



POLICY COMMITTEE MEETING
July 10, 2019
30 East Broad Street, Columbus, OH 43215, Room 336

Members:

Robert Giacalone
Mark Bechtel, MD
Sherry Johnson, DO

Other Board Members present:

Michael Schottenstein, MD
Bruce Saferin, DPM
Richard Edgin, MD
Kim Rothermel, MD
Harish Kakarala, MD
Jonathan Feibel, 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
Rebecca Marshall, Chief Enforcement Attorney
Joe Turek, Deputy Director
David Fais, Deputy Director
Jonithon LaCross, Director Public Policy and
Government Affairs
James Roach, Acting Chief of Investigations

Mr. Giacalone called the meeting to order at 9:15 a.m.

Meeting Minutes Review

Mr. Giacalone reported that the draft minutes of the June 12, 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 June 12, 2019 Policy Committee meeting. Dr. Johnson seconded the motion. Motion carried.

Rules Review Update

Ms. Anderson referred to the report included in the agenda materials. The dietetics rule are scheduled for review at the August meeting. Several rules will be presented to the full board for adoption today. Ms. Anderson reported that the light-based medical device rules remain with CSI for antitrust review.

Legislative Update

Mr. LaCross report that an interim budget is in place until July 17th. The senate version includes the telemedicine certificate removal, CME change, and limited certificate removal issue. It also includes a decrease in the initial licensure fee for PAs from \$500 to \$400.

Mr. Groeber reported that the interim budget provides agency funding until July 1, 2019. We were provided spending authority for 1/26th of our annual allotment which enables the agency to

remain open and staff to get paid. We operate per fiscal year and encumber funds for experts for the full fiscal year. We have limited funds under the interim budget, so we are being very deliberate with any expert contracts signed now. Consequently, the Medical Marijuana review committee was delayed until August because those are experts and we must encumber funds under contract.

Mr. LaCross reported that Conference Committee meetings continue.

Internal Management Rule for License Approval

Ms. Anderson said that the budget bill includes language that removes the requirement for six votes by the board for licensure. That board requested the change to help speed up the licensure process so that an applicant with a complete application doesn't have to wait until the next board meeting to get a license.

Language in the draft budget bill allows the Board to delegate licensure approval in accordance with an internal management rule. The agenda materials included a draft rule which establishes criteria for licenses which can be approved by the Secretary and Supervising Member and by the Board's Deputy Director for Licensure.

The rule requires full board approval for licenses where the applicant is seeking a waiver or determination of equivalency to any eligibility requirement or a determination of fitness to resume practice due to inactivity. In addition, any license approval in which a disciplinary sanction is imposed must be approved by the full Board. Six affirmative votes by the board are needed in these situations, just as they are now.

Ms. Anderson said that all other routine licensure applications would be approved by the Secretary and Supervising Member or by the deputy director of licensure or the deputy director's designee.

Approval of the following licenses and certificates may be delegated to the Secretary and Supervising Member:

- Certificate of conceded eminence
- Clinical research faculty certificate
- Visiting clinical professional development certificate
- Special activity certificate
- Special activity license to practice as a genetic counselor
- Expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement
- Certificate to recommend medical use of marijuana

Approval of the following licenses may be delegated to the deputy director of licensure or the deputy director's designee:

- License to practice as a physician assistant
- License to practice medicine and surgery or osteopathic medicine and surgery
- License to practice a limited branch of medicine

- Training certificate
- Volunteer's certificate
- License to practice podiatric medicine and surgery
- Visiting podiatric faculty certificate
- Podiatric training certificate
- License to practice dietetics
- Limited permit to practice dietetics
- Certificate to practice as an anesthesiologist assistant
- License to practice respiratory care
- Limited permit to practice respiratory care
- Certificate to practice as an oriental medicine practitioner
- License to practice as an acupuncturist
- License to practice as a radiologist assistant
- License to practice as a genetic counselor
- Supervised practice license as a genetic counselor

Additionally, the internal management rule permits the Secretary and Supervising Member and the deputy director of licensure to decide if something needs to go to the full board. It could be either an individual application or a class of applications.

Since the budget bill is pending, Ms. Anderson said we'd like to be able to send the proposed internal management rule to interested parties after the budget bill is passed. We will have 90 days to implement the changes once the budget bill is signed by the Governor. Internal management rules do not have to go through CSI or JCARR.

Dr. Saferin said this statutory change enables the Board to issue licenses in real time.

Dr. Bechtel moved to approve the initial circulation of the proposed internal management rule for license approval to interested parties when the budget bill is approved. Dr. Johnson seconded the motion. Motion carried.

Controlled Substance Prescribing Rules

Ms. Anderson reported that the following controlled substance prescribing rules are due for the five-year rule review on 12/31/2020:

- 4731-11-02, OAC, General Provisions
- 4731-11-03, OAC, Utilization of anabolic steroids, schedule II controlled substances
- 4731-11-04, OAC, Controlled Substances: Utilization of short term anorexiant for weight reduction
- 4731-11-04.1, OAC, Controlled substances: utilization for chronic weight management
- 4731-11-07, OAC, Research utilizing controlled substances
- 4731-11-11, OAC, Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS)

Ms. Anderson said that she would like to circulate the rules to interested parties as no change rules, and we can further review any comments received. The initial review comment period is usually two weeks.

Dr. Bechtel moved to approve for initial circulation to interested parties. Dr. Johnson seconded the motion. Motion carried.

Dextoxification Rules – Physician and Physician Assistant

Ms. Debolt reported that the agenda materials include both the physician detox rules and the physician assistant detox rules. The memo included the comments received, as well as the proposed rules.

Mr. Giacalone asked about a comment received from Dr. Pirner referencing the ASAM levels of care. Dr. Pirner suggested that consideration should be given to including ASAM level of care 0.5 for purposes of early intervention.

Dr. Schottenstein said he had addressed this at the PAPC meeting held earlier this week. The ASAM level of care 0.5 is a screening level of care. Professionals who engage in that activity are usually addiction counselors, social workers, or health educators, not physicians. He thought that it would not be necessary to include that in the rules for that reason.

Ms. Debolt reported that the PAPC recommended that the PA detox rules be submitted to CSI as proposed.

Dr. Bechtel moved to recommend that the Medical Board approve the proposed rules 4730-4-01, 4730-4-02, 4731-33-01, and 4731-33-02 be filed with the Common Sense Initiative Office. Dr. Johnson seconded the motion. Motion carried.

Adjourn

Dr. Bechtel moved to adjourn the meeting. Motion seconded by Dr. Johnson. Motion carried.

The meeting adjourned at 9:30 a.m.

jkw

MEMORANDUM

TO: Robert P. Giacalone, Acting Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Progress

DATE: August 6, 2019

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

Action Requested: No Action Requested

Legal Dept. Rules Schedule

As of 8/2/19

For August Policy Committee

4731-11-01 4731-11-14

For August Board Meeting

4731-1-05 4731-1-24

Sent for Initial Comment – Deadline 8/9/19

4731-11-02 4731-11-03 4731-30-02
4731-11-04 4731-11-04.1
4731-11-07 4731-11-11

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 7/31/19

4731-13-13

Comment deadline 8/1/19

4730 Chapters 1, 2 and 3

Approved to File with CSI

4731-33-02 4731-33-01
4761-5-01 4761-5-04 4761-5-06
4761-6-01 4761-7-04 4761-5-02
4761-9-01 4761-9-04 4761-10-03
4761-9-05 4761-9-07 4761-8-01
4761-9-02 4730-4-01 4730-4-02
Military provisions for all license types

RULES AT JCARR

Hearing Held 5/13/19

4731-18-01 4731-25-08
4731-31-01 withdrawn from JCARR

Hearing Held 6/5/19

4731-1-05 4731-1-24

Filed 7/30/19 – Jurisdiction ends 8/29/19

4731-18-01 4731-25-08

No Change Rule – jurisdiction ends 9/15/19

4731-9-01

No Change Rules – jurisdiction ends 9/30/19

4759-5-04 4759-5-05 4759-5-06

APPROVED TO FILE WITH JCARR

4759 Chapter

HEARING SCHEDULED 8/9/19

4731-1-01	4731-1-08	4731-1-13
4731-1-18	4731-1-19	4731-3-01
4730-3-02	4731-4-01	4731-4-02
4759-4-11	4774-2-01	4774-2-02
4778-2-01	4778-2-02	4731-1-11

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 Rules
Hearing Rule 4731-13-13*

June: Dietetics Rules – moved to August

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

August: Dietetics Rules

Rule Number	Rule Description	Committee Agenda Date	Comm approval to send for initial comment	Sent for Initial Comment	Comm/Bd Agenda to review comments	Board Approval to File with CSI	CSI filing	CSI recommendation	Standing Authority to File with JCAAR	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4730-1-01	Regulation of Physician Assistants - Definitions		03/09/16	03/11/16	06/12/19	6/12/19 5/11/16	08/02/17			06/20/18	07/24/18		09/12/18	09/30/18	09/30/23
4730-1-02	Physician Assistant Practice		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	Duties of a Supervising Physician		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	Supervision		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		03/09/16	12/22/17 3/11/2016	06/12/19	6/12/19 3/14/18	04/02/18			06/20/18	07/24/18				08/07/23
4730-1-06	Licensure as a physician assistant		04/13/16	3/22/19 6/20/17 4/15/2016	06/12/19	6/12/19 7/12/17 6/8/16	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	Military provisions related to certificate to practice as a physician assistant			03/22/19	06/12/19	06/12/19				06/20/18	07/24/18				09/30/20
4730-1-07	Miscellaneous Provisions		04/13/16	04/15/16	06/12/19	6/12/19 6/8/2016	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	11/06/15	06/12/19	06/12/19	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			05/13/16		6/12/19 8/10/16	08/02/17			06/20/18	07/24/18		09/12/18	Amended 9/30/18	09/15/19
4730-2-02	Educational Requirements for Prescriptive Authority		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	Application for a Provisional Certificate to Prescribe			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			12/22/17	06/12/19	6/12/19 3/14/18	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			12/22/17	06/12/19	6/12/19 3/14/18	04/02/18			08/20/18	09/26/18		11/14/18	11/30/18	11/15/23
4730-2-06	Physician Assistant Formulary			05/13/16	06/12/19	06/12/19									12/27/19
4730-2-07	Standards for Prescribing			05/13/16		6/12/19 8/10/16	08/02/17			06/20/18	07/24/18			Amended 9/30/18	12/27/19
4730-2-08	Standards for Personally Furnishing Drugs and Therapeutic Devices			05/13/16		08/10/16	08/02/17			06/20/18	07/24/18			09/30/18	rescinded
4730-2-09	Standards for Personally Furnishing Samples of Drugs and Therapeutic Devices			05/13/16		08/10/16	08/02/17			06/20/18	07/24/18			09/30/18	rescinded
4730-2-10	Standards and Procedures for use of OARRS		03/09/16	03/11/16	06/12/19	6/12/19 5/11/16	08/02/17			06/20/18	07/24/18		09/12/18	09/30/18	09/30/23

