and state environmental or regulatory agencies.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.051](#)

Rule Amplifies: [4731.051](#), [4731.22](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04

4731-17-06 Barrier techniques.

All licensees who perform or participate in invasive procedures shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. The barrier techniques to be followed are:

(A) All licensees shall wear disposable gloves when performing or participating in invasive procedures. Hands shall be washed when gloves are removed. Before performing or participating in invasive procedures on another patient, the licensee shall wash hands and reglove with another pair of disposable gloves. If a glove is torn or a needlestick or other injury occurs, the glove shall be removed and a new glove used as promptly as patient safety permits. The needle or instrument involved in the incident shall be removed from the sterile field. Disposable gloves shall not be washed or reused for any purpose.

(B) All licensees shall wear masks and protective eyewear when performing or participating in invasive procedures if during the procedure there is likely to be spattering or splashing of blood or other body fluids.

(C) Gowns or aprons made of materials that provide an effective barrier shall be worn by all licensees who are performing or participating in invasive procedures if during the procedure there is likely to be spattering or splashing of blood or other body fluids.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.051](#)

Rule Amplifies: [4731.051](#), [4731.22](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04

4731-17-07 Violations.

(A) A physician assistant who violates any provision of this chapter shall be subject to discipline pursuant to divisions (B)(2), (B)(3), (B)(19) and (B)(21) of section [4730.25](#) of the Revised Code.

(B) An anesthesiologist assistant who violates any provision of this chapter shall be subject to discipline pursuant to divisions (B)(2), (B)(3), (B)(4) and (B)(19) of section [4760.13](#) of the Revised Code.

(C) An acupuncturist or oriental medicine practitioner who violates any provision of this chapter shall be subject to discipline pursuant to divisions (B)(2), (B)(3), (B)(4) and (B)(20) of section [4762.13](#) of the Revised Code.

(D) A radiologist assistant who violates any provision of this chapter shall be subject to discipline pursuant to divisions (B)(2), (B)(3), (B)(4), and (B)(19) of section [4774.13](#) of the Revised Code.

(E) Any other licensee who violates any provision of this chapter shall be subject to discipline pursuant to divisions (B)(6), (B)(20) and (B)(29) of section [4731.22](#) of the Revised Code.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), 471.051, [4760.19](#), [4762.19](#), [4774.11](#)

Rule Amplifies: [4730.25](#), [4731.051](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#)

Prior Effective Dates: 10/1/94, 12/31/97, 2/28/04, 3/31/10

Chapter 4731-18 Surgery Standards

4731-18-01 Standards for surgery.

(A) The surgeon of record in an operative case shall personally:

- (1) Evaluate the patient sufficiently to formulate an appropriate preoperative diagnosis; and
- (2) Select the operation to be performed in consultation with the patient or with a person authorized to act on his behalf; and
- (3) Determine, based on his own evaluation, and, as necessary, on consultation with other physicians involved in the patient's care, that the patient is a fit candidate for the operation to be performed; and
- (4) Assure that the patient or a person authorized to act on his behalf gives informed consent before the surgery begins; and
- (5) Comply with division (B)(6) of section [4731.22](#) of the Revised Code; and
- (6) Perform or personally supervise the surgery, except those portions of the surgery, if any, which are performed or supervised by another qualified surgeon with the informed consent of the patient.

(B) Management of postoperative medical care is the responsibility of the surgeon of record. The surgeon of record shall fulfill this responsibility by:

- (1) Personally performing the postoperative medical care; or
- (2) Delegating postoperative medical care to another physician or physicians who are qualified by training and experience to provide the level of care required, provided that the surgeon of record shall remain primarily responsible for the patient's overall care unless the patient and the other physician have agreed in advance to shift that responsibility to the other physician; or
- (3) Delegating defined aspects of the postoperative medical care to appropriately trained and supervised allied health care personnel in compliance with applicable standards, provided that the surgeon of record shall retain personal responsibility for the quality of the care rendered by personnel who are under his supervision and control. The surgeon of record shall obtain the patient's fully informed consent, or the consent of a person authorized to act on the patient's behalf, in advance of surgery, before delegating aspects of patient care to allied health care personnel under this paragraph. The surgeon of record need not obtain the patient's informed consent for aspects of care to which the patient has already consented, such as consent to treatment and care by hospital personnel under an informed consent form signed upon the patient's admission to the hospital; or
- (4) Delegating defined aspects of the postoperative medical care to licensees of other health regulatory boards who are licensed to independently provide the scope of practice and the level of care required, provided that the surgeon of record shall remain primarily responsible for the patient's overall care and must examine the patient during the postoperative period.

(C) This rule shall not be read to transfer any responsibility which currently rests with any other physician, allied health care provider, or institution to the surgeon of record.

(D) This rule shall not be read to prohibit or interfere with the appropriate training of medical students and physicians in post-graduate training programs, or other personnel.

(E) The provisions of this rule requiring consultation with or obtaining the informed consent of the patient or a person legally authorized to act on his behalf do not apply to the extent they would prevent the performance of surgery or other procedures under emergency circumstances.

Eff 5-4-95

Rule promulgated under: RC Chapter 119.

Rule authorized by: RC [4731.05](#)

Rule amplifies: RC [4731.22](#)

4731-18-02 Use of light based medical devices.

(A) For purposes of this rule, light based medical device shall mean any device that can be made to produce or amplify electromagnetic radiation at wavelengths equal to or greater than one hundred eighty nm but less than or equal to 1.0×10^6 nm [ten to the sixth power] and that is manufactured, designed, intended or promoted for in vivo irradiation of any part of the human body for the purpose of affecting the structure or function of the body.

(B) The application of light based medical devices to the human body is the practice of medicine and surgery, osteopathic medicine and surgery and podiatric medicine and surgery.

(C) Except as provided in rule [4731-18-03](#) and rule [4731-18-04](#) of the Administrative Code, no physician licensed pursuant to Chapter 4731. of the Revised Code shall delegate the application of light based medical devices to the human body to any person not authorized to practice medicine and surgery, osteopathic medicine and surgery or podiatric medicine and surgery pursuant to Chapter 4731. of the Revised Code.

(D) A violation of paragraph (C) of this rule shall constitute "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 and "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," as that clause is used in division (B)(20) of section [4731.22](#) of the Revised Code, to wit: section [4731.41](#) of the Revised Code.

Eff 6-30-00; 5-31-02

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC [4731.05](#)

Rule amplifies: RC [4731.17](#), [4731.22](#), [4731.34](#), [4731.41](#)

R.C. [119.032](#) review dates: 6/30/2005

4731-18-03 Delegation of the use of light based medical devices.

(A) A physician licensed pursuant to Chapter 4731. of the Revised Code may delegate the application of light based medical devices only for the purpose of hair removal and only if all the following conditions are met:

(1) The light based medical device has been specifically approved by the United States food and drug administration for the removal of hair from the human body; and

(2) The use of the light based medical device for the purpose of hair removal is within the physician's normal course of practice and expertise; and

(3) The physician has seen and personally evaluated the patient to determine whether the proposed application of a light based medical device is appropriate; and,

(4) The physician has seen and personally evaluated the patient following the initial application of a light based medical device, but prior to any continuation of treatment in order to determine that the patient responded well to that initial application; and,

(5) The person to whom the delegation is made is one of the following:

(a) A physician assistant registered pursuant to Chapter 4730. of the Revised Code and the physician has a board approved supplemental utilization plan allowing such delegation; or,

(b) A cosmetic therapist licensed pursuant to Chapter 4731. of the Revised Code; or,

(C) A registered nurse or licensed practical nurse licensed pursuant to Chapter 4723. of the Revised Code; and,

- (6) The person to whom the delegation is made has received adequate education and training to provide the level of skill and care required; and,
- (7) The physician provides on-site supervision at all times the person to whom the delegation is made is applying the light based medical device; and,
- (8) The physician supervises no more than two persons pursuant to this rule at the same time.

(B) Notwithstanding paragraph (A)(7) of this rule, the physician may provide off-site supervision when the light based medical device is applied to an established patient if the person to whom the delegation is made pursuant to paragraph (A) of this rule is a cosmetic therapist licensed pursuant to Chapter 4731. of the Revised Code who meets all of the following criteria:

- (1) The cosmetic therapist has successfully completed a course in the use of light based medical devices for the purpose of hair removal that has been approved by the board; and
- (2) The course consisted of at least fifty hours of training, at least thirty hours of which was clinical experience; and
- (3) The cosmetic therapist has worked under the on-site supervision of the physician making the delegation a sufficient period of time that the physician is satisfied that the cosmetic therapist is capable of competently performing the service with off-site supervision.

The cosmetic therapist shall maintain documentation of the successful completion of the required training.

(C) The cosmetic therapist, physician assistant, registered nurse or licensed practical nurse shall immediately report to the supervising physician any clinically significant side effect following the application of the light based medical device or any failure of the treatment to progress as was expected at the time the delegation was made. The physician shall see and personally evaluate the patient who has experienced the clinically significant side effect or whose treatment is not progressing as expected as soon as practicable.

(D) For purposes of this rule, on-site supervision requires the physical presence of the supervising physician in the same location (i.e., the physician's office suite) as the cosmetic therapist, physician assistant, registered nurse or licensed practical nurse, but does not require his or her presence in the same room.

(E) For purposes of this rule, off-site supervision means that the supervising physician shall be continuously available for direct communication with the cosmetic therapist and must be in a location that under normal conditions is not more than sixty minutes travel time from the cosmetic therapist's location.

(F) A violation of paragraph (A) (B) or (C) of this rule by a physician shall constitute "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. A violation of division (A)(5) of this rule shall constitute "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," as that clause is used in division (B)(20) of section [4731.22](#) of the Revised Code, to wit: section [4731.41](#) of the Revised Code.

(G) A violation of paragraph (C) of this rule by a cosmetic therapist shall constitute "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. A violation of paragraph (C) of this rule by a physician assistant shall constitute 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 patient is established," as that clause is used in division (B)(19) of section [4730.25](#) of the Revised Code.

Eff 6-30-00

Rule promulgated under: RC Chapter 119.

Rule authorized by: RC [4730.07](#), [4731.05](#), [4731.15](#)

Rule amplifies: RC [4730.17](#), [4730.25](#), [4731.15](#), [4731.22](#), [4731.41](#),
[119.032](#) Rule Review Date: 06/30/05

4731-18-04 Delegation of the use of light based medical devices; Exceptions.

(A) A physician authorized pursuant to Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery may delegate to any appropriate person the application of light based medical devices approved by the United States food and drug administration for phototherapy in treatment of hyperbilirubinemia in neonates.

(B) A physician authorized pursuant to Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery may delegate to any appropriate person the application of a light based medical device that is a fluorescent lamp phototherapy device for treatment of psoriasis and similar skin diseases. A fluorescent lamp phototherapy device is a device that emits ultraviolet light through the use of one or more fluorescent bulbs and is approved by the United States food and drug administration for phototherapy in the treatment of psoriasis or similar skin diseases.

Eff 5-31-02

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC [4731.05](#)

Rule amplifies: RC [4731.17](#), [4731.22](#), [4731.34](#), [4731.41](#)

R.C. [119.032](#) review dates: 05/31/2007

Chapter 4731-23 Delegation of Medical Tasks

4731-23-01 Definitions.

As used in Chapter 4731-23 of the Administrative Code:

- (A) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.
- (B) "Delegate" means to transfer authority for the performance of a medical task to an unlicensed person.
- (C) "On-site supervision" means that the physical presence of the physician is required in the same location (e.g., the physician's office suite) as the unlicensed person to whom the medical task has been delegated while the medical task is being performed. "On-site supervision" does not require the physician's presence in the same room.
- (D) "Physician" means an individual authorized by Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.
- (E) "Task" includes, but is not limited to, a routine medical service not requiring the special skills of a licensed provider.
- (F) "Unlicensed person" means an individual who is not licensed or otherwise specifically authorized by the Revised Code to perform the delegated medical task.
- (G) "Drug" means the same as in division (E) of section [4729.01](#) of the Revised Code.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.053](#)

Rule Amplifies: [4731.053](#), [4731.22](#), [4731.34](#)

Prior Effective Dates: 9/30/01

4731-23-02 Delegation of medical tasks.

- (A) A physician shall not delegate the performance of a medical task unless that physician has complied with all of the requirements of this chapter of the Administrative Code and the delegation otherwise conforms to minimal standards of care of similar physicians under the same or similar circumstances.
- (B) Prior to a physician's delegation of the performance of a medical task, that physician shall determine each of the following:
- (1) That the task is within that physician's authority;
 - (2) That the task is indicated for the patient;
 - (3) The appropriate level of supervision;
 - (4) That no law prohibits the delegation;
 - (5) That the person to whom the task will be delegated is competent to perform that task; and,
 - (6) That the task itself is one that should be appropriately delegated when considering the following factors:
 - (a) That the task can be performed without requiring the exercise of judgment based on medical knowledge;
 - (b) That results of the task are reasonably predictable;

- (c) That the task can safely be performed according to exact, unchanging directions;
 - (d) That the task can be performed without a need for complex observations or critical decisions;
 - (e) That the task can be performed without repeated medical assessments; and,
 - (f) That the task, if performed improperly, would not present life threatening consequences or the danger of immediate and serious harm to the patient.
- (C) When a physician delegates the administration of drugs, that physician shall provide on-site supervision, except in the following situations:
- (1) When the physician has transferred responsibility for the on-site supervision of the unlicensed person who is administering the drug to another physician and that physician has knowingly accepted that responsibility on a patient-by-patient basis; or
 - (2) In the routine administration of a topical drug, such as a medicated shampoo.
 - (3) When delegation occurs pursuant to section [5126.36](#) of the Revised Code within the programs and services offered by a county board of developmental disabilities.
 - (4) When delegation occurs pursuant to section [5123.42](#) of the Revised Code.
 - (5) When written policies and procedures have been adopted for the distribution of drugs by an unlicensed person to individuals incarcerated in state correctional institutions as defined in division (A) of section 2796.01 of the Revised Code, other correctional facilities including county and municipal jails, workhouses, minimum security jails, halfway houses, community residential centers, regional jails and multi-county jails, or any other detention facility as defined in division (F) of section [2921.01](#) of the Revised Code.
- (D) This chapter of the Administrative Code shall not apply if the rules contained herein:
- (1) Prevent an individual from engaging in an activity performed for a handicapped child as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code;
 - (2) Prevent delegation from occurring pursuant to section [5126.36](#) of the Revised Code within the programs and services offered by a county board of developmental disabilities;
 - (3) Conflict with any provision of the Revised Code that specifically authorizes an individual to perform a particular task;
 - (4) Conflict with any rule adopted pursuant to the Revised Code that is in effect on the effective date of this section, as long as the rule remains in effect, specifically authorizing an individual to perform a particular task;
 - (5) Prohibit a perfusionist from administering drugs intravenously while practicing as a perfusionist.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.053](#)

Rule Amplifies: [4731.22](#), [4731.053](#), [4731.34](#)

Prior Effective Dates: 9/30/01, 5/31/02

4731-23-03 Delegation of medical tasks; Prohibitions.

