

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:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:

119.03

Statutory Authority:

4730.07, 4731.05, 4759.05, 4760.19, 4761.03,  
4762.19, 4774.11, 4778.12

Rule Amplifies:

4730.26, 4731.22, 4759.05, 4760.14, 4761.03,  
4762.14, 4774.14, 4778.18