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4730-3-01	Criminal Records Checks - (For Physician Assistants) - Definitions		04/13/16	04/15/16	06/12/19	6/12/19 6/8/16	04/23/19	05/31/19		07/05/19 6/20/18	08/09/19 7/24/18			Amended 9/30/18	06/30/19
4730-3-02	Criminal Records Checks		04/13/16	04/15/16	06/12/19	6/12/19 6/8/16	04/23/19	05/31/19		06/20/18	07/24/18			Amended 9/30/18	06/30/19
4730-4-01	Definitions			02/21/18	07/10/19	07/11/18	08/03/18			4/10/19 refiled 2/15/19 10/24/2018	11/28/18		04/10/19	04/30/19	04/30/24
4731-4-02	Standards and procedures for withdrawal management for drug or alcohol addiction				07/10/19										
4730-4-03	Office Based Treatment for Opioid addiction			02/21/18		07/11/18	08/03/18			4/10/19 refiled 2/15/19 10/24/2018	11/28/18		04/10/19	04/30/19	04/30/24
4730-4-04	Medication assisted treatment using naltrexone			02/21/18		07/11/18	08/03/18			4/10/19 refiled 2/15/19 10/24/2018	11/28/18		04/10/19	04/30/19	04/30/24
4731-1-01	Limited Practitioners - Definition of Terms			5/15/17 7/13/2016		7/12/17 9/14/2016	08/07/17	06/12/19		07/05/19	08/09/19			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			4/10/19 7/1/2015	05/13/19		07/10/19	07/31/19	07/31/24
4731-1-03	General Prohibitions			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	04/15/16		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							04/24/19	04/24/19	04/29/19	06/05/19			12/31/18	12/31/23
4731-1-06	Scope of Practice: Naprapathy		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					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			07/18/18		09/14/16	10/31/18 2/20/2018	06/12/19		07/05/19	08/09/19				12/31/17
4731-1-09	Cosmetic Therapy Curriculum Requirements			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		09/14/16	09/26/17			09/24/18	10/25/18		01/09/19	01/31/19	01/31/24
4731-1-11	Application and Certification			5/15/17 7/13/2016		07/12/17 9/14/2016	08/07/17	06/12/19		07/05/19	08/09/19				01/24/17
4731-1-12	Examination		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		11/09/16	11/30/16	11/30/21
4731-1-13	Examination Failure; Additional Training			5/15/17 7/13/2016		7/12/17 9/14/2016	08/07/17	06/12/19							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		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)		12/09/15	6/20/18 12/11/2015		02/10/16	8/24/18 3/7/2016	05/11/16		10/24/18 8/16/2016	11/28/18 9/19/2016		1/9/19 11/9/2016	01/31/19	11/30/21
4731-1-17	Instructional Staff			07/13/16		09/14/16	09/26/17			09/24/18	10/25/18		05/08/19	05/31/19	05/31/24
4731-1-18	Grounds for Suspension, Revocation or Denial of Certificate of Good Standing, Hearing Rights			5/15/17 7/13/2016		7/12/17 9/14/2016	08/07/17	06/12/19		07/05/19	08/09/19				01/24/17
4731-1-19	Probationary Status			5/15/17 7/13/2016		7/12/17 9/14/2016	08/07/17	06/12/19		07/05/19	08/09/19				01/24/17
4731-1-23	<i>Home Study Schools</i>														<i>rescinded</i>
4731-1-24	Massage Therapy Continuing Education		2nd - 3/29/17 3/9/2016	03/09/16			10/26/16	04/24/19	04/24/19	04/29/19	06/05/19				
4731-1-25	<i>Determination of Equiv. Military Educ. For CT/MT</i>		05/13/15	3/22/19 7/23/15	06/12/19	06/12/19	07/23/15			7/1/2015 9/24/15	11/02/15		12/09/15	12/31/15	12/31/20
4731-2-01	Public Notice of Rules Procedure		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
4731-4-01	Criminal Records Checks - Definitions			02/20/19			04/23/19	05/31/19		07/05/19	08/09/19				06/29/19
4731-4-02	Criminal Records Checks			02/20/19			04/23/19	05/31/19		07/05/19	08/09/19				06/29/19
4731-5-01	Admission to Examinations			2/8/17 5/13/2016		07/13/16				06/09/17	no change				06/09/22

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4731-5-02	Examination Failure; Inspection and Regrading			2/8/17 5/13/2016		07/13/16				06/09/17	no change				06/09/22
4731-5-03	Conduct During Examinations			2/8/17 5/13/2016		07/13/16				06/09/17	no change				06/09/22
4731-5-04	Termination of Examinations			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			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24
4731-6-02	Preliminary Education for Medical and Osteopathic Licensure			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 6/9/2017	05/13/19		07/10/19	07/31/19	07/31/24
4731-6-03	<i>Eligibility for the Medical and Osteopathic Examination</i>			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 6/9/2017	05/13/19		07/10/19	07/31/19	rescinded
4731-6-04	Demonstration of proficiency in spoken English			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			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24
4731-6-07	<i>Passing Average on Examination</i>			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 6/9/2017	05/13/19		07/10/19	07/31/19	rescinded
4731-6-10	<i>Clinical Competency Examination</i>			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	rescinded
4731-6-14	Examination for physician licensure			2/26/18 2/8/2017		07/13/16	09/25/18			4/10/19 6/9/2017	05/13/19		07/10/19	07/31/19	07/31/24
4731-6-15	Eligibility for Licensure of National Board Diplomats and Medical Council of Canada Licensure			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 6/9/2017	05/13/19		07/10/19	07/31/19	07/31/24
4731-6-16	<i>Eligibility for Medical or Osteopathic Licensure by Endorsement of Licenses Granted by Other States</i>			2/26/18 2/8/2017		07/13/16	09/25/18			4/10/19 6/9/2017	05/13/19		07/10/19	07/31/19	rescinded

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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			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24	
4731-6-22	Abandonment and Withdrawal of Medical and Osteopathic Licensure Applications			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24	
4731-6-30	Training Certificates			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24	
4731-6-31	Limited Preexamination Registration and Limited Certification			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 6/9/2017	5/13/19 05/13/19		07/10/19	07/31/19	07/31/24	
4731-6-32	<i>Visiting Faculty Certificates</i>			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	<i>rescinded</i>	
4731-6-33	Special Activity Certificates			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24	
4731-6-34	Volunteer's Certificates			2/26/18 2/8/17 5/13/2016		07/13/16	09/25/18			4/10/19 5/23/17	5/13/19 6/23/17		07/10/19	07/31/19	07/31/24	
4731-6-35	Processing applications from service members, veterans, or spouses of service members or veterans.		05/13/15	3/22/19 2/26/18 2/8/17	06/12/19	06/12/19	9/25/18 1/8/2015			4/10/19 6/9/2017	5/13/19		07/10/19	07/31/19	07/31/24	
4731-7-01	Method of Notice of Meetings								04/08/19	04/29/19	06/05/19		07/10/19	07/31/19	07/31/24	
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	

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4731-8-04	Valid reasons for accessing confidential personal information													no change	04/21/21
4731-8-05	Confidentiality Statutes			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			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			02/20/19		04/08/19	04/30/19	06/13/19		06/17/19	no change			09/15/19	06/17/24
4731-10-01	Definitions		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	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	06/09/16		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	06/09/16		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	06/09/16		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	06/09/16		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	06/09/16		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	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	6/20/17 6/9/2016		08/10/16	09/26/17						05/09/18	05/31/18	05/31/23
4731-10-10	Continuing Medical Education Requirements Following License Restoration		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	06/09/16		08/10/16	07/31/17			02/02/18			05/09/18	05/31/18	05/31/23

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4731-11-01	Controlled substances; General Provisions Definitions		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			Refiled 10/16/18 refiled 8/20/18 refiled 9/19/17 refiled 6-16 17 refiled 2/8/17 refiled 1/13/17 11/3/2016	9/26/18 10/25/17 07/26/17 12/8/2016		12/12/18	12/23/18	12/07/22
4731-11-02	Controlled Substances - General Provisions	7/10/2019	7/10/19 10/8/14 05/13/15	7/26/19 5/11/18 Revision 4/13/17		6/14/18 05/11/17 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		12/12/18	4/30/19 12/23/18	12/31/20
4731-11-03	Schedule II Controlled Substance Stimulants	7/10/2019	7/10/19 10/8/14 05/13/15	07/26/19			01/08/15			8/24/15 7/1/2015	11/02/15		10/14/2015	12/31/15	12/31/20
4731-11-04	Controlled Substances: Utilization for Weight Reduction	7/10/2019	7/10/19 10/8/14 05/13/15	07/26/19			01/08/15			1/5/16 8/24/15 7/1/2015	11/02/15			02/29/16	02/28/21
4731-11-04.1	Controlled substances: Utilization for chronic weight management	7/10/2019	7/10/19 10/8/14 05/13/15	07/26/19			01/08/15			8/24/15 7/1/2015	11/02/15		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	12/31/15	rescinded
4731-11-06	Waivers for new uses														rescinded
4731-11-07	Research Utilizing Controlled Substances	7/10/2019	7/10/19 10/8/14 05/13/15	07/26/19			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		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/17/16					08/17/21
4731-11-09	Prescribing to persons the physician has never personally examined.		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

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4731-11-11	Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).	7/10/2019	7/10/19 10/8/14 05/13/15	7/26/19 7/23/15 1/22/15			07/23/15			09/24/15	11/02/15		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			4/10/19 10/24/18 10/20/14	11/28/18 11/24/14		04/10/19	04/30/19	rescinded
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	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	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	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	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	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	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
4731-12-07	Podiatric Training Certificates		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	11/06/15			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	11/06/15			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	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