(A) A physician shall not delegate the practice of medicine as defined in section [4731.34](#) of the Revised Code unless specifically authorized to do so in the Revised Code or by an administrative rule adopted pursuant to the Revised Code and which became effective prior to April 10, 2001. Nothing in this chapter of the Administrative Code shall prohibit the performance of emergency medical tasks.

(B) A physician shall not delegate a task to an unlicensed person if the task is beyond that person's competence. In a hospital, as defined in section [3727.01](#) of the Revised Code, or an ambulatory care center affiliated with the hospital (if the center meets the same credentialing, quality assurance, and utilization review standards as the hospital) wherein unlicensed persons are employed or otherwise authorized by the governing authority of the institution to perform specific medical tasks, one factor the physician shall take into account is the policies by which the employer or the governing authority of the institution seeks to ensure that competent persons will be performing the delegated tasks.

(C) A physician shall not delegate a medical task that is not within the authority of that physician or is beyond the physician's training, expertise, or normal course of practice.

(D) A physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical task, except to another physician who has knowingly accepted that responsibility.

(E) A physician shall not authorize or permit an unlicensed person to whom a medical task is delegated to delegate the performance of that task to another person.

(F) Except as provided in divisions (D)(4) to (D)(8) of section [4731.053](#) of the Revised Code, a physician shall not delegate to an unlicensed person the administration of anesthesia, controlled substances, or drugs administered intravenously.

(G) The supervising physician retains responsibility for the manner in which the delegated task is carried out.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.053](#)

Rule Amplifies: [4731.22](#), [4731.34](#)

Prior Effective Dates: 9/30/01, 5/31/02

4731-23-04 Violations.

(A) A violation of any provision of any rule in this chapter of the Administrative Code, as determined by the board, shall constitute "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.

(B) A violation of any provision of any rule in this chapter of the Administrative Code that pertains to the administration of drugs, as determined by the board, shall constitute "failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section [4731.22](#) of the Revised Code.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.053](#)

Rule Amplifies: [4731.22](#), [4731.34](#)

Prior Effective Dates: 9/30/01

Chapter 4731-25 Office Based Surgery

4731-25-01 Definition of terms.

As used in this chapter of the Administrative Code:

(A) "Anesthesia services" means administration of any drug or combination of drugs with the purpose of creating deep sedation/analgesia, regional anesthesia or general anesthesia. Anesthesia services shall not include the administration of topical or local anesthesia or moderate sedation/analgesia;

(B) "Certified copy of a patient record" means a copy of the patient record with a separate statement, signed by the person making the copy and notarized, attesting that the copy is a "true and accurate copy of the complete patient record";

(C) "Deep sedation/analgesia" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained;

(D) "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired;

(E) "Local anesthesia" means the injection of a drug or combination of drugs to stop or prevent a painful sensation in a circumscribed area of the body where a painful procedure is to be performed. Local anesthesia includes local infiltration anesthesia, digital blocks and pudendal blocks. Local anesthesia does not involve any systemic sedation;

(F) "Minimal sedation (anxiolysis)" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected. "Minimal sedation" shall not include sedation achieved through intravenous administration of drugs;

(G) "Minor surgery" means surgery that can safely and comfortably be performed under topical or local anesthesia without more than minimal oral or intramuscular preoperative sedation. Minor surgery includes, but is not limited to, surgery of the skin, subcutaneous tissue and other adjacent tissue, the incision and drainage of superficial abscesses, limited endoscopies such as proctoscopies, arthrocentesis and closed reduction of simple fractures or small joint dislocations;

(H) "Moderate sedation/analgesia" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from a painful stimulus is not a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained;

(I) "Office setting" means an office or portion thereof which is utilized to provide medical and/or surgical services to the physician's own patients. Office setting does not include an office or portion thereof licensed as an ambulatory surgical facility by the department of health pursuant to division (E)(1) of section [3702.30](#) of the Revised Code , a hospital registered with the department of health pursuant to section [3701.07](#) of the Revised Code, or an emergency department located within such a hospital;

(J) "Regional anesthesia" means the administration of a drug or combination of drugs to interrupt nerve impulses without loss of consciousness and includes epidural, caudal, spinal, axillary, stellate ganglion blocks, regional blocks (such as axillary, Bier, retrobulbar, peribulbar, interscalene, subarachnoid, supraclavicular, and infraclavicular), and brachial anesthesia. Regional anesthesia does not include digital or pudendal blocks;

(K) "Special procedure" means a diagnostic or therapeutic procedure which is not surgery which requires entering the body with instruments in a potentially painful manner, or which requires the patient to be immobile, and which requires the provision of anesthesia services. Special procedures include, but are not limited to, diagnostic or therapeutic endoscopy that explores existing channels and involves no transverse of a body wall; invasive radiologic procedures; pediatric magnetic resonance imaging; manipulation under anesthesia; or endoscopic examination with the use of general anesthesia;

(L) "Surgery" means the excision or resection, partial or complete, destruction, incision or other structural alteration of human tissue by any means, including through the use of lasers, performed upon the body of a living human being for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering, or for aesthetic, reconstructive or cosmetic purposes, to include, but not be limited to: incision or curettage of tissue or an organ; suture or other repair of tissue or organ, including a closed or an open reduction of a fracture; extraction of tissue, including premature extraction of the products of conception from the uterus; and, insertion of natural or artificial implants. Surgery shall not include the suturing of minor lacerations;

(M) "Topical anesthesia" means the application of a drug or combination of drugs directly or by spray to the skin or mucous membranes which is intended to produce a transient and reversible loss of sensation to a circumscribed area.

(N) "Tumescent local anesthesia" means subcutaneous infiltration of high volumes of crystalloid fluid containing low concentrations of lidocaine and epinephrine. For purposes of this chapter of the Administrative Code, "tumescent local anesthesia" shall be considered "local anesthesia" as that term is defined in paragraph (E) of this rule.

Five Year Review (FYR) Dates: 3/1/2018 and 03/01/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 01/01/2004, 08/31/2011

4731-25-02 General provisions.

(A) Anesthesia services in the office setting shall be provided only by physicians and osteopathic physicians licensed pursuant to Chapter 4731. of the Revised Code; podiatric physicians licensed pursuant to Chapter 4731. of the Revised Code and practicing within the scope of practice for podiatric physicians; and certified registered nurse anesthetists licensed pursuant to Chapter 4723. of the Revised Code and practicing within the scope of practice for certified registered nurse anesthetists; and only in accordance with Chapter 4731-25 of the Administrative Code.

(B) Nothing in this chapter of the Administrative Code shall be interpreted to permit a podiatric physician to perform surgery or special procedures in an office setting using general anesthesia.

(C) Nothing in this chapter of the Administrative Code shall be interpreted to prohibit a registered nurse with the appropriate education and training from carrying out a physician's order to maintain a patient within an intensive care unit of a hospital at the level of sedation determined by the physician to be appropriate and necessary for that patient's care, so long as the patient remains within the intensive care unit with appropriate monitoring and so long as the physician's order is written in compliance with all applicable laws.

(D) A physician or podiatric physician shall not perform on more than one patient at the same time special procedures or surgery using moderate sedation/analgesia or anesthesia services.

(E) A certified registered nurse anesthetist providing moderate sedation/analgesia or anesthesia services in the office setting shall be under the direction of a podiatric physician acting within the podiatric physician's scope of practice in accordance with section [4731.51](#) of the Revised Code or a physician, and, when administering anesthesia, the certified registered nurse anesthetist shall be in the immediate presence of the podiatric physician or physician. For purposes of this chapter of the Administrative Code, a physician shall not be considered to have

supervised the administration and monitoring of moderate sedation/analgesia or anesthesia services if the moderate sedation/analgesia or anesthesia services were administered and monitored by a physician anesthesiologist.

(F) "Surgery" shall not be interpreted so as to prohibit a registered nurse from performing tasks that are within the scope of practice of the registered nurse, so long as the registered nurse's activities are in accordance with Chapter 4723. of the Revised Code.

(G) This chapter of the Administrative Code shall not apply to surgeries or special procedures in which the level of anesthesia is limited to minimal sedation as that term is defined in this chapter of the Administrative Code, or which use only local or topical anesthetic agents, and which are performed in an office setting except that liposuction procedures performed under tumescent local anesthesia shall be subject to the provisions of rule 4731-25-05 of the Administrative Code.

(H) Special procedures or surgery utilizing moderate sedation/analgesia or anesthesia services shall be performed in the office setting only on patients who are evaluated as level P1 or P2 according to the American society of anesthesiologists physical status classification system current at the effective date of this rule.

Effective: 5/31/2018

Five Year Review (FYR) Dates: 3/2/2018 and 05/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#), [4731.51](#), [4731.35](#)

Prior Effective Dates: 01/01/2004

4731-25-03 Standards for surgery using moderate sedation/analgesia.

(A) A physician or podiatric physician performing special procedures or surgery in the office setting during which moderate sedation/analgesia is administered shall:

(1) Demonstrate sufficient education, training and experience needed to conform to the minimal standards of care of similar practitioners under the same or similar circumstances by meeting at least one of the following criteria:

(a) Holding current privileges at a local hospital accredited by the joint commission on accreditation of healthcare organizations or the American osteopathic association or at a local ambulatory surgical facility licensed by the department of health for the special procedure or surgery being performed;

(b) Being board certified by a specialty board recognized by the American board of medical specialties or the American osteopathic association or, if a podiatric physician, is board certified by the American board of podiatric surgery; and the surgery or special procedure being performed is generally recognized as being within the usual course of practice of that specialty;

(c) Having successfully completed a residency training program approved by the accreditation council for graduate medical education of the American medical association or the American osteopathic association or, if a podiatric physician, having successfully completed at least a twelve month residency in podiatric surgery approved by the council on podiatric medical education; and the surgery or special procedure being performed is generally recognized as being within the usual course of practice of that specialty; or

(d) Having successfully completed a didactic course supplemented by direct hands-on, monitored experience in the surgery or procedure being performed, and the surgery or special procedure being performed is generally recognized as being within the usual course of practice of the specialty of the physician.

(2) Have current (within the immediately previous two years) advanced cardiac life support/advanced trauma life support training, or, in the case of pediatric patients under the age of thirteen, have current (within the immediately previous two years) pediatric advanced life support training.

(3) Ensure that assisting personnel are competent to administer and monitor moderate sedation/analgesia and to manage emergencies such as loss of airway, compromise of cardiovascular functions or anaphylaxis.

(4) A physician or podiatric physician performing surgeries or special procedures using moderate sedation/analgesia in the office setting shall:

(a) Hold privileges to provide moderate sedation/analgesia from a local hospital accredited by the joint commission on accreditation of healthcare organizations or the American osteopathic association or from a local ambulatory surgical facility licensed by the department of health; or

(b) Have documented evidence of having completed at least five hours of category I continuing medical education relating to the delivery of moderate sedation/analgesia during the current or most recent past biennial registration period.

(B) Moderate sedation/analgesia may be administered in the office setting by only the following:

(1) A physician who holds privileges to provide moderate sedation/analgesia from a local hospital accredited by the joint commission on accreditation of healthcare organizations or the American osteopathic association or from a local ambulatory surgical facility licensed by the department of health;

(2) A certified registered nurse anesthetist who is acting under the supervision of and in the immediate presence of a physician or podiatric physician;

(3) A registered nurse who is acting under the supervision and in the immediate presence of a physician or podiatric physician, provided that such registered nurse shall only administer specifically prescribed doses of drugs selected by the physician or podiatric physician who shall be continuously present in the anesthetizing location during the administration of those drugs.

(C) The person administering and monitoring the moderate sedation/analgesia shall be at all times present in the anesthetizing location with the patient and cannot be the practitioner while performing the surgery or procedure. Further, the person administering and monitoring the moderate sedation/analgesia shall meet the training requirements of paragraph (A)(2) of this rule.

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

Effective: 5/31/2018

Five Year Review (FYR) Dates: 3/2/2018 and 05/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 01/01/2004

4731-25-04 Standards for surgery using anesthesia services.

(A) A physician or podiatric physician performing special procedures or surgery in the office setting during which anesthesia services are provided shall:

(1) Demonstrate sufficient education, training and experience needed to conform to the minimal standards of care of similar practitioners under the same or similar circumstances by meeting at least one of the following criteria:

(a) Holding current privileges at a local hospital accredited by the joint commission on accreditation of healthcare organizations or the American osteopathic association or at a local ambulatory surgical facility licensed by the department of health for the special procedure or surgery being performed;

(b) Being board certified by a specialty board recognized by the American board of medical specialties or the American osteopathic association or, if a podiatric physician, is board certified by the American board of podiatric surgery; and the surgery or special procedure being performed is generally recognized as being within the usual course of practice of that specialty; or,

(c) Having successfully completed a residency training program approved by the accreditation council for graduate medical education of the American medical association or the American osteopathic association or, if a podiatric physician, having successfully completed at least a twelve month residency in podiatric surgery approved by the council on podiatric medical education; and the surgery or special procedure being performed is generally recognized as being within the usual course of practice of that specialty.

(2) Have current (within the immediately previous two years) advanced cardiac life support/advanced trauma life support training or, in the case of pediatric patients under the age of thirteen, have current (within the immediately previous two years) pediatric advanced life support training.

(3) Ensure that assisting personnel are competent to administer and monitor anesthesia services and to manage emergencies.

(4) A physician or podiatric physician performing surgeries or special procedures using anesthesia services in the office setting shall:

(a) Hold privileges to provide anesthesia services from a local hospital accredited by the joint commission on accreditation of healthcare organizations or the American osteopathic association or from a local ambulatory surgical facility licensed by the department of health; or

(b) Have successfully completed a residency training program approved by the accreditation council for graduate medical education of the American medical association or the American osteopathic association in anesthesia; or

(c) Have documented evidence of having completed at least twenty hours of category I continuing medical education relating to the delivery of anesthesia services during the current or most recent past biennial registration period.

(B) Anesthesia services may be administered in the office setting by only the following:

(1) A physician who holds privileges to provide anesthesia services from a local hospital accredited by the joint commission on accreditation of healthcare organizations or the American osteopathic association or from a local ambulatory surgical facility licensed by the department of health;

(2) A physician who has successfully completed a residency training program approved by the accreditation council for graduate medical education of the American medical association or the American osteopathic association in anesthesia and who is actively and directly engaged in the clinical practice of medicine as an anesthesiologist;

(3) A certified registered nurse anesthetist who is acting under the supervision and in the immediate presence of a physician or podiatric physician.

(C) The person administering and monitoring the anesthesia services shall be at all times present in the anesthetizing location with the patient and shall not function in any other capacity during the surgery or special procedure. Further, the person administering and monitoring the anesthesia services shall meet the training requirements of paragraph (A)(2) of this rule.

(D) Whenever general anesthesia is being administered to a patient in the office setting, the office shall have sufficient equipment and supplies to appropriately manage malignant hyperthermia.

(E) A violation of any provision of this rule, as determined by the board, shall constitute "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.

Effective: 5/31/2018

Five Year Review (FYR) Dates: 3/2/2018 and 05/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 01/01/2004

4731-25-05 Liposuction in the office setting.

(A) A physician performing liposuction in the office setting shall meet the training requirements set forth in paragraph (A) of rule [4731-25-03](#) of the Administrative Code and must be in compliance with this rule.

(B) Liposuction in the office setting shall be performed in compliance with rules [4731-25-03](#) and [4731-25-04](#) of the Administrative Code as appropriate to the level of sedation being administered and in compliance with the following standards:

(1) The cannula utilized shall be no larger than 4.5 millimeters in diameter;

(2) The concentration of lidocaine in the solution shall not be greater than 0.1 per cent and the total dosage of lidocaine received by the patient during the procedure shall not exceed fifty milligrams per kilogram of body weight;

(3) The concentration of epinephrine in the solution shall not be greater than 1.5:1,000,000 and the total dosage of epinephrine received by the patient during the procedure shall not exceed fifty micrograms per kilogram of body weight;

(4) Intravenous access shall be maintained if the total aspirate is less than or equal to one hundred milliliters;

(5) If the total aspirate is more than one hundred milliliters, an intravenous line shall be running at a rate sufficient to prevent hypovolemia and must be monitored appropriately;

(6) Appropriate monitoring shall be performed. Such monitoring shall include:

(a) Recording the baseline vital signs, including blood pressure and heart rate, both preoperatively and postoperatively.

(b) If more than one hundred milliliters of aspirate is to be removed, a second person who is a health care professional as that term is defined in section [2305.234](#) of the Revised Code and who is acting within that health care professional's scope of practice shall be continuously within the room to monitor the patient. Continuous blood pressure monitoring and cardiac monitoring with pulse oximetry shall be performed and documented; supplemental oxygen shall be available.

(c) Patients who receive oral anxiolytics, sedatives, narcotic analgesics, moderate sedation or anesthesia services shall be monitored postoperatively until fully recovered and ready for discharge.

(7) Liposuction in the office setting shall be performed only on patients who are evaluated as level P1 or P2 according to the version of the American society of anesthesiologists physical status classification system current at the effective date of this rule;

(8) Liposuction shall not be performed in an office setting in combination with other procedures except as specifically authorized in paragraph (F) of this rule.

(C) Liposuction performed in an office setting shall not exceed four thousand five hundred milliliters of total aspirate.

(D) Liposuction using moderate sedation/analgesia or anesthesia services performed in an office shall be accredited in accordance with rule [4731-25-07](#).

(E) The written discharge instructions given to the patient shall include specific information concerning the symptoms of lidocaine toxicity, the period of time during which such symptoms might appear and specific instructions for the patient to follow should the patient experience such symptoms.

(F) Nothing in this rule shall be interpreted to prohibit a physician from performing in the office setting procedures involving a focused, local small liposuction that is a routine part of the main procedure, provided that the physician complies with all other applicable rules.

(G) A violation of any provision of this rule, as determined by the board, shall constitute "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.

Five Year Review (FYR) Dates: 3/1/2018 and 03/01/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 01/01/2004

4731-25-07 Accreditation of office settings.

(A) No physician or podiatric physician shall perform special procedures or surgery using moderate sedation/analgesia or anesthesia services in an office setting unless that office setting is accredited by an accrediting agency approved by the board, except in compliance with both of the following requirements:

(1) Prior to performing special procedures or surgery in the office setting that is not accredited, the physician or podiatric physician shall file an application for accreditation with an accrediting agency listed in paragraph (B) of this rule.

(2) Upon receipt of provisional accreditation, the physician or podiatric physician may perform special procedures or surgery in the office setting in accordance with the rules in Chapter 4731-25 of the Administrative Code until full accreditation is received or for one year from the date application for accreditation was filed, whichever is sooner.

(B) Accrediting agencies approved by the board include the following:

(1) The joint commission on accreditation of healthcare organizations;

(2) The accreditation association for ambulatory health care, inc.;

(3) The American association for accreditation of ambulatory surgery facilities, inc.;

(4) The healthcare facilities accreditation program of the American osteopathic association; or,

(5) Any other accrediting agency that demonstrates to the satisfaction of the board that it has:

(a) Standards pertaining to patient care, record keeping, equipment, personnel, facilities and other related matters that are in accordance with acceptable and prevailing standards of care as determined by the board;

(b) Processes that assure a fair and timely review and decision on any applications for accreditation or renewals thereof;

(c) Processes that assure a fair and timely review and resolution of any complaints received concerning accredited facilities; and

(d) Resources sufficient to allow the accrediting agency to fulfill its duties in a timely manner.

(C) A violation of paragraph (A) of this rule, as determined by the board, shall constitute "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.

Effective: 5/31/2018

Five Year Review (FYR) Dates: 3/2/2018 and 05/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 01/01/2004

Chapter 4731-26 Sexual Misconduct and Impropriety

4731-26-01 Definitions.

For purposes of Chapter 4731-26 of the Administrative Code:

(A) "Licensee" means any of the following:

- (1) An individual holding a certificate to practice as a physician assistant under Chapter 4730. of the Revised Code;
- (2) An individual holding a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Chapter 4731. of the Revised Code;
- (3) An individual holding a certificate to practice a limited branch of medicine under Chapter 4731. of the Revised Code;
- (4) An individual holding a certificate of registration as an anesthesiologist assistant under Chapter 4760. of the Revised Code;
- (5) An individual holding a certificate to practice as an acupuncturist or an oriental medicine practitioner under Chapter 4762. of the Revised Code;
- (6) An individual holding a certificate to practice as a radiologist assistant under Chapter 4774. of the Revised Code; or
- (7) An individual holding a license to practice as a genetic counselor under Chapter 4778. of the Revised Code.

(B) "Health care services" means examination, consultation, health care, treatment, or other services provided by a licensee under the legal authority conferred by a license, certificate, or registration issued by the board.

(C) "Patient" means a person for whom the licensee has provided health care services, whether provided by mutual consent or implied consent, or provided without consent pursuant to a court order. Once a licensee-patient relationship is established, a person remains a patient until the relationship is terminated. Patient includes any of the following:

- (1) A person who is receiving or has received health care services from the licensee without termination of the licensee-patient relationship; or
- (2) A person who meets the criteria of a key third party, as that term is defined in paragraph (D) of this rule.

(D) "Key third party" means an individual closely involved in the patient's decision-making regarding health care services, including but not limited to, the patient's spouse or partner, parents, child, sibling, or guardian. For purposes of this chapter, an individual's status as a key third party ceases upon the termination of the licensee-patient relationship or upon termination of the individual's relationship with the patient.

(E) "Chaperone" means a third person who, with the patient's consent, is present during a medical examination.

(F) "Former patient" means one of the following:

- (1) A person for whom the licensee has not rendered health care services since the licensee-patient relationship was terminated; or
- (2) A person who has otherwise been admitted, discharged, or referred to another licensee for care subsequent to receipt of health care services by a licensee in an emergency setting or on an episodic basis, and such action has been recorded in the person's medical record or chart.

(G) "Intimate examination" means an examination of the pelvic area, genitals, rectum, breast, or prostate.

(H) "Sexual misconduct" means conduct that exploits the licensee-patient relationship in a sexual way, whether verbal or physical, and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes sexual impropriety, sexual contact, or sexual interaction as follows:

(1) "Sexual impropriety" means conduct by the licensee that is seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, including but not limited to, the following:

- (a) Neglecting to employ disrobing or draping practices respecting the patient's privacy;
- (b) Subjecting a patient to an intimate examination in the presence of a third party, other than a chaperone, without the patient's consent or in the event such consent has been withdrawn;
- (c) Making comments that are not clinically relevant about or to the patient, including but not limited to, making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;
- (d) Soliciting a date or romantic relationship with a patient;
- (e) Participation by the licensee in conversation regarding the sexual problems, sexual preferences, or sexual fantasies of the licensee;
- (f) Requesting details of the patient's sexual history, sexual problems, sexual preferences, or sexual fantasies when not clinically indicated for the type of health care services; and
- (g) Failing to offer the patient the opportunity to have a third person or chaperone in the examining room during an intimate examination and/or failing to provide a third person or chaperone in the examining room during an intimate examination upon the request of the patient.

(2) "Sexual contact" includes, but is not limited to, the following:

- (a) Touching a breast or any body part that has sexual connotation for the licensee or patient, for any purpose other than appropriate health care services, or where the patient has refused or has withdrawn consent; and
- (b) Examining or touching of the patient's genitals without the use of gloves.

(3) "Sexual interaction" means conduct between a licensee and patient, whether or not initiated by, consented to, or participated in by a patient, that is sexual or may be reasonably interpreted as sexual, including but not limited to, the following:

- (a) Sexual intercourse, genital to genital contact;
- (b) Oral to genital contact;
- (c) Oral to anal contact, genital to anal contact;
- (d) Kissing in a romantic or sexual manner;
- (e) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;
- (f) Offering to provide health care services, such as drugs, in exchange for sexual favors; and
- (g) Performing an intimate examination without clinical justification.
- (h) Conduct that is sexually demeaning to a patient or which demonstrates a lack of respect for the patient's privacy.

(4) Conduct described in paragraphs (H)(1)(a), (H)(1)(b), (H)(1)(g), and (H)(2)(b) of this rule does not constitute sexual misconduct when all of the following criteria are met:

- (a) The conduct occurred during the rendering of health care services in an emergency setting;
 - (b) The health care services rendered were clinically necessary;
 - (c) The patient was unconscious or otherwise unable to consent to health care services; and
 - (d) The patient's clinical condition required immediate action and the licensee's violation of the provisions of paragraph (H)(1)(a), (H)(1)(b), (H)(1)(g), or (H)(2)(b) of this rule, as applicable, was due to circumstances not within the licensee's control.
- (I) "Emergency setting" means an emergency department.
- (J) "Board" means the state medical board of Ohio.
- (K) "Conduct" includes, but is not limited to the following:
- (1) Behaviors, gestures, or expressions, whether verbal or physical; or
 - (2) The creation, receipt, exchange, saving, or sending of images or communications, whether verbal or written, via a telecommunications device.

Effective: 6/30/2016

Five Year Review (FYR) Dates: 03/15/2016 and 06/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#), [4778.12](#)

Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#), [4778.14](#)

Prior Effective Dates: 11/30/06, 11/30/10

4731-26-02 Prohibitions.

Sexual misconduct, as that term is defined in paragraph (H) of rule [4731-26-01](#) of the Administrative Code, between a licensee and a patient is never diagnostic or therapeutic.

(A) A licensee shall not engage in sexual misconduct with a patient or key third party, as that term is defined in paragraph (C) of rule [4731-26-01](#) of the Administrative Code.

(B) Conduct included within the definition of sexual misconduct occurring between a licensee and a former patient constitutes sexual misconduct and is prohibited if it meets any of the following criteria:

- (1) The conduct occurred within ninety days after the licensee-patient relationship was terminated;
- (2) The conduct occurred between a psychiatrist and a person to whom the psychiatrist formerly provided psychiatric or mental health services, and the conduct is in violation of the code of ethics of the "American Psychiatric Association"; or (3) The board determines that the conduct constitutes sexual misconduct upon consideration of the following factors:
 - (a) The duration of the licensee-patient relationship;
 - (b) The nature of the health care services provided;
 - (c) The lapse of time since the licensee-patient relationship ended;
 - (d) The extent to which the former patient confided personal or private information to the licensee;
 - (e) The degree of emotional dependence that the former patient has or had on the licensee; and
 - (f) The extent to which the licensee used or exploited the trust, knowledge, emotions, or influence derived from the previous licensee-patient relationship.

Replaces: 4731-26-02

Five Year Review (FYR) Dates: 03/15/2016 and 03/15/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#), [4778.12](#)

Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#), [4778.14](#)

Prior Effective Dates: 11/30/06, 11/30/10

4731-26-03 Violations, miscellaneous.

(A) Except as provided in paragraph (C) of this rule, a violation of rule [4731-26-02](#) of the Administrative Code, as determined by the board, shall constitute the following:

(1) For a physician, massage therapist, or cosmetic therapist, "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 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.

(3) For an anesthesiologist assistant, "a departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established," as that clause is used in division (B)(4) of section [4760.13](#) of the Revised Code.

(4) For an acupuncturist or oriental medicine practitioner, a "departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established," as that clause is used in division (B)(4) of section [4762.13](#) of the Revised Code.

(5) For a radiologist assistant, a "departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established," as that clause is used in division (B)(4) of section [4774.13](#) of the Revised Code.

(6) For a genetic counselor, a "departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established," as that clause is used in division (B)(4) of section [4778.14](#) of the Revised Code.

(B) Where the alleged conduct does not in itself constitute sexual misconduct, as defined in paragraph (H) of rule [4731-26-01](#) of the Administrative Code, the board may consider expert testimony or other evidence in making its determination as to whether the conduct of the licensee constitutes sexual misconduct.

(C) Nothing in this rule shall limit the board's authority to investigate and take action under section [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#) or 4778. 14 of the Revised Code.

Effective: 6/30/2016

Five Year Review (FYR) Dates: 03/15/2016 and 06/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#), [4778.12](#)

Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#), [4778.14](#)

Prior Effective Dates: 11/30/06, 11/30/10

Chapter 4731-28 Mental or Physical Impairment

4731-28-01 Mental or physical impairment.

For the purposes of division (B)(4) of section [4730.25](#) of the Revised Code, division (B)(19) of section [4731.22](#) of the Revised Code, division (B)(5) of section [4760.13](#) of the Revised Code, division (B)(5) of section [4762.13](#) of the Revised Code, division (B)(5) of section [4774.13](#) of the Revised Code, and division (B)(5) of section [4778.14](#) of the Revised Code, the following definitions apply:

(A) "Mental illness" includes, but is not limited to, mental disorder; and

(B) "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", includes inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.

Effective: 8/31/2017

Five Year Review (FYR) Dates: 05/23/2017 and 08/31/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4760.19](#), [4762.19](#), [4774.11](#), [4778.12](#)

Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#), [4774.13](#), [4778.14](#)

Prior Effective Dates: 11/30/02, 6/30/07, 3/31/10

4731-28-02 Eligibility for confidential monitoring program.