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4731-13-04	Consolidation		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	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-06	Continuance of Hearing		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	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	09/30/18	09/30/23
4731-13-08	Filing		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	11/06/15			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	11/06/15			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	11/06/15			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	11/06/15			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	5/8/2019	05/08/19	05/09/19	06/12/19	06/12/19									07/31/21
4731-13-14	Mileage Reimbursement and Witness Fees		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	11/06/15			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	11/06/15			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	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-18	Exchange of Documents and Witness Lists		11/04/15	11/06/15			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	11/06/15			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
4731-13-21	Prior Action by the State Medical Board		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-22	Stipulation of Facts		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-23	Witnesses		11/04/15	11/06/15			02/01/16	04/13/16		8/4/16 5/5/2016	06/13/16			09/14/16	09/30/21
4731-13-24	Conviction of a Crime		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-25	Evidence						02/01/16	04/13/16		05/05/16	06/13/16			07/31/16	07/31/21
4731-13-26	Broadcasting and Photographing Administrative Hearings		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-27	Sexual Misconduct Evidence		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-28	Supervision of Hearing Examiners		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21

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4731-13-29	Requirements for pre-hearing exchange of information														rescinded
4731-13-30	Prehearing Conference		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-31	Transcripts of Prior Testimony		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-32	Prior Statements of the Respondent		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-33	Physician's Desk Physician		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-34	Ex Parte Communication		11/04/15	11/06/15			02/01/16	04/13/16		05/05/16	06/13/16			07/31/16	07/31/21
4731-13-35	Severability		11/04/15	11/06/15			02/01/16	04/13/16		04/21/16	--				04/21/21
4731-13-36	Disciplinary Actions		11/04/15	11/06/15			02/01/16	04/13/16		05/05/16	06/13/16			07/31/16	07/31/21
4731-14-01	Pronouncement of Death		11/04/15	11/06/15			02/01/16	03/09/16		03/15/16	04/20/16			06/30/16	06/30/21
4731-15-01	Licensee Reporting Requirement; Exceptions		06/08/16	06/09/16		08/10/16	07/31/17			11/17/17					11/17/22
4731-15-02	Healthcare Facility Reporting Requirement		06/08/16	06/09/16		08/10/16	07/31/17			11/17/17					11/17/22
4731-15-03	Malpractice Reporting Requirement		06/08/16	06/09/16		08/10/16	07/31/17			11/17/17					11/17/22
4731-15-04	Professional Society Reporting		06/08/16	06/09/16		08/10/16	07/31/17			11/17/17					11/17/22
4731-15-05	Liability; Reporting Forms; Confidentiality and Disclosure		06/08/16	06/09/16		08/10/16	07/31/17			11/17/17					11/17/22
4731-16-01	Rules governing impaired physicians and approval of treatments programs - Definitions		06/08/16	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-02	General Procedures in Impairment Cases		06/08/16	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-03	Mental or physical impairment														rescinded
4731-16-04	Other Violations		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	06/09/16		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	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-07	Treatment Provider Program Obligations		06/08/16	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-08	Criteria for Approval		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	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-10	Aftercare Contracts		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	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-12	Out-of-State Impairment Cases		06/08/16	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22

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4731-16-13	Patient Consent; Revocation of Consent		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	06/09/16		08/10/16	08/29/17			11/17/17					11/17/22
4731-16-15	Patient Rights		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	12/17/18 6/9/2016		08/10/16	1/11/19 8/29/2017			4/10/19 11/17/17	05/13/19		07/10/19	07/31/19	<i>rescinded</i>
4731-16-17	Requirements for the one-bite program			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			03/21/18			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			03/21/18			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			03/21/18			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			03/21/18			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		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		10/20/16 8/16/2016	09/19/16		12/14/16	12/31/16	12/31/21
4731-17-02	Universal Precautions		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		11/09/16	11/30/16	11/30/21
4731-17-03	Hand Washing		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		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		10/20/16 8/16/2016	09/19/16		12/14/16	12/31/16	12/31/21
4731-17-05	Handling and Disposal of Sharps and Wastes		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		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		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	11/30/21
4731-18-01	<i>Standards for Surgery</i>			1/17/18 1/15/2016		03/14/18	06/27/18			7/30/19 4/10/19	05/13/19				05/04/00
4731-18-02	Use of Light Based Medical Devices			1/17/18 1/15/2016		03/14/18									06/30/05
4731-18-03	Delegation of the Use of Light Based Medical Devices			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			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>		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		<i>Rescinded</i> 1/9/2016	11/30/16	<i>Rescinded</i> 1/9/2016

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4731-19-02	Licensee's Duty to Report Infection with HIV or HBV		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		Rescinded 11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-03	Confidentiality; Reporting by Board		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		Rescinded1 1/9/2016	11/30/16	Rescinded1 1/9/2016
4731-19-04	Voluntary Compliance		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		Rescinded 11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-05	Duty to Refrain from Certain Procedures		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		Rescinded1 1/9/2016	11/30/16	Rescinded1 1/9/2016
4731-19-06	Board Procedures		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		Rescinded 11/9/2016	11/30/16	Rescinded 11/9/2016
4731-19-07	Confidential Monitoring Program		12/09/15	12/11/15		02/10/16	03/07/16	05/11/16		08/16/16	09/19/16		Rescinded1 1/9/2016	11/30/16	Rescinded1 1/9/2016
4731-20-01	Surgery Privileges of Podiatrist - Definition of Foot		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	03/11/16			07/31/17	02/14/18					05/09/18	05/31/18	05/31/23
4731-21-01	Drug Treatment of Intractable Pain - Definitions		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
4731-21-02	Utilizing Prescription Drugs for the Treatment of Intractable Pain		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
4731-21-03	Continuing Medical Education		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

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4731-21-04	Tolerance, Physical Dependence and Addiction		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
4731-21-05	Violations		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	no change				rescinded 12/23/18
4731-21-06	Exceptions		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		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		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		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		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		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		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		03/09/16	7/13/16 3/11/2016			07/11/16	09/14/16		05/12/17					05/12/22

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4731-23-01	Delegation of Medical Tasks - Definitions			01/15/16			04/04/16	05/11/16		08/16/16	09/19/16		11/09/16	11/30/16	11/30/21
4731-23-02	Delegation of Medical Tasks			01/15/16			04/04/16	05/11/16		08/16/16	09/19/16		11/09/16	11/30/16	11/30/21
4731-23-03	Delegation of Medical Tasks: Prohibitions			01/15/16			04/04/16	05/11/16		08/17/16					08/17/21
4731-23-04	Violations			01/15/16			04/04/16	05/11/16		08/17/16					08/17/21
4731-24-01	Anesthesiologist Assistants - Definitions			10/30/18			1/11/19 11/7/2013			4/10/19 2/19/14	05/13/19		07/10/19	07/31/19	07/31/24
4731-24-02	Anesthesiologist Assistants; Supervision			10/30/18			1/11/19 11/7/2013			4/10/19 2/19/14	05/13/19		07/10/19	07/31/19	07/31/24
4731-24-03	Anesthesiologist Assistants; Enhanced Supervision			10/30/18			1/11/19 11/7/2013			4/10/19 2/19/14	05/13/19		07/10/19	07/31/19	07/31/24
4731-24-04	<i>Anesthesiologist Assistants; Prohibitions</i>						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			03/22/19	06/12/19	06/12/19	01/11/19		04/08/19	04/29/19	06/05/19		07/10/19	07/31/19	07/31/24
4731-25-01	Office-Based Surgery - Definition of Terms		10/19/16 05/11/16	01/15/16			07/31/17	02/14/18							03/01/23
4731-25-02	General Provisions			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			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			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			01/15/16		05/11/16	07/31/17	02/14/18							03/01/23
4731-25-07	Accreditation of Office Settings			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			7/30/19 4/10/19	05/13/19				
4731-26-01	Sexual Misconduct - Definitions		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	11/06/15			02/01/16	03/09/16		03/15/16	04/20/16				06/14/21
4731-26-03	Violations; Miscellaneous		11/04/15	11/06/15			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		05/08/19	05/31/19	05/31/24

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4731-33-03	Office-Based Treatment for Opioid Addiction		02/14/18	02/21/18			08/03/18			4/10/19 refiled 2/15/19 10/24/2018	11/28/18		04/10/19	04/30/19	04/30/24
4731-33-04	Medication Assisted Treatment Using Naltrexone						08/03/18			4/10/19 refiled 2/15/19 10/24/2018	11/28/18		04/10/19	04/30/19	04/30/24
4731-34-01	Standards and Procedures to be followed by physicians when prescribing a dangerous drug that may be administered by a pharmacist by injection.		04/11/18	04/19/18			06/27/18			04/10/19	05/13/19		07/10/19	07/31/19	07/31/24
4731-35-01	Consult Agreements			01/18/19			03/21/19								
4731-35-02	Standards for managing drug therapy			01/18/19			03/21/19								
4731-36-01	Military provisions related to education and experience requirements for licensure		03/13/19	03/22/19	06/12/19	06/12/19									
4731-36-02	Military provisions related to renewal of license and continuing education		03/13/19	03/22/19	06/12/19	06/12/19									
4731-36-03	Processing applications from service members, veterans, or spouses of service members or veterans.		03/13/19	03/22/19	06/12/19	06/12/19									
4759-1-01	<i>Public notice of rule adoption</i>		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded
4759-1-02	<i>Notice of board meeting</i>		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded
4759-1-03	<i>Personal information systems</i>		04/11/18	04/19/18			07/11/18	09/25/18							To Be rescinded
4759-2-01	Definitions		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded
4759-3-01	<i>Duties of Board members</i>		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded
4759-3-02	<i>Executive secretary/executive director</i>		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded
4759-3-03	<i>Minutes of board meetings</i>		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded
4759-3-04	<i>Cooperation and communication with professional organizations</i>		04/11/18	04/19/18			07/11/18	09/25/18							To be rescinded