There is hereby created a confidential monitoring program applicable to all individuals licensed under Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code who are determined to be eligible for the program pursuant to this rule. For purposes of the confidential monitoring program, the term "confidentiality statute" refers to division (F) of section [4730.26](#) of the Revised Code, division (F)(5) of section [4731.22](#) of the Revised Code, division (B)(5) of section [4759.05](#) of the Revised Code, division (E) of section [4760.14](#) of the Revised Code, division (E) of section [4761.03](#) of the Revised Code, division (E) of section [4762.14](#) of the Revised Code, division (E) of section [4774.14](#) of the Revised Code, or division (E) of section [4778.18](#) of the Revised Code, as applicable to the individual.

(A) Under the board's investigative duties pursuant to section [4730.26](#), [4731.22](#), [4759.05](#), [4760.14](#), [4761.03](#), [4762.14](#), 4774. 14, or [4778.18](#) of the Revised Code, as applicable to the individual, and subject to the applicable confidentiality statute, the secretary and supervising member of the board may determine that an individual who is the subject of an investigation by the board concerning a mental or physical illness, other than a substance use disorder or chemical abuse/dependency, is appropriate for ongoing investigative observation and monitoring rather than formal disciplinary action. Upon such determination, the board may conduct such observation and monitoring through the individual's participation in a confidential monitoring program overseen by the secretary and supervising member of the board under the board's investigative duties and subject to the applicable confidentiality statute.

(B) In making their determination of an individual's eligibility for participation in the confidential monitoring program, the secretary and supervising member of the board shall use the following criteria:

(1) The board may conduct any investigation necessary to evaluate the totality of circumstances, including requiring the individual to submit to a physical or mental examination under the applicable chapter of the Revised Code;

(2) The individual must provide continuing authorization, through appropriate written consent forms, for the disclosure and release of information between the board, the individual, and any other persons or entities involved in the evaluation, treatment, or monitoring of the individual that is necessary for them to fulfill their respective duties and obligations. This includes, but is not limited to, the exchange of information to and from employers, probation officers, law enforcement agencies, peer assistance programs, health care practitioners,

mental health counsellors, social workers, or any other individuals or entities the board determines may have relevant information.

(3) If the individual has not yet undertaken appropriate treatment, monitoring, or supervision related to the mental or physical condition, the information received must demonstrate that the individual is willing to commence such appropriate treatment, monitoring, or supervision;

(4) If the individual has commenced treatment for the mental or physical illness, the information received must demonstrate that the individual has been significantly compliant with the treatment plan established, including taking all medications as prescribed;

(5) If the individual was previously a participant in the monitoring program, the individual must have demonstrated full compliance with all program requirements. Any individual who was previously disqualified from participation in the monitoring program shall be ineligible for future participation in the program;

(6) If the individual was previously the subject of formal public disciplinary action by this board, such action must have been based solely on a violation of division (B)(4) of section [4730.25](#) of the Revised Code, division (B)(19) of section [4731.22](#) of the Revised Code, division (A)(14) of section [4759.07](#) of the Revised Code, division (B)(5) of section [4760.13](#) of the Revised Code, division (A)(14) of section [4761.09](#) of the Revised Code, division (B)(5) of section [4762.13](#) of the Revised Code, division (B)(5) of section [4774.13](#) of the Revised Code, or division (B)(5) of section [4778.14](#) of the Revised Code, as applicable to the individual, for which the individual subsequently was released from probation without restriction. Any individual who has been issued a notice of opportunity for hearing that remains pending for final adjudication by the board is not eligible for participation in the monitoring program regardless of the basis of the violation alleged in the notice;

(7) If the individual was previously the subject of confidential monitoring, public monitoring, non-disciplinary monitoring, or formal disciplinary action by or in association with an agency responsible for authorizing, certifying, or regulating the individual to practice a health care occupation in this state or any other jurisdiction, such action must have been based solely on the individual's mental or physical illness;

(8) No information available to the board about the individual, either concerning past or current allegations or conduct, implicates a possible sexual boundary issue regardless of whether such issue involved patients or non-patients and regardless of whether such issue was caused by or related to the individual's mental or physical illness;

(9) No information available to the board about the individual, either concerning past or current allegations or conduct, implicates an act of violence against property or persons or threat of violence against property or persons, even if the board is unable to conclusively confirm the credibility of such allegations;

(10) No information available to the board about the individual, either concerning past or current allegations or conduct, and regardless of whether caused by or related to the individual's mental or physical illness:

(a) Demonstrates that the individual has been convicted of a felony or misdemeanor, including but not limited to operating a vehicle under the influence or reckless operation, at any time;

(b) Indicates that the individual has felony or misdemeanor charges, including but not limited to operating a vehicle under the influence or reckless operation, currently pending; and/or

(c) Implicates a possible criminal issue, regardless of whether formal misdemeanor or felony charges were pursued or are anticipated in the future;

(11) There is no information indicating that the individual is in violation of any provision of the chapter of the Revised Code under which the individual was licensed other than division (B)(4) of section [4730.25](#) of the Revised Code, division (B)(19) of section [4731.22](#) of the Revised Code, division (A)(14) of section [4759.07](#) of the Revised Code, division (B)(5) of section [4760.13](#) of the Revised Code, division (A)(14) of section [4761.09](#) of the Revised Code, division (B)(5) of section [4762.13](#) of the Revised Code, division (B)(5) of section [4774.13](#) of the Revised Code, or division (B)(5) of section [4778.14](#) of the Revised Code, as applicable to the individual; and

(12) There is no information indicating that allowing the individual to participate in confidential monitoring will create a significant risk of potential harm to patients.

Effective: 8/31/2018

Five Year Review (FYR) Dates: 08/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4778.12](#), [4774.11](#), [4762.19](#), [4760.19](#), [4731.05](#), [4730.07](#), [4759.05](#), [4761.03](#)

Rule Amplifies: [4730.26](#), [4778.18](#), [4774.14](#), [4760.14](#), [4731.22](#), [4759.05](#), [4761.03](#), [4762.14](#)

4731-28-03 Participation in the confidential monitoring program.

(A) Individuals determined to be eligible for participation in the confidential monitoring program established under rule 4731-28-02 of the Administrative Code shall enter into a written participation agreement with the board.

(1) The participation agreement is a non-disciplinary, voluntary, written contract between the individual and the board. The participation agreement shall remain confidential pursuant to the applicable confidentiality statute, as that term is defined in rule 4731-28-02 of the Administrative Code, provided that the individual remains in compliance with the participation agreement and that the board does not otherwise subsequently pursue formal disciplinary proceedings against the individual pursuant to any alleged violation of Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code, as applicable to the individual.

(2) The participation agreement shall be negotiated under the direction of the secretary and supervising member of the board by an appropriate board staff attorney. The participation agreement shall be signed by the individual; the individual's attorney, if any; the secretary of the board; the supervising member of the board; and the appropriate board staff attorney.

(3) The individual's ongoing compliance with the participation agreement shall be monitored by appropriate board staff under the direction of the secretary and supervising member of the board.

(B) The participation agreement shall require, at a minimum, the following terms and conditions:

(1) Stipulation of the individual's mental or physical illness;

(2) The individual must provide continuing authorization, through appropriate written consent forms, for the disclosure and release of information between the board, the individual, and any other persons or entities involved in the evaluation, treatment, or monitoring of the individual that is necessary for them to fulfill their respective duties and obligations. This includes, but is not limited to, the exchange of information to and from employers, probation officers, law enforcement agencies, peer assistance programs, health care practitioners, mental health counsellors, social workers, or any other individuals or entities the board determines may have relevant information;

(3) A requirement that the individual will undertake and/or maintain continued treatment acceptable to the secretary and supervising member of the board pertaining to the individual's mental or physical illness;

(4) Agreement that if the secretary and supervising member of the board, based on information received by the board, determine that the individual has a current inability to practice in accordance with acceptable and prevailing standards of care, the individual will voluntarily cease practicing until approved to resume practice by the secretary and supervising member of the board;

(5) A requirement that the individual is responsible for all costs associated with participation in the confidential monitoring plan;

(6) Obedience of all federal, state, and local laws, and all rules governing practice in Ohio;

(7) Submission of quarterly declarations under penalty of perjury stating whether there has been compliance with all conditions of the participation agreement;

- (8) Periodic appearances, as requested, before the secretary or supervising member of the board or their designated board staff representative;
- (9) Submission of witnessed blood, urine, breath, saliva and/or hair specimens for screening for analysis of therapeutic levels of medications that may be prescribed to the individual, drugs and alcohol, or for any other purpose, at the individual's expense upon the board's request and without prior notice;
- (10) Acknowledgement and consent of the individual that the confidentiality of the agreement is waived in the event the board subsequently pursues formal disciplinary proceedings against the individual pursuant to any alleged violation of Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code, as applicable to the individual;
- (11) A requirement that the individual agree to ongoing monitoring for a minimum period of time appropriate for the individual's particular mental or physical illness, as follows:
- (a) For any mental or physical illness associated with a significant degenerative/ progressive condition, including but not limited to Parkinson's disease, multiple sclerosis, primary dementia, schizophrenia, or mild cognitive impairment, ongoing monitoring shall be required for as long as the individual retains any current or possible future right to practice.
- (b) For all other mental or physical illnesses, the appropriate length of monitoring shall be determined by the secretary and supervising member of the board but shall be for a period of not less than two years.
- (c) Agreement of the individual that the participation agreement shall remain in full force and effect until such time that the secretary and supervising member of the board determine that termination of the participation agreement is appropriate.
- (d) Acknowledgement pertaining to the applicable disclosure requirements.

(C) This rule shall neither apply to nor limit the authority granted the board under division (M) of section [4730.25](#) of the Revised Code, division (M) of section [4731.22](#) of the Revised Code, division (M) of section [4759.07](#) of the Revised Code, division (M) of section [4760.13](#) of the Revised Code, division (L) of section [4761.09](#) of the Revised Code, division (M) of section [4762.13](#) of the Revised Code, division (M) of section [4774.13](#) of the Revised Code, or division (M) of section [4778.14](#) of the Revised Code with regard to the surrender of a license or certificate or the withdrawal of an application for a license or certificate.

Effective: 8/31/2018

Five Year Review (FYR) Dates: 08/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4778.12](#), [4774.11](#), [4762.19](#), [4761.03](#), [4760.19](#), [4759.05](#), [4731.05](#), [4730.07](#)

Rule Amplifies: [4730.26](#), [4778.18](#), [4774.14](#), [4762.14](#), [4761.03](#), [4760.14](#), [4759.05](#), [4731.22](#)

[4731-28-04 Disqualification from continued participation in the confidential monitoring program.](#)

Disqualification from continued participation in the confidential monitoring program established under rule 4731-28-02 of the Administrative Code shall be determined as follows:

- (A) Any alleged violation of the participation agreement, as determined in the sole discretion of the secretary and supervising member of the board, shall constitute grounds for the board to pursue formal disciplinary action against the individual pursuant to section [4730.25](#), [4731.22](#), [4759.07](#), [4760.13](#), [4761.09](#), [4762.13](#), [4774.13](#), or [4778.14](#) of the Revised Code, as applicable to the individual. The disciplinary action shall be in accordance with Chapter 119. of the Revised Code.
- (B) If for any reason the secretary and supervising member of the board, in their sole discretion, determine that an individual's participation in the confidential monitoring program is no longer appropriate, they may terminate the participation agreement by notifying the individual in writing. Such termination shall not limit the authority granted the board to take any other action with regard to the individual or the individual's certificate to practice.

Effective: 8/31/2018

Five Year Review (FYR) Dates: 08/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4778.12](#), [4774.11](#), [4762.19](#), [4761.03](#), [4760.19](#), [4759.05](#), [4731.05](#), [4730.07](#)

Rule Amplifies: [4730.26](#), [4778.18](#), [4774.14](#), [4762.14](#), [4761.03](#), [4760.14](#), [4759.05](#), [4731.22](#)

4731-28-05 Termination of the participation agreement for the confidential monitoring program.

(A) Upon completion of at least the minimum monitoring term specified in the participation agreement for the confidential monitoring program established in rule 4731-28-02 of the Administrative Code, the individual may submit a written request to the secretary and supervising member of the board requesting termination of the participation agreement. Such request must be accompanied by written documentation from the treating physician overseeing coordination of care for the individual's mental or physical illness indicating whether all of the following criteria are met:

- (1) The individual's condition is currently stable;
- (2) The individual's condition is reasonably expected to remain stable contingent upon the individual maintaining compliance with the treatment plan; and
- (3) The treating physician supports the individual's request for termination of the participation agreement.

(B) The secretary and supervising member of the board shall review the individual's request for termination of the participation agreement and reach a determination as to whether such termination is appropriate. In making such determination, they shall consider all of the following criteria:

- (1) Whether the individual has demonstrated substantial compliance with the participation agreement during the monitoring period;
- (2) The documentation provided by the individual's treating physician related to the termination request;
- (3) Whether additional investigation is necessary, including but not limited to requiring the individual to submit to a board-ordered physical examination and/ or mental examination; and
- (4) Any other relevant investigative information concerning the individual.

(C) The determination of the secretary and supervising member of the board shall be implemented as follows:

- (1) If the secretary and supervising member of the board determine that termination of the participation agreement is appropriate, they shall direct appropriate staff to notify the individual in writing that the request for termination of the participation agreement has been granted. Such termination shall constitute successful completion of the monitoring program by the individual.
- (2) If the secretary and supervising member determine that termination of the participation agreement is not appropriate, they shall direct appropriate staff to notify the individual in writing that the request for termination of the participation agreement has been declined. An individual whose request for termination is declined shall continue to be monitored by the board pursuant to the participation agreement for at least an additional six months before being eligible to submit a subsequent request for termination.

Effective: 8/31/2018

Five Year Review (FYR) Dates: 08/31/2023

Promulgated Under: [119.03](#)

Statutory Authority: [4778.12](#), [4774.11](#), [4762.19](#), [4761.03](#), [4760.19](#), [4759.05](#), [4731.05](#), [4730.07](#)

Rule Amplifies: [4730.26](#), [4778.18](#), [4774.14](#), [4762.14](#), [4761.03](#), [4760.14](#), [4759.05](#), [4731.22](#)

Chapter 4731-29 Pain Management Clinics

4731-29-01 Standards and procedures for the operation of a pain management clinic.

(A) For the purposes of this rule:

(1) "Board" means state medical board of Ohio.

(2) "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously, or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

(3) "Hospital" means a hospital registered with the department of health under section [3701.07](#) of the Revised Code.

(4) "Informed consent" means a process of communication between a patient and physician that results in the patient's signed authorization or agreement to undergo a specific medical intervention after all of the following subjects are discussed:

(a) The patient's diagnosis;

(b) The nature and purpose of the proposed treatment or procedure;

(c) The risks and benefits of a proposed treatment or procedure;

(d) Alternatives regardless of their costs or the extent to which the treatment options are covered by health insurance;

(e) The risks and benefits of the alternative treatment or procedure; and

(f) The risks and benefits of not receiving or undergoing a treatment or procedure.

(5) "Owner" means each person included on the list maintained under division (B) (5) of section [4729.552](#) of the Revised Code.