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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	04/23/19	05/31/19		07/08/19	09/08/19				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	06/12/19	6/12/19 7/11/18	09/25/18								
4759-4-13	Temporary license for military spouse		04/11/18	3/22/19 4/19/18	06/12/19	6/12/19 7/11/18	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			07/02/19					07/01/24
4759-5-05	Distribution of literature exemption		04/11/18	04/19/18		07/11/18	09/25/18			07/02/19					07/01/24
4759-5-06	Weight control program exemption		04/11/18	04/19/18		07/11/18	09/25/18			07/02/19					07/01/24
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								
4759-7-01	Filing of complaints		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-01	Representatives; appearances communications; applicability		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded

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4759-8-02	Filing Request for Hearing		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-03	Notice of hearings		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-04	Authority and duties of attorney hearing examiners		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-05	Consolidation		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-06	Intervention		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-07	Continuance of Hearing		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-08	Motions		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-09	Filing		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-10	Service on parties		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-11	Computation and Extension of Time		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-12	Transcripts		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-13	Subpoenas for Purposes of Hearing		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-14	Mileage Reimbursement and Witness Fees		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-15	Reports and Recommendations		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-16	Exchange of Documents and Witness Lists		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-17	Pre-hearing conference		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-18	Requirements for pre-hearing exchange of information		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-19	Status conference		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-20	Depositions and transcripts of prior testimony		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
4759-8-21	Prior action by the board		04/11/18	04/19/18		07/11/18	09/25/18								To be rescinded
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

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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
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	Recognition of military educational programs for active duty military members and/or military veterans			03/22/19	06/12/19	06/12/19				11/15/18	no change				11/15/23

Rule Number	Rule Description	Committee Agenda Date	Comm approval to send for initial comment	Sent for Initial Comment	Comm/Bd Agenda to review comments	Board Approval to File with CSI	CSI filing	CSI recommendation	Standing Authority to File with JCAAR	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4761-11-01	Filing of complaints									01/19/19				02/28/19	Rescinded
4761-11-02	Administrative procedure for refusal to issue or renew a license or permit, deny, suspend, or revoke a certificate or license									01/19/19				02/28/19	Rescinded
4761-11-03	Board imposition of penalties									02/06/19	03/12/19		05/08/19	05/31/19	To be rescinded
4761-11-04	Representation; appearance; communication applicability													02/28/19	Rescinded
4761-11-05	Authority and duties of the board or hearing examiner													02/28/19	Rescinded
4761-11-06	Continuance of Hearing													02/28/19	Rescinded
4761-11-07	Filing									01/19/19				02/28/19	Rescinded
4761-11-08	Service													02/28/19	Rescinded
4761-11-09	Computation and Extension of Time													02/28/19	Rescinded
4761-11-10	Motions													02/28/19	Rescinded
4761-11-11	Transcripts									01/19/19				02/28/19	Rescinded
4761-11-12	Subpoenas for Purposes of Hearing													02/28/19	Rescinded
4761-11-13	Mileage Reimbursement and Witness Fees									01/19/19				02/28/19	Rescinded
4761-11-14	Reports and Recommendations									01/19/19				02/28/19	Rescinded
4761-11-15	Exchange of Documents and Witness Lists													02/28/19	Rescinded
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	06/12/19	06/12/19									
4761-12-02	Renewal fees									01/19/19				02/28/19	Rescinded
4761-12-03	Replacement of license or certificate													02/28/19	Rescinded

Rule Number	Rule Description	Committee Agenda Date	Comm approval to send for initial comment	Sent for Initial Comment	Comm/Bd Agenda to review comments	Board Approval to File with CSI	CSI filing	CSI recommendation	Standing Authority to File with JCAAR	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
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		8/6/14 05/13/15	03/22/19	06/12/19	06/12/19	1/8/2015 7/1/15			09/24/15	11/02/15		12/09/15	12/31/15	12/31/20
4774-1-01	Definitions			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			01/15/16			04/04/16			08/16/16	09/19/16		11/09/16	11/30/16	11/31/2021
4774-1-02.1	Military Provisions related to Certificate to Practice as a Radiologist Assistant		8/6/14 05/13/15	03/22/19	06/12/19	06/12/19	1/8/2015 7/1/15						09/09/15	09/30/15	09/30/20
4774-1-03	Renewal of Certificate to Practice			01/15/16			04/04/16			08/16/16	09/19/16		11/09/16	11/30/16	11/30/21
4774-1-04	Miscellaneous Provisions			01/15/16			04/04/16			08/17/16					08/17/21
4774-2-01	Definitions			01/15/16			04/23/19	05/31/19		07/08/19	09/08/19				08/17/21
4774-2-02	Criminal Records Checks			01/15/16			04/23/19	05/31/19		07/08/19	09/08/19				11/30/21
4778-1-01	Definition			04/19/18			08/24/18			01/24/19					01/29/19
4778-1-02	Application			04/19/18			08/24/18			4/10/19 1/24/19			04/10/19	04/30/19	04/30/24
4778-1-02.1	Military Provisions related to Certificate to Practice as a Genetic Counselor		4/11/18 8/6/14 05/13/15	3/22/19 4/19/18	06/12/19	06/12/19	8/24/18 1/8/2015 7/1/15			4/10/19 1/24/19			04/10/19	04/30/19	04/30/24
4778-1-03	Special Activity License			04/19/18			08/24/18			01/24/19					01/29/19
4778-1-05	Collaboration Agreement		04/11/18	04/19/18			08/24/18			4/10/19 1/24/19			04/10/19	04/30/19	04/30/24



MEMORANDUM

TO: Robert Giacalone, Acting Chair, Policy Committee
Members, Policy Committee

FROM: Sallie Debolt, Senior Counsel

DATE: July 30, 2019

RE: Comments at CSI concerning proposed amendments to rules 4731-11-01 and 4731-11-14 (Prescribing for acute and chronic pain)

Rules 4731-11-01 and 4731-11-14 became effective in December 2018. Shortly after that time, the Board became aware of two issues that were causing unintended consequences and delays for patients.

1. Through interested parties it was learned that non-terminal cancer patients often have pain which requires pain medication that exceeds the 120 MED average daily dose and these patients were experiencing delays getting in to see board-certified pain management specialists and board-certified hospice and palliative care specialists. Accordingly, the rules were proposed to be amended by exempting board-certified hematologists and oncologists from the prohibition in prescribing in excess of 120MED in order to allow those physicians to provide prescriptions to their non-terminal cancer patients without delay.
2. It was learned that the definition of "terminal" in Rule 4731-11-01 was also causing delays for patients. Terminal patients are exempted from the rule. Terminal condition is defined as it is in Section 2133.01, Ohio Revised Code. However, the language in Section 2133.01 requires a second opinion for determining that a patient has a terminal condition. This was resulting in a delay for these patients in obtaining appropriate pain relief. Accordingly, the definition of terminal condition was proposed to be amended to remove the requirement for a second opinion as to the status of the patient's condition.

The proposed amended rules were filed at CSI on March 21, 2019. Eleven persons submitted comments. CSI has asked the Medical Board for its response to the comments. This memo summarizes the comments, in some instances recommends further amendments to the rules, and requests the Medical Board direct the staff in responding to comments.

William Freeman, Jr., M.D., generally opposes the rules.

I. PRESCRIBING IN EXCESS OF 120 MED

A) Board certification

Sean McGlone, Senior Vice President and General Counsel, Ohio Hospital Association, and Jeff Lycan, President, National Hospice Cooperative, support the addition of “board certified oncologist” and “board certified hematologist” to the listing of physicians who may prescribe at a dosage above 120 MED.

Mr. McGlone and William A. Wilson, M.D., Medical Director, Adena Cancer Center, recommend adding “board certified radiation oncologist” as also able to prescribe a dosage above 120 MED.

Mr. McGlone also recommends defining board certified oncologists and hematologists using broader language, as follows:

“Board certification in oncology” means specialty or subspecialty certification in oncology or a related oncology specialty or subspecialty by a certification board that is a member of the American board of medical specialties or American osteopathic association bureau of medical specialties.

“Board certification in hematology” means specialty or subspecialty certification in hematology or a related hematology specialty or subspecialty by a certification board that is a member of the American board of medical specialties or by the American osteopathic association bureau of medical specialties.

- **RECOMMENDATION:** It is recognized that oncology has three main specialty areas: medical, surgical, and radiation. It is recommended that the definitions of “Board certification in oncology” and “Board certification in hematology” proposed by Mr. McGlone be approved. The proposed definition of Board certification in oncology will include “board certified radiation oncologist.”

David W. Stroom, M.D., Cleveland Clinic Lutheran Hospital, suggests that “pain management specialist” be defined as: A board certified or board eligible pain physician or board certified or board eligible hospice and palliative medicine physician.

- **RESPONSE TO DR. STROOM:** Dr. Stroom is correct that “pain management specialist” is not defined in the rule. The term is used in 4731-11-14(C)(4)(b), as an option for consultation prior to increasing dosage to greater than 50 MED, and 4731-11-14(D)(3), as an option for consultation prior to increasing dosage to greater than 80 MED. However, for prescribing a dosage that exceeds an average of 120 MED rule 4731-11-14(E) requires “board certification in pain medicine.” Dr. Stroom’s proposed definition is not recommended for adoption as it would require that a pain management specialist be board certified in pain medicine for consultation at the 50 MED and 80 MED decision points as well.

- **RECOMMENDATION:** Dr. Stroom's proposed definition of "pain management specialist" should not be adopted.

B. Board- eligible status

Dr. Stroom comments that fellowship trained, board eligible physicians should be added to the listing of physicians able to prescribe above 120 MED or recommend prescribing at such a dosage. He notes that pain management offers the certification exam annually and hospice and palliative medicine offers the certification exam biennially.

Robert Dallara, M.D., states he is a board certified anesthesiologist and fellowship trained pain medicine specialist, and comments that board-eligible pain medicine physicians should be authorized to prescribe at an average daily dosage above 120 MED. He states that not allowing board-eligible physicians such as himself to prescribe at an average daily dosage exceeding 120 MED means he is unable to fully utilize his scope of practice and leaves patients stranded in his rural area where he is the only pain management specialist.

Response to Dr. Stroom and Dr. Dallara: Board eligibility is not a verifiable status. For example, the American Board of Internal Medicine states that it "does not confirm or report the Board Eligibility status of its candidates," and that one should communicate directly with the candidate or training program to ascertain a candidate's status.

(<https://www.abim.org/certification/policies/general/policies.aspx>) Also if board-eligible status were recognized, a physician might be board-eligible and able to prescribe at the 120 MED dosage, fail to complete the certification process within the allotted number of years, and lose the board-eligible status rendering him/her no longer able to prescribe at the 120 MED dosage.

- **RECOMMENDATION:** Board-eligible status should not be added as a qualification for prescribing above 120 MED or recommending that a patient be prescribed at such a dosage.

C. Other Qualifications

Eric S. Kirschner, M.D., Internal Medicine Program Director, Mercy Health St. Rita's Medical Center, comments that prescribing at "high doses" should not be limited to hematology/oncology or board certified hospice, palliative care, or pain medicine physicians. He states that some patient choose to receive care for metastatic cancer from the primary care physician. The limitations in the rule may leave patients in rural areas without viable local care.

Response to Dr. Kirschner: Under rule 4731-11-14 a primary care physician may prescribe a high dosage for non-terminal cancer if the dosage is recommended by 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. See 4731-11-14(E)(2). Under 4731-11-14(H)(2), the rule is not applicable to a physician who is prescribing for a patient with terminal cancer as that term is defined in

rule 4731-11-01, meaning there is no prohibition against the primary care physician prescribing a high dosage to a patient with terminal cancer.

Lisa Emrich, R.N., Program Manager at the Ohio Board of Nursing, comments that the APRN – CNP and APRN-CNS who are board certified in oncology and/or hematology should be added as authorized to recommend a dosage of greater than 120 MED.

Response to Ms. Emrich: In recognition of the gateway to addiction that prescribed opioid analgesics may play, the Medical Board has historically chosen to determine qualifications for prescribers based on an accredited residency or fellowship and passage of a certification examination. As a result, many physicians do not qualify to prescribe higher dosages of opioid analgesics. A review of the requirements for the suggested APRN – CNP and APRN-CNS board certifications finds that they do not meet the standard applied by the Medical Board.

For example, the Advanced Oncology Certified Nurse Practitioner (AOCNP) requires the applicant to hold an unrestricted license as a registered nurse; have a graduate degree from an accredited nurse practitioner program; have, depending on the concentration in the graduate degree program, either 500 or 1,000 hours of supervised clinical practice as an oncology nurse practitioner within the last five years; have one graduate level course of at least two credits or 30 hours oncology continuing education within the last five years; and pass an examination. (Information on the requirements for the Advanced Oncology Certified Nurse Practitioner certification is attached to this memo for your review.) In contrast, to qualify for board certification in hematology the physician must already hold board certification by a specified certification board; complete an accredited graduate medical education training program in hematology; demonstrate clinical competence; hold an unrestricted license to practice medicine; and pass the hematology certification examination.

Meera Agarwal, M.D., comments that board certification in anesthesiology should be added.

- **RECOMMENDATION:** The listing of prescribers who may recommend an average daily dosage of 120 MED or more should not be expanded to include primary care physicians and APRN – CNPs and APRN-CNS who are board certified in oncology and/or hematology. The Medical Board may want to consider whether to add board certified anesthesiologists.

Dr. Stroom suggests that 4731-11-04(C)(4), prescribing at an average daily dosage of 50 MED or greater, and 4731-11-04(D)(3), prescribing at an average daily dosage of 80 MED or greater, should be amended to reflect that a physician who is either a specialist in the area of the body affected by the pain or a pain management specialist should not be required to “consider” or “obtain” a referral from a specialist in the area of the body affected by the pain or a pain management specialist because a referral in that circumstance would be redundant.

- **RECOMMENDATION: Amend 4731-11-14(C)(4) to read:**

(4) Except when the patient was prescribed an average daily dosage that exceeded fifty MED before the effective date of this rule, the physician who is neither a specialist in the area of the body affected by the pain nor a pain management specialist 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) ...;
- (d) ...

- **RECOMMENDATION: Amend 4731-11-14(D)(3) to read:**

(3) Except when the patient was prescribed an average daily dosage that exceeded eighty MED before the effective date of this rule, the physician who is neither a specialist in the area of the body affected by the pain nor a pain management specialist shall 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) ...;
- (d) ...
- (e) ...

II. Definition of "Terminal Condition"

William A. Wilson, M.D., Medical Director, Adena Cancer Center, supports the removal of the requirement for the second opinion for determining whether the patient has a terminal condition.

Perry A. Pugno, M.D., Vice President for Education (Emeritus), American Academy of Family Physicians, expressed appreciation for the Medical Board's prompt response to comments from the medical community concerning the rules that were effective on December 28, 2018. He especially voiced support for the "simple definition" of "terminal condition," which will "simplify the care of our patients most in need ... with the fewest hassles involved."

Jeff Lycan, President, National Hospice Cooperative, comments that the definition of "terminal condition" should continue to be defined as it is in Section 2133.01, ORC. He states that not referring to the Section 2133.01 definition will cause confusion around when the medical team has to implement Section 2133.01 and might lead to liability for the physician or health system because the definition in the rule conflicts with Section 2133.01. Chapter 2133, Ohio Revised Code, contains statutes setting forth the uniform rights of the terminally ill.

- Response to Mr. Lycan: The proposal to amend the definition of "terminal condition" by no longer referring to the definition in Section 2133.01 was made at the behest of practitioners who state that the requirement for a second physician's opinion of the

patient's condition hampers appropriate, timely pain relief due to a shortage of doctors and lack of transportation, particularly in more rural and economically depressed areas of the state. Requiring a second physician to examine the patient also leads to additional medical costs.

The proposed definition of "terminal condition" in the rule does not conflict with the definition in Section 2133.01 because the rule is not promulgated under the authority of, or to implement, Section 2133.01. The Section 2133.01 definition was used historically for efficiency since a definition already existed. But prescribing medication for pain relief is not the same as determining whether the conditions are met to implement the patient's declaration for the use or continuation, or the withholding or withdrawal, of life-sustaining treatment. "Life-sustaining treatment" is defined in Section 2133.01(Q) as "any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying." In this case, pain medication will be provided to the patient who has a terminal condition for relief from pain and not principally to prolong the process of dying.

- **RECOMMENDATION:** It is recommended that the proposed amended definition of "terminal condition" be retained without further amendment.

III. Comments on provisions of rules 4731-11-01 and 4731-11-14 that the Medical Board has not proposed to amend.

When a rule is filed at CSI, that office asserts that its charge is to review the entire rule and not just those provisions proposed for amendment. This section discusses comments received on provisions of rule 4731-11-14 that the Medical Board did not propose to amend. It also discussed requests for clarification of the current rule's wording.

A. Specialist in the area of the body affected by the pain

Dr. Stroom asks whether for purposes of (C)(4) and (D)(3) oncology specialists (radiation oncology, medical oncology, surgical oncology) are considered "specialists in the area of the body affected by the pain."

- **RECOMMENDATION:** It is not unusual for an oncologist to specialize in specific types of cancer. An oncologist should be considered to be a specialist in the area of the affected by pain that is related to the oncologist's specialty. For example, an oncologist who specializes in gynecological cancers would not be considered a specialist in pain stemming from lung cancer.

B. Does a telehealth visit meet the requirement for a face to face visit an examination?

Dr. Stroom states the belief that a telehealth visit meets the criteria for a "face to face visit and examination" required in Rule 4731-11-14(E)(2) because it would meet the definition of "active

patient” as defined in Rule 4731-11-01, OAC. However, Rule 4731-1-01(D) defines “active patient” as it is used in 4731-1-01(c), for purposes of cross-coverage and on-call situations only. It is not applicable to a physician who is asked for a recommendation as to appropriate dosage. Dr. Strem also cites Rule 4731-11-09(D)(4), OAC, as support.

- **RESPONSE TO DR. STREAM:** Paragraph (D)(4) of Rule 4731-11-09 authorizes the prescription of a controlled substance to a patient the patient has not personally examined when the prescriber holds a “special registration” to prescribe or provide controlled substances. The “special registration” is more than the DEA registration all prescribers must obtain to prescribe controlled substances. Under a special registration for telemedicine, a practitioner may deliver, distribute, dispense, or prescribe via telemedicine a controlled substance to a patient who has not been medically examined in-person by the prescribing practitioner.¹ On October 24, 2018, President Trump signed the “SUPPORT for Patients and Communities Act,” which among other things requires the DEA to promulgate a regulation implementing the “special registration” provision of the Controlled Substances Act by specifying the limited circumstances in which a special registration for telemedicine may be issued and the procedure for obtaining the registration. As of the date of this memo, the regulation has not been promulgated. See the attached Congressional Research Service document dated December 7, 2018 and entitled “The Special Registration for Telemedicine: In Brief.” The document is available on-line at: <https://fas.org/sqp/crs/misc/R45240.pdf>
- **RECOMMENDATION:** The requirement of a face-to-face visit and examination is not met via a telehealth visit.

C. Exceptions provided in rule 4731-11-14(H) and (I)

Mr. Lycan suggests that the exceptions to the rule provided in 4731-11-14(H) and (I) be expanded to specifically except the physician prescribing for a patient with “another condition associated with the individual’s cancer or history of cancer.”

Mr. Lycan refers to the exceptions provided in the former “chronic pain” rules, Rule 4731-21-06, ORC; the OARRS rule, Rule 4731-11-11; and the acute pain rules, Rule 4731-11-13.

- **RECOMMENDATION:** No change is recommended. Rule 4731-11-14 does not prohibit a physician from prescribing an opioid analgesic to a patient in hospice care or to a patient who has terminal cancer, a condition associated with the patient’s cancer or history of cancer. It does require actions at specific dosage levels that will help safeguard against substance abuse and diversion of medication by persons other than the patient. This provision of the rule was drafted with the intent of limiting the exceptions in order to facilitate the State policy that prescribing opioid analgesics should be limited to the lowest dosage consistent with the patient’s medical condition.

Dr. Stroom comments that the term “incurable cancer” should be used in 4731-11-14(H)(2) instead of “terminal cancer.” The paragraph provides that the provisions of rule 4731-11-14 are not applicable to a physician prescribing for “terminal cancer or another terminal condition.”

The Medical Board has received telephone calls from physicians who did not send in comments, but who expressed that patients may live for several years with the pain of incurable cancer that is not yet terminal as defined in Rule 4731-11-01, OAC.