(6) "Pain management clinic" means a facility in which the majority of patients of the prescribers at the facility are provided treatment for chronic pain that includes the use of controlled substances. In determining whether the facility meets the requirements of this paragraph:

(a) Calculation of the majority of patients will be based upon the number of patients treated in a calendar month;

(b) Patients receiving controlled substances for treatment of an injury or illness that lasts or is expected to last thirty days or less shall not be considered in the calculation of the majority.

(7) "Pain management clinic" does not include the following:

(a) A hospital;

(b) A facility operated by a hospital for the treatment of pain or chronic pain;

(c) A physician practice owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(d) A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians or any affiliated facility to the extent that it participates in the provision of that instruction;

(e) A hospice program licensed under Chapter 3712. of the Revised Code;

(f) An ambulatory surgical facility licensed under section [3702.30](#) of the Revised Code;

(g) An interdisciplinary pain rehabilitation program with three-year accreditation from the commission on accreditation of rehabilitation facilities;

(h) A nursing home licensed under section [3721.02](#) of the Revised Code or by a political subdivision certified under section [3721.09](#) of the Revised Code; or

(i) A facility conducting only clinical research that may use controlled substances 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.

(8) "Physician" means an individual authorized under chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(9) "Prescriber" has the same meaning as in section [4729.01](#) of the Revised Code.

(B) In the operation of a pain management clinic, the following requirements shall be met:

(1) The pain management clinic shall be owned and operated by one or more physicians. Each physician owner of a pain management clinic shall complete at least twenty hours of category I continuing medical education in pain medicine every two years, to include one or more courses addressing the potential for addiction. The courses completed in compliance with this rule shall be accepted toward meeting the category I requirement for certificate of registration renewal for the physician.

(2) Each physician owner of a pain management clinic must meet one of the following requirements:

(a) Hold current subspecialty certification in pain medicine by the American board of medical specialties, or hold a current certificate of added qualification in pain medicine by the American osteopathic association bureau of osteopathic specialists; or

(b) Hold current subspecialty certification in hospice and palliative medicine by the American board of medical specialties, or hold a current certificate of added qualification in hospice and palliative medicine by the American osteopathic association bureau of osteopathic specialists; or

(c) Hold current board certification by the American board of pain medicine; or

(d) Hold current board certification by the American board of interventional pain physicians; or

(e) Meet both of the following:

(i) Hold current board certification in anesthesiology, psychiatry, neurology, physical medicine and rehabilitation, occupational medicine, or rheumatology by the American board of medical specialties or hold current primary certification in anesthesiology, psychiatry, neurology, physical medicine and rehabilitation, occupational medicine, or rheumatology by the American osteopathic association bureau of osteopathic specialists.

(ii) Demonstrate conformance with the minimal standards of care.

(3) To demonstrate conformance with the minimal standards of care pursuant to paragraph (B)(2)(e)(ii) of this rule, the board shall conduct an inspection of the facility pursuant to division (E) of section [4731.054](#) of the Revised Code.

(4) The pain management clinic shall be licensed as a category III terminal distributor of dangerous drugs with a pain management clinic classification under section [4729.552](#) of the Revised Code.

(5) The pain management clinic shall be operated in compliance with the drug prevention and control act, 21 U.S.C. 801 to 971, in effect as of May 1, 2016, and Chapters 3719., 4729., 4730., and 4731. of the Revised Code.

(6) The pain management clinic shall have proper equipment, materials, and personnel on premises to provide appropriate medical treatment, as required by the minimal standards of care.

(C) Each physician who provides care at a pain management clinic shall complete at least twenty hours of category I continuing medical education in pain medicine every two years, to include one or more courses addressing the potential for addiction. The courses completed in compliance with this rule shall be accepted toward meeting the category I requirement for certificate of registration renewal for the physician.

(D) No physician owner of a pain management clinic, employee of the clinic, or person with whom the clinic contracts for services shall:

(1) Have ever been denied a license to prescribe, dispense, administer, supply, or sell a controlled substance by the drug enforcement administration or appropriate issuing body of any state or jurisdiction, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, administering, supplying or selling a controlled substance or other dangerous drug.

(2) Have held a license issued by the drug enforcement administration or a state licensing agency in any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance, that has ever been restricted, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, administering, supplying, or selling a controlled substance or other dangerous drug.

(3) Have been subject to disciplinary action by any licensing entity that was based, in whole or in part, on the prescribers inappropriate prescribing, dispensing, diverting, administering, supplying or selling a controlled substance or other dangerous drug.

(E) In providing supervision, direction, and control of individuals at a pain management clinic the physician owner shall establish and ensure compliance with the following:

(1) A requirement that a log of patients be maintained for each day the clinic is in operation.

(a) Each log sheet shall contain the month, day, and year;

(b) Each log entry shall include the legible first and last name of each patient;

(c) Each patient shall be required to sign the log at each visit; and

(d) Patient logs shall be maintained for seven years.

(2) A requirement that providers obtain informed consent for each patient prior to the commencement of treatment.

(3) An on-going quality assurance program that objectively and systematically monitors and evaluates the quality and appropriateness of patient care, evaluates methods to improve patient care, identifies and corrects deficiencies within the clinic, and provides the opportunities to improve the clinic's performance and quality of care.

(4) A requirement that the background, training, certification, and licensure of all clinical staff be documented. Verification of certification and licensure shall be made on an annual basis.

(5) A requirement that adequate billing records are maintained for all patients and made available to the board, immediately upon request.

(a) Billing records shall include the amount paid, method of payment, description of services, sufficient information to identify the patient, and the amounts charged to the patient for each date of service,

(b) Billing records shall be maintained for seven years from the last date of treatment of the patient.

(6) A requirement that adequate patient records are maintained for all patients and made available to the board, immediately upon request.

(a) Patient records shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum:

(i) Patient history and physical examination, including history of drug abuse or dependence;

(ii) Diagnostic, therapeutic, and laboratory results, including drug testing results;

(iii) Reports of evaluations, consultations, and hospitalizations;

(iv) Treatment objectives, including discussion of risks and benefits;

(v) Records of drugs prescribed, dispensed or administered, including the date, type, and dosage;

(vi) Treatments;

(vii) Receipt and assessment of drug database or prescription monitoring program reports;

(viii) Copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient. Records provided by the patient shall be designated as such.

(b) Patient records shall be maintained for seven years from the last date of treatment of the patient.

(c) In the treatment of chronic pain the patient records shall contain the information required in rule [4731-21-02](#) of the Administrative Code in lieu of the requirements of paragraphs (E)(6)(a)(i) to (E)(6)(a)(vi) of this rule.

Effective: 6/30/2017

Five Year Review (FYR) Dates: 03/28/2017 and 06/30/2022

Promulgated Under: [119.03](#)

Statutory Authority: [4731.05](#), [4731.054](#)

Rule Amplifies: [4731.054](#)

Prior Effective Dates: 8/31/11

4731-36-01 Military Provisions Related to Education and Experience Requirements for Licensure

(A) Definitions

For purposes of this chapter:

(1) "Armed forces" means any of the following:

(a) The armed forces of the United States, including the army, navy, air force, marine corps, and coast guard;

(b) A reserve component of the armed forces listed in paragraph (A)(1)(a) of this rule;

(c) The national guard, including the Ohio national guard or the national guard of any other state;

(d) The commissioned corps of the United States public health service;

(e) The merchant marine service during wartime;

(f) Such other service as may be designated by Congress; or

(g) The Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

(2) "Board" means the state medical board of Ohio.

(B) Education and service for eligibility for licensure.

(1) In accordance with section 5903.03 of the Revised Code, the following military programs of training, military primary specialties, and lengths of service are substantially equivalent to or exceed the educational and experience requirements for licensure as a physician assistant and for a prescriber number:

(a) An individual serving in a military primary specialty listed in paragraph (B)(1)(b) of this rule must be a graduate of a physician assistant education program approved by the accreditation review commission on education for the physician assistant.

(b) Service in one of the following military primary specialties for at least two consecutive years while on active duty, with evidence of service under honorable conditions, including any experience attained while practicing as a physician assistant at a health care facility or clinic operated by the United States department of veterans affairs, may be substituted for a master's degree for eligibility for a license to practice as a physician assistant pursuant to section 4730.11 of the Revised Code and for a prescriber number pursuant to section 4730.15 of the Revised Code ;

(i) Army: MOS 65D;

(ii) Navy: NOBC 0113;

(iii) Air force: AFSC 42G;

(iv) The national guard of Ohio or any state;

(v) Marine: Physician assistant services are provided by Navy personnel;

(vi) Coast guard;

(vii) Public health service.

(2) For purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or that exceed the educational and experience requirements for licensure as a cosmetic therapist or massage therapist.

(3) For purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or that exceed the educational and experience requirements for licensure to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(4) For purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or that exceed the educational and experience requirements for licensure as a dietitian.

(5) For purposes of section 5903.03 of the Revised Code, the board recognizes respiratory care educational programs offered by branches of the United States military that have been issued provisional accreditation, initial accreditation, continuing accreditation or other accreditation status conferred by the commission on accreditation for respiratory care (CoARC) or their successor organization that permits respiratory care programs offered by the United States military to continue to enroll and/or graduate students.

(6) For purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, and lengths of service that are substantially equivalent to or exceed the educational and experience requirements for licensure as an acupuncturist or oriental medicine practitioner.

(7) For the purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or exceed the educational and experience requirements for licensure as a radiologist assistant.

(8) For the purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or exceed the educational and experience requirements for licensure as a genetic counselor.

4731-36-02 Military Provisions Related to Renewal of License and Continuing Education

(A) Renewal of an expired license or certificate to practice without a late fee or re-examination.

(1) An expired license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4761., 4762., 4774., or 4778. of the Revised Code shall be renewed upon payment of the renewal fee provided for in Chapter 4730., 4731., 4759., 4761., 4762., 4774., or 4778. of the Revised Code and without a late fee or re-examination if the holder meets all of the following requirements:

(a) The licensee is not otherwise disqualified from renewal because of mental or physical disability;

(b) The licensee meets the requirements for renewal for the particular license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4761., 4762., 4774., or 4778. of the Revised Code ;

(c) Either of the following situations applies:

(i) The license was not renewed because of the licensee's service in the armed forces, or

(ii) The license was not renewed because the licensee's spouse served in the armed forces, and the service resulted in the licensee's absence from this state.

(d) The licensee or the licensee's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(B) Continuing education.

(1) Extension of the continuing education period for the license or certificate to practice pursuant to Chapter 4730., 4731., 4759., 4761., 4762., or 4778. of the Revised Code:

(a) The holder of a license or certificate to practice may apply for an extension of the current continuing education reporting period in the manner provided in section [5903.12](#) of the Revised Code by submitting both of the following:

(i) A statement that the licensee has served on active duty, whether inside or outside of the United States, for a specified period of time during the current continuing education reporting period.

(ii) Proper documentation certifying the active duty service and the length of that active duty service.

(b) Upon receiving the application and proper documentation, the board shall extend the current continuing education reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current continuing education reporting period. Any portion of a month served shall be considered one full month.

(2) The board shall consider relevant education, training, or service completed by a licensee as a member of the armed forces in determining whether a licensee has met the continuing education requirements needed to renew the license.

(3) For purposes of sections 5903.12 and 5903.121 of the Revised Code, anesthesiologist assistants in Chapter 4731. of the Revised Code, acupuncturists in Chapter 4762. of the Revised Code, and radiologist assistants in Chapter 4774. of the Revised Code are not required to report continuing education coursework to the board.

4731-36-03 Processing applications from service members, veterans, or spouses of service members or veterans

(A) The board shall include questions on all applications for licensure, renewal, reinstatement or restoration of licensure for all applicants for licensure or certificate to practice pursuant to Chapters 4730., 4731., 4759., 4761., 4762., 4774., and 4778. that inquire as to whether the applicant is:

(1) A service member;

(2) A veteran; or

(3) The spouse or surviving spouse of a service member or veteran.

(B) If the applicant for licensure, biennial renewal, reinstatement, or restoration of licensure responds affirmatively to any of the questions discussed in paragraph (A) of this rule, the board shall process the application in the following manner:

(1) Route the application to a board staff member who is responsible for monitoring the application and communicating with the applicant regarding the status of the application, including informing the applicant of any documentation needed for the board to process the application;

(2) Expedite the processing of the application, even if the application was received later in time than other applications that are pending processing;

(3) Provide information regarding available continuing education waivers to applicants if the applicant or the applicant's spouse will be imminently deployed; and

(4) Track, on an annual basis, the total number of applications submitted by service members, veterans, spouses or surviving spouses of service members or veterans, and the average number of business days expended by the board to process those applications.

4730-1-06 Licensure as a physician assistant.

(A) All applicants for a physician assistant license shall file a written application under oath in the manner provided by section [4730.10](#) of the Revised Code.

(B) No application shall be considered filed, and shall not be reviewed, until the fee required by section [4730.10](#) of the Revised Code has been received by the board.

(C) An application shall be considered complete when all of the following requirements are met:

(1) The fee required pursuant to section [4730.10](#) of the Revised Code has been received by the board;

(2) Verification of the applicant's current certification has been received by the board directly from the "National Commission on Certification of Physician Assistants";

(3) All information required by section [4730.10](#) of the Revised Code, including such other facts and materials as the board requires, has been received by the board; and

(4) The applicant has complied with the requirements of paragraph (A) of rule [4730-3-02](#) of the Administrative Code and the board has received the results of the criminal records checks and any other forms required to be submitted pursuant to paragraph (A) of rule [4730-3-02](#) of the Administrative Code.

(5) The board is not conducting an investigation, pursuant to section [4730.26](#) of the Revised Code, of evidence appearing to show that the applicant has violated section [4730.25](#) of the Revised Code or applicable rules adopted by the board.

(D) All application materials submitted to the board will be thoroughly investigated. The board will contact individuals, agencies, or organizations for information about applicants as the board deems necessary. As part of the application process, an applicant may be requested to appear before the board or a representative thereof to answer questions or provide additional information.

(E) Applications received from service members, veterans, or spouses of service members or veterans shall be identified and processed in accordance with rule [4731-6-35](#) of the Administrative Code.

(F) The following processes apply when an application is not complete within six months of the date the application is filed with the board:

(1) If the application is not complete because required information, facts, or other materials have not been received by the board, the board may notify the applicant in writing that it intends to consider the application abandoned if the application is not completed.

(a) The written notice shall:

(i) Specifically identify the information, facts, or other materials required to complete the application; and

(ii) Inform the applicant that the information, facts, or other materials must be received by the deadline date specified; that if the application remains incomplete at the close of business on the deadline date

the application may be deemed to be abandoned and no further review of the application will occur; and that if the application is abandoned the submitted fees shall neither be refundable nor transferable to a subsequent application.

(b) If all of the information, facts, or other materials are received by the board by the deadline date and the application is determined to be complete, the board shall process the application and may require updated information as it deems necessary.