- **RECOMMENDATION:** No change is recommended. It is recognized that because of significant medical advances a cancer may be incurable, but not terminal. The incurable cancer may cause the patient great pain. However, the exceptions provided in paragraphs (H) and (I) were limited to reflect the State policy that prescribing opioid analgesics should be limited to the lowest dosage consistent with the patient’s medical condition.

D. Application of Rule 4731-11-14 to hospital based physicians

Dr. Stroom asks whether a hospital based physician must follow the rule when writing an opioid prescription at the time of hospital discharge. He asks for clarification for the situation where the patient’s dosage is increased above the threshold of 80 MED or 120 MED while hospitalized. He asks that there be an exemption from the requirement to consult with a pain management physician or specialist in the area of the body affected by the pain when the discharge prescription is written for up to 30 days’ worth of the higher dosage provided the discharging physician has arranged outpatient follow-up with a palliative medicine or pain medicine physician within one week of discharge. Dr. Stroom also asks whether the evaluating pain medicine physician or specialist in the area of the body being treated is required to write the discharge prescription for a dosage greater than 80 MED.

- Response to Dr. Stroom: Yes, a hospital based physician must follow rule 4731-11-14 when writing an opioid prescription at the time of hospital discharge. The consulting physician is never required to write the prescription. The treating physician may write the prescription according to the recommendation, with the recommendation maintained in the patient record.

A physician who is not board certified in pain medicine or in hospice and palliative care who is caring for the patient during the in-patient stay may prescribe above 80 MED without having to consult or prescribe above 120 MED without having to refer the patient for a recommendation from a board certified pain medicine physician or physician who is board certified in hospice and palliative care. However, the physician writing the prescription for the patient’s use upon discharge must comply with the rule.

If the physician who provided the in-patient care is a specialist in the area of the body affected by the pain or a pain management specialist who prescribed a dosage exceeding 80 MED, or a board certified pain medicine physician or board certified hospice and palliative care physician who prescribed a dosage exceeding 120 MED, that physician should provide a dosage recommendation to the physician who will prescribe at discharge and to the physician who will provide on-going treatment of the patient.

- **RECOMMENDATION:** No recommendation is made.

E. Amendment of 4731-11-14(I) to correct a citation error.

Paragraph (I) cites to Chapter 4729 of the Revised Code for the definition of “inpatient prescription. However, the term is defined in Chapter 4729 of the Administrative Code, not the Revised Code.

- **RECOMMENDATION:** Approve amending paragraph (I) of rule 4731-11-14 to refer to “rule 4729-17-01 of the Administrative Code.”

¹ “The Special Registration for Telemedicine: In Brief,” Congressional Research Service, December 7, 2018, Endnote f, <https://fas.org/sqp/crs/misc/R45240.pdf>

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~~ means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a physician who has examined the patient, both of the following apply:-
- (1) There can be no recovery.
 - (2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.
- (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.

(X) "Board certified hematologist" means a medical doctor or doctor of osteopathic medicine and surgery who holds one of the following certifications:

- (1) Subspecialty board certification in hematology from the American board of internal medicine;
- (2) Subspecialty board certification in pediatric hematology-oncology from the American board of pediatrics;
- (3) Board certification with additional qualification in hematology from the American osteopathic association;

(Y) "Board certified oncologist" means a medical doctor or doctor of osteopathic medicine and surgery who holds one of the following certifications:

- (1) Subspecialty board certification in medical oncology from the American board of internal medicine;
- (2) Subspecialty board certification in gynecologic oncology from the American board of obstetrics and gynecology;
- (3) Subspecialty board certification in pediatric hematology-oncology from the

American board of pediatrics;

(4) Subspecialty board certification in complex general surgical oncology from the American board of surgery;

(5) Board certification with additional qualification in oncology from the American osteopathic association;

(6) Board certification with additional qualification in gynecological oncology from the American osteopathic association.

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, carisprodol, 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, board certification in hematology, or board certification in oncology;
 - (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

*** DRAFT - NOT YET FILED ***

4731-11-14

6

defined in ~~section 2133.01 of the Revised~~ rule 4731-11-01 of the Administrative Code.

- (I) This rule does not apply to inpatient prescriptions as defined in Chapter 4729. of the Revised Code.

Name	Email	Organization	Comments
4731-11-01 4731-11-14 amend		Medical Board	here is what they said in the email
Kirschner, Eric S. MD	Kirschner, Eric S <eskirschner1@mercy.com>	Mercy Health, ST. Rita's	Not all cancer patients are treated by Hematology-Oncology and there is a shortage of board certified Hospice, Palliative Care or Pain Medicine physician.limitation to the above-noted specialties may limit patient access to locally available care, especially in
McClone, Sean	Sean.McGlone@ohiohospice.org	OHA	Supports addition of board certified hematologist and oncologist, but offers alternative definitions. Should include radiation oncologist with board certified oncologist.
Agarwal, Meera, M.D.	Meera Agarwal <meera.agarwal@gmail.com>		Board certification in anesthesiology should be included.
Freeman, William, Jr., M.D.	bgs43402@yahoo.com		The current regulations punish all who seek pain relief for the relatively few who go underground to get Fentanyl and/or heroin.
Dallara, Robert, M.D.	robertdallara19@gmail.com		Should include board eligible and fellowship trained physicians in pain medicine, palliative care, oncology and hematology as able to recommend for over 120 MED.
PUGNO, Perry, M.D.	ppugno@gmail.com		The proposed changes, and the promptness with which you have responded to comments from the medical community, are wonderful.
Emrich, Lisa, RN, Program Manager	lemrich@nursing.ohio.gov	Nursing Board	Add references to APRN-CNP and an APRN-CNS who are nationally certified by the Oncology Nursing Certification Corporation in oncology and/or hematology as able to provide written recommendation for dosages at or above 120 MED
Wilson, William, M.D.	Benner, Paula D.	Adena Health	Supports proposed amendments; suggests that board-certified radiation oncologists be
Lycan, Jeff	Jeff Lycan <jlycan@nhcooperative.org>	Ohio's Hospice & Innovative Care	Don't change definition of "terminal condition." Change 4731-11-14 to exempt prescribing for hospice, terminal cancer or condition associated with cancer or history;
Stroom, David, M.D.	Barnhart, Blair <barnhab@ccf.org>	Cleveland Clinic	Add physicians who are fellowship trained and board-eligible for increase above 120 MED; Should allow telemedicine consultation for the recommendation; Instead of "terminal cancer" refer to "incurable cancer;" 4731-11-14(D)(3): exclude specialists from having to seek a consultation; Are oncologists considered specialists in the area of the body being treated?; Define "pain medicine specialist;" Are hospital-based physicians required to follow the rule when writing a prescription for out-of-hospital use following

From: [Meera Agarwal](#)
To: [Debolt, Sallie](#)
Subject: rules for pain meds
Date: Thursday, April 4, 2019 11:11:19 AM

board certification in anesthesiology should be added also
Meera Agarwal

From: [Debolt, Sallie](#)
To: ["Robert D"](#)
Cc: [CSI Office \(CSIPublicComments@governor.ohio.gov\)](mailto:CSI.Office_(CSIPublicComments@governor.ohio.gov))
Subject: RE: public comments for new rules
Date: Thursday, April 4, 2019 2:22:00 PM
Attachments: [image004.png](#)
[image005.png](#)
[image006.png](#)

Dear Dr. Dallara:

Thank you for submitting comments on the proposed amendments to rules 4731-11-01 and 4731-11-14. Your comment that board eligible and fellowship trained physicians in pain medicine, palliative care, oncology and hematology should be recognized as able to prescribe a dosage over 120 MED will be reviewed.

However, I would like to explain what seems to be a common misinterpretation of the rules. It is noted that your first sentence refers to "medical specialties allowed to prescribe opiates in excess of the 120 morphine equivalent." Please be aware that prescribing in excess of 120 MED is not limited only to physicians with the specified board certifications. A physician who is NOT board certified in pain medicine; hospice and palliative care; hematology; or oncology is able to prescribe at 120 MED or greater if the provisions of either paragraph (E)(2) or (3) is met:

(E)(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 must maintain the written recommendation in the patient's record and then may prescribe at the recommended dosage.

The care of the patient does not need to be turned over to the certified pain medicine physician or board certified hospice and palliative care physician.

OR

(E)(3) The patient was receiving an average daily dose of one hundred twenty MED or more prior to the effective date of this rule. However, if the dosage is increased the recommendation referenced in the above paragraph would need to be obtained.

Again, your comments will be reviewed by the Medical Board.

Respectfully,

Sallie Debolt
Senior Counsel
State Medical Board of Ohio
30 E. Broad Street, 3rd Floor
Columbus, OH 43215-6127
(614) 644-7021
Sallie.Debolt@med.ohio
Med.ohio.gov





From: Robert D <robertdallara19@gmail.com>
Sent: Thursday, April 4, 2019 1:04 PM
To: Debolt, Sallie <Sallie.Debolt@med.ohio.gov>
Subject: public comments for new rules

RE Ohio purposed rule 4731-11-14 subacute and chronic pain

To whom it may concern,

I would like to weigh in on recent issues and proposed upcoming changes to the above mentioned rules. Specifically, the new addition and guidelines of medical specialties allowed to prescribe opiates in excess of the 120 morphine equivalent. There are many practicing physicians who are valued resources to the medical community in which they serve in capacity of the various medical specialties of pain medicine, palliative care, oncology and hematology. Many of these physicians who are considered specialists in their required field by those who have hired them and many have completed fellowship training specific to their areas of practice. While these doctors are being referred many patients for their area of expertise some of them may currently be non-board certified albeit eligible. This poses a problem for the doctor entrusted by their colleagues to act as a role of a specialist in this area or field but unable to fully utilize the scope of the practice. In many instances, these physicians are one of a few if not the only available physician in such specialty in the surrounding area. This is certainly the case in my particular situation of practice. This capping of prescriptive authority for myself as a board eligible, fellowship trained in pain management, board certified anesthesiologist has left many patients stranded in a rural area where I am the only doctor of my specialty for the entire hospital and surrounding community. Many other parts of the above mentioned rules pertaining to chronic pain at lower Morphine equivalent only reference the requirement of consultation with a pain management specialist whom doesn't need board certification. I don't see how there should be a distinction with the vaguely termed specialist vs board certification and certainly how the acceptability as to the standards of practice are to be different given the area of practice of the specialist or eligible physician. To my knowledge this is an example for which there are probably very few where certification in specialty restricts access to care regardless of specialized training ie fellowship etc. For example X - dea suboxone authority doesn't require a board certification in addiction medicine to be prescribed under Ohio law. The advanced training in the specialty of its usage needed to complete the waiver is significant enough. I believe the same role should be applied to those who have done fellowship training in the allowable areas of specialties above to have the same unrestricted ability with respect to the 120 Morphine equivalents. I do not believe pain medicine certification or other certification for that matter is based on a testing panel specific to medical facts related to complications above 120 morphine equivalents. Thank you for consideration of adding specialists, those board eligible and fellowship trained in the above medical specialties to be considered appropriately qualified to handle the patients in the 120 Morphine equivalent rules. Consideration is much appreciated.