(2) If the application is not complete because the board is investigating, pursuant to section [4730.26](#) of the Revised Code, evidence appearing to show that the applicant has violated Chapter 4730. of the Revised Code or applicable rules adopted by the board, the board shall do both of the following:

(a) Notify the applicant that although otherwise complete, the application will not be processed pending completion of the investigation; and

(b) Upon completion of the investigation and the determination that the applicant is not in violation of statute or rule, process the application, including requiring updated information as it deems necessary.

(G) The holder of a physician assistant license issued under section [4730.11](#) of the Revised Code who did not have a qualifying master's degree or higher at the time of licensure and did not receive a valid prescriber number with the license may obtain a valid prescriber number by meeting the requirements of division (E)(3) of section [4730.11](#) of the Revised Code.

(H) A physician assistant license must be renewed in the manner and according to the requirements of section [4730.14](#) of the Revised Code.

(I) To qualify for renewal of a physician assistant license, the holder shall comply with the following:

(1) Each applicant for renewal shall certify that the applicant has completed the requisite hours of CME since the start of the licensure registration period.

(2) Except as provided in paragraph (I)(4) of this rule, a physician assistant shall have completed one hundred hours of CME during the licensure registration period.

(3) Pursuant to the provisions of section [4745.04](#) of the Revised Code, the board shall permit a physician assistant to earn one hour of CME for each sixty minutes spent providing health care services in Ohio, as a volunteer, to indigent and ~~uninsured~~ uninsured persons, up to a maximum of thirty-three hours per CME period. Physician assistants seeking to receive credit toward CME requirements shall maintain a log of their qualifying activities. The log shall indicate the dates the health care services were provided, the number of hours spent providing health care services on those dates, the location where the health care services were provided, and the signature of the medical director or the medical director's designee.

(4) Proration of hours required:

(a) If the physician assistant license is initially issued prior to the first day of the second year of a licensure period, the licensee shall be required to earn fifty total hours; if the license is issued on or after the first day of the second year of the licensure period and prior to the first day of the eighteenth month of that

licensure period, the licensee shall be required to earn twenty-five total hours; if the license is issued on or after the first day of the eighteenth month of a licensure period, the licensee shall not be required to earn any hours of CME for that licensure period.

(b) Pursuant to the provisions of section [4745.04](#) of the Revised Code, the board shall permit a physician assistant to earn one hour of CME for each sixty minutes spent providing health care services in Ohio, as a volunteer, to indigent and uninsured persons, when it is documented as required by paragraph (I)(3) of this rule, up to the following maximums:

(i) For a physician assistant required to earn fifty total hours, a maximum of sixteen hours for that CME period.

(ii) For a physician assistant required to earn twenty-five total hours, a maximum of eight hours for that CME period.

(5) Only those hours earned from the date of licensure to the end of the licensure period shall be used towards the total hour requirement as contained in this rule.

(6) Completion of the CME requirement may be satisfied by courses acceptable for the individual to maintain NCCPA certification.

(J) To qualify for renewal of a physician assistant license with a valid prescriber number, the physician assistant shall comply with all of the following requirements:

(1) Completion of the requirements in paragraph (I) of the rule;

(2) Except as provided in paragraph (J)(4) of this rule, completion of at least twelve hours of category I continuing education in pharmacology as certified by the "Ohio Association of Physician Assistants," "Ohio State Medical Association," Ohio Osteopathic Association," Ohio Foot and Ankle Medical Association," a continuing medical education provider accredited by the ACCME and approved by the board, "American Academy of Physician Assistants," "American Council on Pharmacy Education," or and advanced instructional program in pharmacology approved by the Ohio board of nursing.

(a) Certification is a process whereby ACCME accredited providers define their respective continuing medical education program requirements for periodic submission to the board for approval.

(b) The board may approve each association's continuing medical education requirements which consist of continuing medical education category I courses and activities that are deemed acceptable for completing the requisite hours of continuing education in pharmacology by each licensee who has a valid prescriber number.

(3) If the physician assistant prescribes opioid analgesics or benzodiazepines, the applicant for renewal shall certify having been granted access to OARRS, unless one of the exemptions in section [4730.49](#) of the Revised Code is applicable.

(4) If the renewal of the license with a valid prescriber number is the first renewal after the holder has completed the five hundred hours of on site supervision required by section 4730.44 of the Revised Code, the requisite hours of pharmacology continuing education are as follows:

(a) If the five hundred hours were completed prior to the first day of the second year of the licensure period, the licensee shall be required to earn six total hours of pharmacology continuing education;

(b) If the five hundred hours were completed on or after the first day of the second year of the licensure period and prior to the eighteenth month of that licensure period, the licensee shall be required to earn three total hours;

(c) If the five hundred hours were completed on or after the first day of the eighteenth month of a licensure period, the licensee shall not be required to earn any hours of pharmacology continuing education for that licensure period.

~~(K) A physician assistant who served on active duty in any of the armed forces, as that term is defined in rule 4730-1-06.1 of the Administrative Code, during the licensure period may apply for an extension of the continuing education period by meeting the requirements of rule 4730-1-06.1 of the Administrative Code.~~



MEMORANDUM

TO: Curtis Gingrich, M.D., Chair, PAPC
Members, PAPC

FROM: Sallie Debolt, Senior Counsel

RE: Proposed guidance document concerning laws and rules applicable to physician assistant prescribing

DATE: March 26, 2019

Effective March 20, 2019, the Ohio Physician Assistant Formulary no longer exists. However, Section 4730.41, Ohio Revised Code, states that a physician assistant shall not prescribe any drug in violation of state or federal law. "Law" includes provisions of the Ohio Revised Code, rules in the Ohio Administrative Code, provisions of U.S. Code, and federal regulations.

Attached for your review is a proposed guidance document to assist physician assistants and their supervising physicians in being aware of the state and federal laws and rules that govern physician assistant prescribing. The document would be posted on the Medical Board's website under the "Resources" heading.

REQUESTED ACTION: Please advise whether the proposed document would be of assistance to physician assistants and, if so, recommend that the Medical Board approve it for publication.

Statutes and Rules Concerning Physician Assistant Prescribing or Personally Furnishing (Dispensing) Certain Drugs

Effective March 20, 2019, the Ohio Physician Assistant Formulary no longer exists. However, Section 4730.41, Ohio Revised Code, states that a physician assistant shall not prescribe any drug in violation of state or federal law. "Law" includes provisions of the Ohio Revised Code, rules in Ohio Administrative Code, provisions of U.S. Code, and federal regulations.

This document lists the state and federal laws effective on the date of this document that are applicable to a physician assistant who holds a prescriber number. The laws are grouped as follows:

- I. General statutes and rules
- II. Prescribing controlled substance drugs
- III. Prescribing for specific situations
- IV. Prescribing for medication-assisted treatment

I. GENERAL PROVISIONS

Section 4730.02, Ohio Revised Code: Prohibited acts.

- A physician assistant shall not prescribe any drug or device to perform or induce an abortion, or otherwise perform or induce an abortion.
- A physician assistant shall not perform any service not within the supervising physician's normal course of practice.

Section 4730.20, Ohio Revised Code - Services performed by physician assistant.

- An Ohio licensed physician assistant who holds a valid prescriber number issued by the State Medical Board and who has been granted physician-delegated prescriptive authority, may order, prescribe, personally furnish, and administer drugs and medical devices.

Section 4730.41, Ohio Revised Code: Physician assistant's authority under certificate to prescribe.

The physician assistant may exercise physician-delegated prescriptive authority:

- To the extent the supervising physician has granted authority
- In compliance with all conditions placed on that authority by the supervising physician
- For controlled substances, with registration with the DEA
- If authorized to prescribe a controlled substance containing an opioid to a minor, such prescribing must be in compliance with Section 3719.061, Ohio Revised Code.

Rule 4729-5-30, Ohio Administrative Code: Manner of issuance of a prescription.

- Each prescription a physician assistant writes must comply with Rule 4729-5-30, Ohio Administrative Code, including, but not limited to:
 - ✓ Be dated on the date of issuance;
 - ✓ Provide contact information for the physician assistant;
 - ✓ Indicate the drug, strength, quantity to be dispensed, explicit directions, and number of refills (if any);
 - ✓ For a controlled substance, indicate the ICD-10 code of the condition being treated and the number of days the drug is expected to last.

Rule 4731-11-09, Ohio Administrative Code: Prescribing to persons not seen by the physician assistant.

- A physician assistant must comply with paragraphs (B) and (C) of Rule 4731-11-09, Ohio Administrative Code, when prescribing a non-controlled substance drug to a person for whom the physician assistant has not performed an in-person examination appropriate to the medical condition. This includes, but is not limited to, that the physician assistant must, through interaction with the patient, complete a medical evaluation that is appropriate for the patient and the condition with which the patient presents and establish or confirm a diagnosis and treatment plan. The rule applies to all situations, including on-call, cross-coverage, and telemedicine situations.

II. PRESCRIBING CONTROLLED SUBSTANCE DRUGS

Section 3719.061, Ohio Revised Code: Prescription of opioids to minors.

Before prescribing a drug containing an opioid to a person under the age of 18, the physician assistant must complete specific activities, including:

- (1) Assess whether the minor has ever suffered, or is currently suffering, from mental health or substance abuse disorders and whether the minor has taken or is currently taking prescription drugs for treatment of those disorders;
- (2) Discuss with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment all of the following:
 - (a) The risks of addiction and overdose associated with opioid analgesics;
 - (b) The increased risk of addiction to controlled substances of individuals suffering from both mental and substance abuse disorders;
 - (c) The dangers of taking opioid analgesics with benzodiazepines, alcohol, or other central nervous system depressants;

- (d) Any other information in the patient counseling information section of the labeling for the opioid analgesic required under 21 C.F.R. 201.57(c)(18).
- (3) Obtain written consent for the prescription from the minor's parent, guardian, or, subject to division (E) of this section, another adult authorized to consent to the minor's medical treatment.

Section 4730.411, Ohio Revised Code: Prescription of schedule II controlled substance by physician assistant.

For prescribing schedule II drugs:

- The physician assistant's prescribing of schedule II drugs is generally limited to a prescription for a single twenty-four-hour period for a patient who has a terminal condition and the supervising physician initially prescribed the drug. However, there are thirteen practice locations where the schedule II prescribing limitation is not applicable when the specified criteria are met.

Section 4730.53, Ohio Revised Code: Conditions for prescribing opioid analgesic or benzodiazepine drugs; adoption of rules regarding review of drug database.

- When prescribing controlled substance opioid analgesics or benzodiazepines, the physician assistant must check OARRS before the first prescription and, if the patient is prescribed the drug for more than 90 days, at least every 90 days. The physician must also comply with Rule 4730-2-10, Ohio Administrative Code.
- When prescribing reported drugs other than opioid analgesics or benzodiazepines, the physician assistant must check OARRS in compliance with Rule 4730-2-10, Ohio Administrative Code.

Rule 4730-2-10, Ohio Administrative Code: Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).

- The physician assistant must comply with this rule when prescribing any drug that is reported to OARRS. The reported drugs include: all controlled substances, gabapentin, and naloxone.

Rule 4731-11-03, Ohio Administrative Code: Utilization of anabolic steroids, schedule II controlled substance cocaine hydrochloride, and schedule II controlled substance stimulants.

- A physician assistant shall not:
 - (1) Use anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin ("HCG"), or other hormones for the purpose of enhancing athletic ability.
 - (2) Use the schedule II controlled substance cocaine hydrochloride for a purpose other than as a topical anesthetic in situations in which it is properly indicated, or for in-office diagnostic testing for pupillary disorders.

(3) Use a schedule II controlled substance stimulant for any of the following: for purposes of weight reduction or control; when the physician assistant knows or has reason to believe that a recognized contra-indication to its use exists; or in the treatment of a patient who the physician assistant knows or should know is pregnant, except if specified criteria are met.

➤ A physician assistant may only use a schedule II controlled substance stimulant for the following purposes:

(1) The treatment of narcolepsy, idiopathic hypersomnia, and hypersomnias due to medical conditions known to cause excessive sleepiness;

(2) The treatment of abnormal behavioral syndrome (attention deficit disorder, hyperkinetic syndrome), and/or related disorders;

(3) The treatment of drug-induced or trauma-induced brain dysfunction;

(4) The differential diagnostic psychiatric evaluation of depression;

(5) The treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as antidepressants;

(6) As adjunctive therapy in the treatment of the following:

(7) Chronic severe pain;

(8) Closed head injuries;

(9) Cancer-related fatigue;

(10) Fatigue experienced during the terminal stages of disease;

(11) Depression experienced during the terminal stages of disease; or

(12) Chronic pain.

Rule 4731-11-04, Ohio Administrative Code: Controlled substances: Utilization of short term anorexiant for weight reduction.

➤ A physician must personally prescribe short-term weight loss drugs to patients. Accordingly, the physician may not authorize a physician assistant to prescribe short-term weight loss drugs.

Rule 4731-11-04.01, Ohio Administrative Code: Controlled substances: utilization for chronic weight management.

➤ For chronic weight management drugs (currently Qsymia and Belviq) the physician must personally see the patient before prescribing at the initial visit and at two subsequent

visits. A physician assistant may see the patient and prescribe for the patient starting with the fourth visit.

Rule 4731-11-08, Ohio Administrative Code: Utilizing controlled substances for self and family members.

- A physician assistant shall not prescribe a controlled substance to himself/herself
- A physician assistant shall not prescribe a controlled substance to a family member, except in an emergency.

Rule 4731-11-09, Ohio Administrative Code: Prescribing to persons not seen by the physician assistant.

- A physician assistant must comply with paragraphs (A), (C), and (D) of Rule 4731-11-09, Ohio Administrative Code, when prescribing a controlled substance drug to a person for whom the physician assistant has not performed an in-person examination appropriate to the medical condition. The rule applies to all situations, including on-call, cross-coverage, and telemedicine situations. Paragraph (D) reflects the federal definition of “telemedicine” in 21 C.F.R. §1300.04.

Rule 4731-11-13, Ohio Administrative Code: Prescribing of opiate analgesics for acute pain.

- A physician assistant must comply with Rule 4731-11-13, Ohio Administrative Code, when prescribing an out-patient opioid analgesic for acute pain.

Rule 4731-11-14, Ohio Administrative Code: Prescribing for subacute and chronic pain.

- A physician assistant must comply with Rule 4731-11-14, Ohio Administrative Code, when prescribing an opioid analgesic for subacute or chronic pain.

21 CFR Section 1300.04, Definitions relating to the dispensing of controlled substances by means of the internet.

- A physician assistant must have personally evaluated the patient prior to prescribing a controlled substance, unless the situation is one set forth in (i)(1) – (7), including the use of a telecommunications system that meets the specified requirement. See Rule 4731-11-09(D), OAC.