Sincerely and respectfully,

Robert Dallara M.D.

Fellowship Trained Pain Medicine Specialist

Diplomate of American Board of Anesthesiology

From: [Emrich, Lisa](#)
To: [Debolt, Sallie](#)
Cc: [CSI Staff](#); [Houchen, Betsy](#); [Dilling, Thomas](#); [Fischer, Holly](#)
Subject: Comments Rules 4731-11-01 and 4731-11-14(E)(2), OAC
Date: Monday, April 8, 2019 7:54:38 AM

Sallie,

Below are Nursing Board comments regarding the above captioned revised Rules. We appreciate the opportunity to review and comment. Do not hesitate to contact me if you have any questions.

Rule 4731-11-01, OAC: Add definition for APRN-CNP and an APRN-CNS who are nationally certified by the Oncology Nursing Certification Corporation in oncology and/or hematology.

Rule 4731-11-14(E)(2), OAC: Include an APRN-CNP and an APRN-CNS who hold national certification in oncology and/or hematology as a health care provider who may provide the written recommendation for a dosage exceeding an average of one hundred twenty MED per day.

Rationale, A CNP and CNS holding national certification in oncology/hematology manage patients undergoing oncology/hematology treatment, which may include recommendations regarding treatment of the patient's subacute and chronic pain.

—
Lisa Emrich, MSN, RN, FRE
Program Manager
Ohio Board of Nursing
17 South High Street, Suite 660
Columbus, OH 43215
(614) 995-3681

This is an informal staff advisory opinion that represents the views of the undersigned, based on the facts presented. It is limited to questions arising under Chapter 4723 of the Revised Code and the rules adopted thereunder, and does not purport to interpret other laws or rules. If you have any further questions or desire additional information, please contact this Office again.

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From: [Debolt, Sallie](#)
To: ["William Feeman Jr. MD"](#)
Cc: [CSIOffice \(CSIPublicComments@governor.ohio.gov\)](mailto:CSIOffice (CSIPublicComments@governor.ohio.gov))
Subject: RE:
Date: Thursday, April 4, 2019 11:56:00 AM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)

Dear Dr. Freeman:

Your message below is interpreted as a comment on the proposed amendments to rules 4731-11-01 and 4731-11-04. All comments will be reviewed.

Respectfully,

Sallie Debolt
Senior Counsel
State Medical Board of Ohio
30 E. Broad Street, 3rd Floor
Columbus, OH 43215
(614) 644-7021
Sallie.Debolt@med.ohio.gov



From: William Feeman Jr. MD <bgs43402@yahoo.com>
Sent: Thursday, April 4, 2019 9:51 AM
To: Debolt, Sallie <Sallie.Debolt@med.ohio.gov>
Subject:

Dear Ms Debolt,

The current opioid epidemic is related to the readily available supply of Fentanyl and oxycodone. It is not related to hydrocodone. and in fact the current epidemic of opioid deaths is virtually a Fentanyl epidemic. The current regulations punish all who seek pain relief for the relatively few who go underground to get Fentanyl and/or heroin. The government is its own worst enemy in this matter. Did we learn nothing from Prohibition?

Sincerely,
W.E .Feeman,Jr,MD

From: [Kirschner, Eric S](#)
To: [Debolt, Sallie](#)
Cc: [CSIPublicComments](#)
Subject: RE: The Medical Board has filed rules with the Common Sense Initiative Office: pharmacy consult rules; prescribing for subacute and chronic pain
Date: Thursday, March 21, 2019 1:48:46 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)

Thank you for the update. Concerns raised:

- In the event of “non-terminal” cancer patients with high opiate requirements, there is some concern in terms of limiting higher doses to Hematology-Oncology or board certified Hospice, Palliative Care or Pain Medicine. I have had a number of patients with metastatic cancer who chose NOT to follow with oncologists and remained under my primary care. I have had a number of colleagues with similar experiences over the years. Given our statewide shortage of Palliative Care & Addiction/Pain management specialists, this rule change may leave such patients without viable local care alternatives
- Malignancy is certainly not the only reason for chronic high dose opiate requirements, and again, limitation to the above-noted specialties may limit patient access to locally available care, especially in more rural areas of the state
- I agree with the exclusion from this rule for Hospice patients, and should point out that many such programs are run by Non-Hospice/Palliative Care boarded physicians at this time

Thank you for your ongoing efforts to make medical care safer in Ohio

Eric S. Kirschner, MD
Internal Medicine Program Director
Mercy Health St. Rita’s Medical Center

From: Sallie.Debolt@med.ohio.gov [mailto:Sallie.Debolt@med.ohio.gov]
Sent: Thursday, March 21, 2019 12:05 PM
To: Danelle.Mooi@utoledo.edu; GaiserD@Firelands.com; Heather.Esber@ohiohealth.com; leverly@neomed.edu; Phillip.Farwig@osumc.edu; FileT@summahealth.org; Melissa.Flanders@ProMedica.org; jefoglio@gmail.com; alan.foxrph@yahoo.com; Matthew.Fuerst@ohiohealth.com; Regann.Geise@rockets.utoledo.edu; NGentile@ashp.org; godiosr@summahealth.org; carlosgmd@gmail.com; grimm.232@buckeyemail.osu.edu; KGustafson@swgeneral.com; Gordon, Amanda M <AMGordon@mercy.com>; Matt.Haldiman@ohiohealth.com; Colleen.Harrell@ProMedica.org; hilerrv@mail.uc.edu; BHoersten@pauldingcountyhospital.com; MManz@pauldingcountyhospital.com; Melissa.Snider@osumc.edu; janzenal@mail.uc.edu; Ashley.Jones3@osumc.edu; jones5mm@mail.uc.edu; Chet.Kaczor@nationwidechildrens.org; Niyati.Kadia@utoledo.edu; Janet.VanNest@ProMedica.org; Ashleigh.Dible@memorialohio.com; HKauser@pauldingcountyhospital.com; Shepherd, Krista L <KLShepherd@mercy.com>; phil.king.pharmd@gmail.com; Kirschner, Eric S <eskirschner1@mercy.com>; klautkys@summahealth.org; Alexa.Valentino@primaryonehealth.org; Diana.Venci@osumc.edu; LemonM@woodcountyhospital.org; LeopoldT@woodcountyhospital.org; LePoire, Aaron D

<ADLePoire@mercy.com>; j-lomax.1@onu.edu; MACKINNJ@ucmail.uc.edu;
Meghan.Malone@ProMedica.org

Cc: Sallie.Debolt@med.ohio.gov

Subject: The Medical Board has filed rules with the Common Sense Initiative Office: pharmacy consult rules; prescribing for subacute and chronic pain

The State Medical Board of Ohio has filed proposed actions concerning rules with the Common Sense Initiative Office. The proposals are available for your comment.

A state rule-making agency may propose to adopt a new rule, amend or rescind an existing rule, or propose to continue a rule without any changes. Executive Order 2011-01K and Sections 107.62 and 121.82, Ohio Revised Code, require state agencies to draft rules in collaboration with stakeholders, assess and justify any adverse impact on the business community, and provide an opportunity for the affected public to provide input on the proposed rules. The Business Impact Analysis for the proposed rules discusses the purpose of the rule and identifies the nature of the adverse impact on licensees. The Common Sense Initiative review must be completed before the rules can begin the formal rule-making process through the Joint Committee on Agency Rule Review.

At this time, public comment is being sought on the proposed actions for the following rules, which can be found on the Medical Board's website at the following link: <https://med.ohio.gov/Laws-Rules/Newly-Adopted-and-Proposed-Rules>. Scroll down to: PROPOSED RULES FILED WITH THE COMMON SENSE INITIATIVE OFFICE. There is a link to the rule and the Business Impact Analysis filed with the Common Sense Initiative.

Rule 4731-35-01: Consult agreements.

Rule 4731-35-02: Standards for managing drug therapy.

Rule 4731-11-01: Definitions.

Rule 4731-11-14: Prescribing for subacute and chronic pain.

Comments on the proposed rules must be received no later April 10, 2019. Please provide comments to both of the following:

Medical Board at: Sallie.Debolt@med.ohio.gov

-
AND

Common Sense Initiative Office at: CSIPublicComments@governor.ohio.gov

Respectfully,

Sallie Debolt
Senior Counsel
State Medical Board of Ohio
30 E. Broad Street, 3rd Floor

Columbus, OH 43215
(614) 644-7021
Sallie.Debolt@med.ohio.gov



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April 10, 2019

Public Comment for Medical Board Rules for Review

TO: Sallie Debolt, Sallie_Debolt@med.ohio.gov
CSIPublicComments@governor.ohio.gov

RE: Related to Subacute and Chronic Pain Rules 4731-11-01 and 4731-11-14.

Thank you for the opportunity to comment on the proposed rules regarding prescribing for subacute and chronic pain. My name is Jeff Lycan; I am the President of the National Hospice Cooperative, representing Ohio's Hospice and Innovative Care Solutions, OHI's palliative care division, on policy related issues. Specifically, these draft rules changed the definition of Terminal Condition in rule and removed the reference to the Ohio Statue, 2133.01. It also adds definitions for Board Certified Hematologist and Oncologist.

Additionally, in rule 4731-11-14, the hematology and oncology definitions from 4731-11-01 are used to add to exceptions in section (E) and allow prescribing doses greater than 120 MED per day for patients in need. Furthermore, under section (H), the terminal condition is referenced to the definition in 4731-11-01, and the reference to the ORC is removed.