III. PRESCRIBING FOR SPECIFIC SITUATIONS

Provisions applicable to delegation of the administration of a drug

Section 4730.203, Ohio Revised Code: Construction and application.

- A physician assistant’s delegation of the administration of a drug must be in compliance with the following:

- ✓ The physician assistant has determined that the drug is appropriate for the patient and the person to whom the delegation is to be made is able to safely or administer the drug;
- ✓ The drug is not a controlled substance;
- ✓ The drug is not administered by IV; or
- ✓ The drug will not be administered in a hospital inpatient care unit, as defined in section 3727.50 of the Revised Code; a hospital emergency department; a freestanding emergency department; or an ambulatory surgical facility licensed under section 3702.30 of the Revised Code.

Rule 4730-1-08, Ohio Administrative Code: Physician assistant delegation of medical tasks and administration of drugs.

- The rule sets out factors the physician assistant must consider when determining whether it is appropriate to delegate the administration of a drug to an unlicensed person.

Provisions applicable to prescribing during a period of emergency

Section 3701.048, Ohio Revised Code – Period of Emergency

- A physician assistant may administer, deliver, or distribute drugs, other than Schedule II and III drugs, according to an Ohio Department of Health protocol during a period of emergency that affects the public health. The emergency must be declared by the Governor. The Director of the Ohio Department of Health must identify the one or more protocols to be implemented and the period of time during which the one or more protocols are effective.

Section 4730.04, Ohio Revised Code - Disaster or emergency medical care

- During a disaster or emergency, as defined in the section, a physician assistant may practice under the supervision of the medical director of the disaster or emergency.

Section 4730.43, Ohio Revised Code: Samples provided by physician assistant.

- (A) A physician assistant may furnish samples. The amount generally may not exceed that needed for a seventy-two hour supply. The physician assistant may not personally furnish (dispense) samples of controlled substances.
- (B) A physician assistant may only personally furnish (dispense) drugs when the following conditions are met:
 - (1) The drugs are the following: antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, or drugs used in the treatment of dyslipidemia

- (2) The personally furnishing (dispensing) occurs at one of the following locations: a health department operated by the board of health of a city, general health district, or authority under Section 3709.05 of the Revised Code; a federally funded comprehensive primary care clinic; or a nonprofit health care clinic or program.

Section 4730.431, Ohio Revised Code: Authority to supply naloxone.

- A physician assistant with a prescriber number may personally furnish a supply of naloxone, or issue a prescription for naloxone, without having personally examined the person to whom it will be administered in compliance with Section 4730.431, Ohio Revised Code.

Section 4730.432, Ohio Revised Code: Authority to prescribe or furnish drugs to sexual partner of a patient diagnosed with chlamydia, gonorrhea, or trichomoniasis.

- A physician assistant may be authorized to issue a prescription for or personally furnish a complete or partial supply of a drug to treat chlamydia, gonorrhea, or trichomoniasis without having examined the individual for whom the drug is intended, when specified conditions are met.

Section 4730.433, Ohio Revised Code: Epinephrine autoinjectors.

- A physician assistant may be authorized to personally furnish a supply of epinephrine autoinjectors for use when specified conditions are met or issue a prescription for epinephrine autoinjectors.

IV. DRUG-ASSISTED TREATMENT USING EITHER CONTROLLED OR NON-CONTROLLED SUBSTANCE MEDICATIONS

Section 3719.064, Ohio Revised Code, Prerequisites for Initiation of drug-assisted treatment

- Before initiating medication-assisted treatment, a physician assistant must give the patient or the patient's representative information about all drugs approved by the United States FDA for use in medication-assisted treatment. The information must be provided both orally and in writing. The prescriber or the prescriber's delegate shall note in the patient's medical record when this information was provided and make the record available to employees of the board of nursing or state medical board on their request.

If the prescriber is not a qualifying practitioner and the patient's choice is opioid treatment and the prescriber determines that such treatment is clinically appropriate and meets generally accepted standards of medicine, the prescriber shall refer the patient to an opioid treatment program licensed under section 5119.37 of the Revised Code or a qualifying practitioner. The prescriber or the prescriber's delegate shall make a notation in the patient's medical record naming the program or practitioner to whom the patient was referred and specifying when the referral was made.

Sections 4730.55 and 4730.56, Ohio Revised Code

- When providing medication-assisted treatment for drug addiction or prevention of relapse, the physician assistant must comply with Sections 4730.55 and 4730.56, Ohio Revised Code, and the rules in Chapter 4730-4, Ohio Administrative Code.

Rule 4731-11-12, Ohio Administrative Code: Office-based opioid treatment (effective until 4-30-19)

- A physician assistant who holds a DATA 2000 waiver issued by the Substance Abuse and Mental Health Services Administration (“SAMHSA”) must comply with Rule 4731-11-12 when providing office-based treatment for opioid addiction.

Rules 4730-4-01, 4730-4-03, and 4730-4-04, Ohio Administrative Code: Medication-assisted Treatment (effective 4-30-19)

- A physician assistant who holds a Data 2000 waiver issued by the Substance Abuse and Mental Health Services Administration (“SAMHSA”) must comply with Rules 4730-4-01 and 4730-4-03 when providing office-based treatment for opioid addiction (“OBOT”). OBOT involves providing treating using a controlled substance medication that is approved by the FDA for such treatment.
- A physician assistant must comply with Rules 4730-4-01 and 4730-4-04, Ohio Administrative Code, when providing medication-assisted treatment for addiction or prevention of relapse using a non-controlled medication.

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MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Nathan T. Smith, Senior Legal and Policy Counsel

DATE: April 3, 2019

RE: Proposed Dietetics FAQs and Guidelines C and D, and Respiratory Care FAQs

For Dietetics, Medical Board staff have drafted a Frequently Asked Questions (FAQ) document to provide dietetics licensees and the public with easily accessible information on the Medical Board website. These FAQs were discussed by the Dietetics Advisory Council at its December 11, 2018 and January 8, 2019 meetings. The council amended and then recommended Board approval of the substance of the attached FAQs. Subsequently, the recommended FAQs have been reformatted for ease of reference, and a few minor errors were corrected. In addition, because the FAQs reference Guidelines C and D, these guidelines have been reviewed and minimally edited by Medical Board staff. The final version of the FAQs and Guidelines C and D will have been reviewed by the Dietetics Advisory Council on April 9, 2019.

For respiratory care, Medical Board staff similarly drafted respiratory care FAQs. They were discussed and recommended for Board approval by the Respiratory Care Advisory Council on February 12, 2019.

REQUESTED ACTION:

Approve to send to the full Board for approval to post on the Medical Board's website the following:

1. Dietetics FAQs and Guidelines C and D
 2. Respiratory Care FAQs
-

Dietetics Frequently Asked Questions
(as recommended by the Dietetics Advisory Council)

1. Can another licensed health care professional, such as a Registered Nurse, provide nutrition advice?

Anyone may provide general non-medical nutrition information as described in Ohio Administrative Code Rule 4759-2-01(M). Pursuant to [Section 4759.10\(A\)](#) of the Ohio Revised Code, a health care professional licensed under Title 47 of the Revised Code who is acting within the scope of their profession may provide nutrition advice. However, a health care professional who is not a licensed dietitian may not use the title of dietitian or in any other way represent themselves as practicing dietetics.

2. Can a Certified Diabetes Educator (CDE) provide nutrition advice?

A Certified Diabetes Educator may provide nutrition information related to the scope of their training. A Certified Diabetes Educator credential is a specialty which focuses on diabetes education, such as carbohydrate counting, food choices, timing of meals and snacks. Changes to insulin levels or other medications must be ordered by the physician or other licensed health professional whose scope of practice specifically includes prescriptive authority. The CDE certification itself does not authorize writing medication prescriptions.

3. What are the requirements to be a dietary director in a nursing home?

Please see Chapter 3701-17 of the Ohio Administrative Code which are the Ohio Department of Health regulations for nursing homes. Pursuant to rule [3701-17-07\(H\)](#) of the Ohio Administrative Code:

A food service manager designated pursuant to paragraph (K) of rule [3701-17-18](#) of the Administrative Code who has supervisory and management responsibility and the authority to direct and control food preparation and service shall obtain the level two certification in food protection according to rule [3701-21-25](#) of the Administrative Code.

4. What titles are restricted by Ohio law?

Ohio law prohibits anyone, other than a licensed dietitian, from using the title "dietitian" or any title, designation, words, letters, abbreviations, letters, insignia, or combination thereof tending to indicate that the person is practicing dietetics. Ohio Revised Code Section 4759.02(B).

The terms "Nutritionist", "Nutrition Counselor", and like terms tend to indicate that the person is practicing dietetics. Ohio Administrative Code 4759-2-01(K)

5. Who is exempt from licensure and regulation by the State Medical Board of Ohio?

Pursuant to R.C. 4759.10, sections 4759.01 to 4759.08 of the Revised Code do not apply to:

- (A) A person licensed under Title XLVII of the Revised Code who is acting within the scope of the person's profession, provided that the person complies with division (B) of section [4759.02](#) of the Revised Code;
- (B) A person who is a graduate of an associate degree program approved by the academy of nutrition and dietetics or the state medical board who is working as a dietetic technician under the supervision of a dietitian licensed under section [4759.06](#) of the Revised Code or registered by the commission on dietetic registration, except that the person is subject to division (B) of section [4759.02](#) of the Revised Code if the person uses a title other than "dietetic technician";
- (C) A person who practices dietetics related to employment in the armed forces, veteran's administration, or the public health service of the United States;
- (D) Persons employed by a nonprofit agency approved by the board or by a federal, state, municipal or county government, or by any other political subdivision, elementary or secondary school, or an institution of higher education approved by the state medical board or by a regional agency recognized by the council on postsecondary accreditation, who performs only nutritional education activities and such other nutritional activities as the board, by rule, permits, provided the person does not violate division (B) of section [4759.02](#) of the Revised Code;
- (E) A person who has completed a program meeting the academic standards set for dietitians by the academy of nutrition and dietetics, received a baccalaureate or higher degree from a school, college, or university approved by a regional accreditation agency recognized by the council on postsecondary accreditation, works under the supervision of a licensed dietitian or registered dietitian, and does not violate division (B) of section [4759.02](#) of the Revised Code;
- (F) A person when acting, under the direction and supervision of a person licensed under Title XLVII of the Revised Code, in the execution of a plan of treatment authorized by the licensed person, provided the person complies with division (B) of section [4759.02](#) of the Revised Code;
- (G) The free dissemination of literature in the state;
- (H) Provided that the persons involved in the sale, promotion, or explanation of the sale of food, food materials, or dietary supplements do not violate division (B) of section [4759.02](#) of the Revised Code, the sale of food, food materials, or dietary supplements and the marketing and distribution of food, food materials, or dietary supplements and the promotion or explanation of the use of food, food materials, or dietary supplements provided that the promotion or explanation does not violate Chapter 1345. of the Revised Code;
 - (I) A person who offers dietary supplements for sale and who makes the following statements about the product if the statements are consistent with the dietary supplement's label or labeling:
 - (1) Claim a benefit related to a classical nutrient deficiency disease and disclose the prevalence of the disease in the United States;

- (2) Describe the role of a nutrient or dietary ingredient intended to affect the structure or function of the human body;
 - (3) Characterize the documented mechanism by which a nutrient or dietary ingredient acts to maintain the structure or function of the human body;
 - (4) Describe general well-being from the consumption of a nutrient or dietary ingredient.
- (J) Provided that the persons involved in presenting a general program of instruction for weight control do not violate division (B) of section [4759.02](#) of the Revised Code, a general program of instruction for weight control approved in writing by a licensed dietitian, a physician licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine or surgery, a person licensed in another state that the board considers to have substantially equivalent licensure requirements as this state, or a registered dietitian;
- (K) The continued practice of dietetics at a hospital by a person employed at that same hospital to practice dietetics for the twenty years immediately prior to July 1, 1987, so long as the person works under the supervision of a dietitian licensed under section [4759.06](#) of the Revised Code and does not violate division (B) of section [4759.02](#) of the Revised Code. This division does not apply to any person who has held a license issued under this chapter to practice dietetics. As used in this division, "hospital" has the same meaning as in section [3727.01](#) of the Revised Code.

6. How do I make a complaint if I think that someone is violating the dietetics licensure law?

A complaint may be submitted by going to <https://med.ohio.gov> and clicking on the "File Complaint" tab at the top right of the page.

7. What can unlicensed personnel such as dietary managers, dietary clerks, or dietary aides do in the area of nutrition care?

Persons who do not meet the criteria for licensure or exemption from licensure may not practice dietetics even under supervision. If properly trained, unlicensed assistive personnel may collect and record nutritional data to assist the dietitian with assessments and counseling. Evaluating or interpreting nutritional data is considered the practice of dietetics. Refer to Guideline D for further clarification.

8. What can the student dietitian or student dietetic technician do?

The Board recognizes that work experiences are a proper and necessary part of an educational program pursuant to 4759-5-02 OAC. A student may not engage in dietetic practice beyond that which is a part of the academic or pre-professional program. The dietitian that provides supervision should remember that students should only be working at the level of his/her educational experiences.

9. Can a Licensed Dietitian (LD) take an order from a physician either electronically or telephonically?

Only approved medical health professionals may be involved in the prescription process. At times it may be necessary that a physician phones in or electronically transmits a diet order, which the LD can include in the patient's plan of care. This applies to therapeutic dietary needs, but NOT medications.

10. Does Ohio law address billing codes for dietitian use?

The Medical Board does not have laws or rules related to billing. Other state agencies, such as the Ohio Department of Medicaid may address this issue.

11. A Registered Dietetic Technician has advanced their career and completed all educational requirements to take the Registered Dietitian national exam. Do they need a Limited Permit to practice dietetics?

Yes. Pursuant to Ohio Administrative Code rule 4759-4-08, they must also take the examination for licensure within seven months of the issuance of the limited permit.

12. Can a dietetic technician provide free diabetes education to uninsured individuals?

Pursuant to [section 4759.10\(B\)](#) of the Ohio Revised Code, the supervising licensed dietitian assigns tasks based on the dietetic technician's competency. Ohio law is to be followed regardless if fees are charged or not.

13. What is the scope of practice for a licensed dietitian?

Pursuant to [section 4759.01](#) of the Ohio Revised Code, the practice of dietetics means any of the following:

- Nutritional assessment to determine nutritional needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition;
- Nutritional counseling or education as components of preventive, curative, and restorative health care;
- Development, administration, evaluation, and consultation regarding nutritional care standards.

14. What areas of nutrition and dietetics require licensure?

Ohio law set forth in Ohio Revised Code Chapter 4759 is a mandatory licensure law, which became effective on July 1, 1987. This means that everyone who practices dietetics, as defined in the law, must be licensed, unless specifically exempted. The three areas defined as dietetic practice are:

1. Nutritional assessment to determine nutritional needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.
2. Nutritional counseling or education as components of preventive, curative, and restorative health care

3. Development, administration, evaluation, and consultation regarding nutritional care standards. Ohio Revised Code section 4759.01(A)

Dietitian licensure law sets minimum standards. Agencies, hospitals, nursing homes, etc. are free to add additional requirements to job descriptions and requirements, e.g. Registered Dietitian (RD), length of experience, type of experience.

15. What are the requirements to become licensed as a dietitian in Ohio?

The requirements for licensure are set forth in Ohio Revised Code Section 4759.06(A):

1. Has satisfactorily completed an application for licensure in accordance with division (A) of section 4759.05 of the Revised Code;
2. Has paid the fee required under division (A) of section 4759.08 of the Revised Code;
3. Is of good moral character;
4. Has received a baccalaureate or higher degree from an institution of higher education that is approved by the Board or a regional accreditation agency that is recognized by the Commission on Recognition of Post-Secondary Accreditation, and has completed a program consistent with the academic standards for dietitians established by the Academy of Nutrition and Dietetics (AND);
5. Has successfully completed a pre-professional dietetic experience approved by the Academy of Nutrition and Dietetics, or experience approved by the Board under division (A) (3) of section 4759.05 of the Revised Code;
6. Has passed the examination approved by the Board under division (A) (1) of section 4759.05 of the Revised Code;

The Board shall waive the requirements of 4, 5, and 6 for Registered Dietitians with the Commission on Dietetic Registration who present satisfactory evidence of current registration.

16. What about the use of RD by a registered dietitian?

The Registered Dietitian (RD) is a trademark of the Academy of Nutrition and Dietetics. Those who are registered may continue to use the designation “registered dietitian” and the abbreviation “RD”, but they may not practice dietetics in Ohio as defined in the law, unless they are also licensed in Ohio. Ohio Revised Code Section 4759.02(C)

17. What would happen if I dropped my RD status?

Provided an individual maintains licensure as a dietitian in Ohio the individual may continue to practice dietetics and use the LD credential. The law requires that licensed dietitians provide proof of continuing education when they renew their license. The documentation process for continuing education would change.

18. What documentation of continuing education is required to maintain licensure?

Licensees must comply with two continuing education requirements for renewal of the license as described in rule 4759-4-04 of the Ohio Administrative Code.

1. Licensees must maintain general continuing education for licensure in Ohio in a manner that is consistent with the requirements of the Commission on Dietetic Registration for Registered Dietitians – 75 hours in a 5-year period, utilizing the Professional Development Portfolio Process.

The dietitian who is also an RD, will, by maintaining registration, meet the requirement for continuing education in Ohio law. The licensed dietitian who is not an RD must provide evidence of continuing education directly to the Board.

2. Additionally, the Board has a one-hour jurisprudence continuing education requirement for every renewal period for all licensees including RDs.

19. What are the penalties for violations of the law?

For violations of R.C. 4759.07, the Board may limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit. The Board may seek an injunction to stop the activities of an unlicensed person who is practicing dietetics illegally under Ohio Revised Code Section 4759.09. In addition, practicing dietetics without a license is a misdemeanor crime (Ohio Revised Code Section 4759.99).

20. What titles and signatures are appropriate for those practicing in the field of dietetics?

To ensure compliance with Ohio Revised Code Chapter 4759:

- Licensed dietitians may use the title "licensed dietitian", "dietitian", "nutritionist", or "LD". If the licensed dietitian is also a registered dietitian, the letters "RD, LD" may be used.
- Students -- Students enrolled in an Academy of Nutrition and Dietetics approved baccalaureate, associate, or Coordinated Program in Dietetics (CPD) may use the title "student dietitian" or "student dietetic technician".
- Persons in Pre-professional experiences:
 - a. Dietetic Intern --- may use title "dietetic intern".
 - b. Dietetic Technician --- may use "student dietetic technician".
- Dietetic Technicians meeting the exemption and working under the supervision of the licensed dietitian may use Dietetic Technician (DT) or Registered Dietetic Technician (DTR), if registered.
- Baccalaureate Graduates meeting the exemption and working under the supervision of the licensed dietitian may not use "dietitian" as a part of their job title. Nutrition Associate or Nutrition Assistant are suggested titles.
- Limited Permit Holders who have completed educational and pre-professional experience requirements, but who have not yet taken the examination should use LP with their permit number, i.e. Name, LP number. If an LP holder has passed the RD

exam, the RD credential may be added to their title, i.e. Name, RD, LP number, until the limited permit expires.

21. How often am I required to renew my license?

You are required to renew your license once every two years by June 30th of every even numbered year.

22. What can happen if I do not renew my license?

Licenses expire on June 30th of even numbered years, and a valid license is mandatory for practicing dietetics in Ohio. Practicing dietetics without a license is a violation of the law and the person could be subject to Board discipline, an injunction, or even a criminal misdemeanor charge.

23. What is the procedure for name or address changes?

Go to https://elicense.ohio.gov/OH_HomePage and log into your e-license account. Under options choose name change request or address change request and submit it through the e-license portal. If timely, you may also make appropriate name or address changes on your online application during licensure renewal. It is the licensee's responsibility to inform the Board office of name and address changes.

24. Are limited permits available to practice dietetics? Who is eligible?

A limited permit may be granted to a person who has completed the education and pre-professional requirements as specified in the law and who presents evidence to the Board of intent to take the examination approved by the Board within seven (7) months of the issuance of the limited permit.

25. Could I lose my limited permit?

The permit enables the holder to engage in the full scope of practice and requires compliance with the laws and rules. A limited permit holder who has failed the examination once must report the results to the Board office immediately and establish a direct supervisory relationship with a licensed dietitian to continue to practice. Failing the examination twice results in the immediate expiration of the limited permit. A limited permit shall not be issued to a person who has failed the examination two or more times.

Direct supervision, as required by Ohio Revised Code 4759.06(E)(4), and Ohio Administrative Code rule 4759-4-08, must be provided by a licensed dietitian for a person holding a limited permit who has failed the examination once. The licensee providing the direct supervision must be present on site or readily available by telecommunication. Further information about supervision is provided in Guideline C on the Medical Board's website

26. What are the requirements for supervision of persons, claiming exemption from licensure as dietetic technicians or baccalaureate degree Nutrition Associates?

These persons must be supervised by a licensed dietitian in a manner which protects the public and given sufficient guidance to enable them to perform competently. Ohio Administrative Code rule 4759-5-01 specifically addresses supervision requirements. The licensee providing the supervision need not be on site at all times.

27. What are the fees associated with dietitian licensure?

Application - Initial License	\$225.00
Reinstatement – (expired 2 years or less)	\$205.00
Restoration - (expired more than 2 years)	\$230.00
Renewal of License	\$180.00
Limited Permit and Renewal of Permit	\$65.00
License Verification	\$50.00

****Criminal Records Check**

First time applicants for a license must submit fingerprints for a criminal records check completed by the Ohio Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau of Investigation (FBI). Instructions on how to accomplish this are posted at www.med.ohio.gov and associated fees will be charged by the fingerprinting site. See R.C. 4759.061.

28. Who is on the Dietetics Advisory Council?

The members of the Advisory Council are appointed by the State Medical Board of Ohio. A majority of members must be licensed dietitians who are actively engaged in the practice of dietetics. One member must be an educator holding a doctoral degree and one member must be a public member to represent the interests of consumers. See R.C. 4759.051.



GUIDELINE C
DIRECT SUPERVISION OF LIMITED PERMIT HOLDER

The purpose of this document is to clarify the supervision required for a limited permit holder who has failed the examination.

Chapter 4759 of the Ohio Revised Code affords limited permit holders the full rights and responsibilities of a licensee and does not require supervision **unless the person has failed the examination.**

DIRECT SUPERVISION

If a limited permit holder has failed the examination, the permit holder must notify the State Medical Board office immediately. If the permit holder intends to take the examination again and wishes to continue to practice in Ohio, appropriate supervision must be arranged and approved by the Board prior to re-engaging in dietetic practice. The limited permit becomes a "Supervised Limited Permit".

Rule 4759-4-08 of the Ohio Administrative Code provides:

(E) A limited permit holder who fails the examination must report the results to the board office immediately.

(1) The first time the limited permit holder fails, the limited permit holder shall practice only under the direct supervision of an Ohio licensed dietitian as approved by the board.

(2) The second time the limited permit holder fails, the limited permit expires immediately.

(F) A limited permit shall not be issued to a person who has failed the examination two or more times.

(G) The licensed dietitian who provides direct supervision of a person who has failed the examination and holds a limited permit shall provide sufficient guidance and direction to enable the person to perform competently. Direct supervision means that the licensee providing the supervision needs to be readily available by telecommunication, or in person and the licensee must review the work of the supervisee at least every fourteen days. When reviewing the work of a supervisee, the licensee shall comply with standards for professional responsibility and practice set forth in Chapter 4759-6 of the Administrative Code.

A limited permit holder must notify the State Medical Board of Ohio of failing the examination by phone at (614) 466-3934 or in writing. The following information is required: (1) the name of the permit holder who failed the examination and (2) the Ohio licensed dietitian who will supervise the practice of the limited permit holder. Following notification, the State Medical Board of Ohio will provide education to both individuals regarding the supervisor/supervisee requirements and will request documentation of the relationship.

The appropriate signature of persons who hold a Limited Permit or Supervised Limited Permit continues to be: **job title, Limited Permit #_.**

Limited permits expire on the expiration date which appears on the permit. It is illegal to continue to practice on an expired permit or license and penalties do apply.

This document is only a guideline and should not be interpreted as all-inclusive or exclusive. Violations reported to the Board will be reviewed on a case by case basis.

See also: Laws and rules governing the practice of dietetics in Ohio in Chapter 4759 of the Ohio Revised Code and the Ohio Administrative Code.

SUPERVISION AGREEMENT

All limited permit holders who fail the registration examination must immediately report those results to the State Medical Board of Ohio's office. The first time the limited permit holder fails the examination, he/she may, upon the Board's approval, re-engage in dietetic practice under a Supervised Limited Permit. The Supervised Limited Permit requires the holder to work under the direct supervision of an Ohio licensed dietitian.

In order for the State Medical Board of Ohio to determine whether the required supervisory relationship exists, all of the following information must be provided.

Please provide all of the following information and return the completed form to the State Medical Board of Ohio by email or fax.

I. To be completed by the person seeking a Supervised Limited Permit.

Name of Supervised Limited Permit Holder _____

Address _____

Telephone Number _____

LP Number _____

I request approval to engage in dietetic practice in Ohio under a Supervised Limited Permit. I certify that I intend to take the required registration examination for a second time within the next seven months and that my practice under the limited permit will be directly supervised by the Ohio licensed dietitian named below. I also certify that I have read, and agree to abide by, the information contained in the State Medical Board's Guideline C and the Laws and Rules Governing the Practice of Dietetics in the State of Ohio. I understand that a Supervised Limited Permit immediately expires and cannot be renewed if the holder fails the examination a second time.

Signature of Supervised Limited Permit Holder

Date

II. To be completed by the Ohio licensed dietitian who will supervise the limited permit holder.

Name of Supervisor of Limited Permit Holder _____

Address _____

Telephone Number _____

License Number _____

I agree to provide direct supervision of the dietetic practice of the individual named above. I certify that I have read, and agree to abide by, the information contained in the State Medical Board of Ohio's Guideline C and the Laws and Rules Governing the Practice of Dietetics in the State of Ohio. I understand that by serving in a supervisory relationship with the above named individual, I am responsible to supervise the dietetic practice of the individual in a manner that provides sufficient guidance and direction to enable the individual to perform competently. Direct supervision means that the licensee providing the supervision needs to be readily available by telecommunication, or in person and the licensee must review the work of the supervisee at least every fourteen days.

Signature of LD Supervisor

Date

Return to the State Medical Board of Ohio at license@med.ohio.gov or fax (614) 644-1464.



GUIDELINE D **UNLICENSED ASSISTIVE PERSONNEL**

The purpose of this document is to provide guidelines for task delegation and use of titles for unlicensed, not exempt personnel.

For the safety and welfare of the public, tasks which require the skill, knowledge and judgment of a licensed or exempted person should not be delegated to others. Assistive personnel in institutions, home health care, fitness facilities and other settings **who are not licensed, or appropriately exempted may not practice dietetics** as defined in Chapter 4759 of the Ohio Revised Code. (Note that students may practice only if pursuing degrees to become a dietitian or dietetic technician, when they are appropriately supervised, and when not engaged in practice beyond that which is a part of the academic or pre-professional program.)

The following tasks are considered the practice of dietetics and must be done by individuals either licensed or properly exempted from licensure:

- Perform Nutritional Assessments
- Perform Nutritional Counseling
- Perform Nutritional Education
- Develop Nutritional Care Standards
- Evaluate Nutritional Care Standards
- Recommend Medical Nutrition Regime
- Modify Medical Nutrition Regime
- Provide Nutrition Care Plans
- Provide Professional Nutrition Training of Other Staff
- Provide Nutritional Consultation on Any Matter Regarding Care of Persons Served
- Act in Any Matter Related to Direct Nutrition Care Which Requires Judgement or Decision-making

The following tasks may not specifically be the practice of dietetics, and may be delegated to properly trained individuals:

Collection of Nutritional Data

- Obtaining Nutrition Related Information Including:
 - Biochemical Values
 - Anthropometric Measurements
 - Intake and Output
 - Nutrient Intake and Preferences
 - Socio-economic Factors
- Recording Nutritional Information
- Inputting Nutritional Information into Computer Information System

Implementation of Nutrition Care Plans

- Encouraging, Supporting and Motivating for General Behavior Change (Without the Practice of Dietetics)
- Dissemination of Written Nutrition Information Prepared by a Licensee
- Reporting Response to Nutritional Care Plan

Monitoring Nutritional Progress

- Checking and Recording Nutritional Intake Without Interpretation
- Recording Anthropometric Measurements
- Reporting Response to Care Plan
- Referring for Nutritional Counseling
- Recording New Nutritional Data
- Providing general Non-Medical Nutrition Information

TITLES:

To prevent the appearance of engaging in the practice of dietetics, the person should avoid using any title, designation, words, letters, abbreviation, or insignia or combination of any title, designation, words, letters, abbreviation, or insignia tending to indicate that he/she is practicing dietetics. Suggested titles for unlicensed, not exempt, assistive personnel are as follows:

Nutrition or Dietary Aide; Nutrition, Menu, or Dietary Clerk; Nutrition or Dietary Host or Hostess; Nutrition or Dietary Service Worker; Dietary Manager; Food Service Manager, Supervisor, or Assistant; Fitness or Lifestyle Coach, Facilitator, or Group Leader.

This document is only a guideline and should not be interpreted as all-inclusive or exclusive. Violations reported to the board will be reviewed on a case by case basis.

See also: Laws and rules governing the practice of dietetics in Ohio in Chapter 4759 of the Ohio Revised Code and the Ohio Administrative.