When this rule was originally approved in September of 2018, Ohio's Hospice raised some concerns. One concern was related to the care of patients with a terminal or serious life-threatening condition(s) and the need to include Board Certified Hospice and Palliative Care Physicians for similar reasons that the Medical Board references in relation to Board Certified Hematologist and Oncologist in this proposed rule. Our suggestions were carefully weighted and added to the language in 2018, and we appreciate that result. In kind, we also agree with the board's inclusion of these physicians as proposed.

SYNOPSIS of our concern with the proposed rule:

As OHI reviews the rules, from a hospice and palliative care perspective, we see great progress in the actions taken by the Medical Board and Ohio to reduce the number of opioid prescriptions while continuing to protect the needs of patients with a terminal condition. One element in legislation and rule development we monitor closely is alignment from one piece of legislation or rule to another. Furthermore, the legislation or rule makes sense for our physicians and our patients.

In the original Subacute and Chronic Pain rule from 2018, in the section (H), we noted what many might call a subtle change in the situations that were described under whom the rule doesn't apply. Our interests were heightened due to the limitation of those conditions in that specific rule:

4731-11-14

(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.



In our opinion, this is a narrowing of elements that previously had been recognized and often described as 'exceptions.' For example, in the rule that occurred before 4731-11-14, (4731-21-06) listed exceptions as following:

4731-21-06 Exceptions.

(A) A practitioner who treats pain by utilizing prescription drugs is not subject to disciplinary action pursuant to this chapter of the Administrative Code under the following circumstances:

- (1) The treatment of pain for a patient with a terminal condition;
- (2) The treatment of pain associated with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition;
- (3) Treatment utilizing only drugs that do not exert their effects at the central nervous system level; and
- (4) Treatment utilizing only drugs that are not controlled substances and are classified as antidepressants.

(B) A practitioner who treats chronic pain by utilizing prescription drugs is not subject to disciplinary action by the board under section [4731.22](#) of the Revised Code solely because the practitioner treated the chronic pain with prescription drugs. The practitioner is subject to disciplinary action only if the prescription drugs are not utilized in accordance with section [4731.052](#) of the Revised Code and the rules adopted under this chapter of the Administrative Code.

(C) A medical doctor or doctor of osteopathic medicine who provides comfort care as described in division (E)(1) of section [2133.12](#) of the Revised Code to a patient with a terminal condition is not subject to disciplinary action by the board under section [4731.22](#) of the Revised Code if the treatment of pain for a patient with a terminal condition is provided pursuant to the requirements of section [2133.11](#) of the Revised Code. *Effective: 8/31/2017*

In 2015, the Medical Board rule 4731-11-11, Standards and procedures for review of "Ohio Automated RX Reporting System" (OARRS), was updated. In that rule, under (E) it states:

4731-11-11 (E)

A physician shall not be required to review and assess an OARRS report when prescribing or personally furnishing a 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 of 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.



Additionally, in 2017, the Medical Board approved rules for prescribing of opiate analgesics for acute pain. In this rule it states:

4731-11-13 Prescribing of opiate analgesics for acute pain

(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.

In the proposed rule, in an effort to expand the situations that hematologist and oncologist can prescribe to patients who have cancer, the Board is proposing a change to the definition of Terminal Condition. While we agree that the definition of Terminal Condition in 2133.01 is clumsy, difficult to ascertain, and in all practicality, has limited application for many practitioners and patients as defined. However, we also know that discussing terminal conditions with patients is a void and often ignored by physicians, including those treating patients with cancer until the last phase of life. ¹

Our concern is that this change could create more confusion around when the medical team has to or doesn't have to meet the criteria in 2133.01. We would also raise the concern that this proposed change might lead to increased liability for the physician or health system since the rule conflicts with the statute. For these reasons, it seems plausible that revising the definition of the exception in 4713-11-14 might be a choice that is more aligned with past and current language.

OHI would propose changing 4731-11-14 as below and leave the definition in 4731-11-01 as it is in the current rule.

4731-11-14 Subacute and Chronic Pain

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 condition associated with the individual's cancer or history of cancer;
- (3) The patient has a terminal condition as defined in section 2133.01 of the Revised Code.

4731-11-01 Definitions

(S) "Terminal condition" has the same meaning as in section 2133.01 of the Revised Code.

¹Institute of Medicine. 2015. *Dying in America: Improving Quality and Honoring Individual Preferences Near the End of Life*. Washington, DC: The National Academies Press. Doi: 10.17226/18748.

With Gratitude,

A handwritten signature in black ink, appearing to read "Jeff Lycan".

Jeff Lycan, President
National Hospice Cooperative
jlycan@NHCooperative.org
937-269-4207

From: [Sean McGlone](#)
To: [CSIPublicComments](#); [Debolt, Sallie](#); [Anderson, Kimberly](#)
Subject: Rule 4731-11-14: Prescribing for subacute and chronic pain.
Date: Tuesday, April 2, 2019 11:00:10 AM
Attachments: [image001.png](#)

Hello Medical Board and CSI Staff.

On behalf of our 237 member hospitals, the Ohio Hospital Association appreciates the opportunity to provide comments on the proposed amendments to the Medical Board rules concerning prescribing for subacute and chronic pain. We also appreciate the Medical Board's willingness to open up these recently effective rules to address a couple of unintended consequences raised by OHA and other stakeholders.

One of the Medical Board's proposed amendments to the rule would add "board certified hematologist" and "board certified oncologist" to the list of physicians to whom the 120 MED limitation does not apply. See proposed 4731-11-14(E)(1). Proposed 4731-11-01(X) and (Y) define "board certified hematologist" and "board certified oncologist" respectively. OHA supports this change.

In addition, feedback we have received from member hospitals recommends adding radiation oncologists to the definition of "board certified oncologist" in proposed 4731-11-01(Y) so that they are also exempt from the 120 MED limitation. Doing so would expand access to care and further ensure that care for cancer patients is not unnecessarily delayed. As stated in the Medical Board's Business Impact Analysis filed with CSI, non-terminal cancer patients often "require pain medication that exceeds the 120 MED average daily dose and these patients were experiencing delays getting in to see board-certified pain management specialists and board-certified hospice and palliative care specialists. Exempting board-certified hematologists and oncologists from the prohibition in prescribing in excess of 120MED allows those physicians to provide prescriptions to their non-terminal cancer patients without delay." However, the definition of "board certified oncologist" currently does not include radiation oncologists, who are qualified to prescribe in the same manner that the other board certified oncologists are that are listed in the definition. **Accordingly, OHA recommends including radiation oncologists to the definition.**

Finally, OHA suggests drafting the rule to capture the relevant oncology and hematology board certifications in a way that does not require the rule to list out all possible certifications – I know that when rules attempt to list all possible certifications, there is always a chance of missing a relevant one, and then the only way to fix it is to amend the rule again. For that reason, OHA recommends consideration of language such as this, which is similar to the language used in subsection 4731-11-01 (W) (defining "Board certification in hospice and palliative care"):

"Board certification in oncology" means: Specialty or subspecialty certification in oncology or a related oncology specialty or subspecialty by a certification board that is a member of the American board of medical specialties or by the American osteopathic association bureau of medical specialties.

“Board certification in hematology” means: Specialty or subspecialty certification in hematology or a related hematology specialty or subspecialty by a certification board that is a member of the American board of medical specialties or by the American osteopathic association bureau of medical specialties.

Defining these terms this way, instead of trying to capture all possible relevant oncology and hematology subspecialties, could ensure the necessary board certification qualifications are met without risking inadvertently omitting a relevant qualification from the list.

I would be happy to discuss this approach with you. But if it is necessary to list all relevant subspecialties, OHA appreciates your consideration of adding radiation oncologists to the definition.

Thank you again for your consideration.

Sean

Sean McGlone | Senior Vice President and General Counsel
Sean.McGlone@ohiohospitals.org



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Mission: OHA exists to collaborate with member hospitals and health systems to ensure a healthy Ohio.

Connect with OHA:



From: [PERRY PUGNO](#)
To: [Debolt, Sallie](#)
Cc: [CSIPublicComments](#)
Subject: Rule 4731-11-14 Prescribing for subacute and chronic pain
Date: Thursday, April 4, 2019 11:38:57 PM

I won't waste your time with unnecessary text. Your proposed changes, and the promptness with which you have responded to comments from the medical community, are wonderful. These will simplify the care of our patients most in need... with the fewest hassles involved. The simple definition of "terminal patient" facilitates care even further. Thank you. I am impressed with your conscientiousness and responsiveness.

My wife is opioid-dependent for multiple chronic degenerative and painful conditions, and we have been concerned about the unintended consequences to patients with legitimate need as legislation attempts to control the epidemic of inappropriate use of those drugs. Your actions in this case, although not pertinent to our situation, is very reassuring of the conscientious, patient-centered approach that you are taking to address this complex problem. Thank you for your efforts.

Perry A. Pugno, MD, MPH, CPE, FAAFP, FACEP, FAAPL
Vice Present for Education (emeritus)
American Academy of Family Physicians

April 9, 2019

Ms. Sallie Debolt
Senior Counsel
State Medical Board of Ohio
30 East Broad Street
3rd Floor
Columbus, OH 43215

RE: 4731-11-14

Submitted electronically via: Sallie.Debolt@med.ohio.gov

Dear Ms. Debolt:

Cleveland Clinic is a not-for-profit, integrated healthcare system dedicated to patient-centered care, teaching and research. Our health system is comprised of a main campus, 13 community hospitals, 19 family health centers and 3 wellness centers with over 3,600 salaried physicians and scientists. Last year, our system had over seven million patient visits and more than 229,000 hospital admissions

We appreciate the opportunity to comment on the Medical Board's proposed rules governing prescribing for subacute and chronic pain

4731-11-14 (E) Prescribing for subacute and chronic pain

Proposed Language: The physician shall not prescribe a dosage that exceeds an average of 120 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, board certification in hematology, or board certification in oncology;
- (2) The physician has received a written recommendation for a dosage exceeding an average of 120 MED per day from a board-certified pain medicine physician or board-certified hospice and palliative care physician who based on 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

Cleveland Clinic Comments

Because there is a tremendous need for physicians trained in the field of pain management, we believe that the scope of providers allowed to practice in this area should be expanded to include physicians that are not only board certified but also those who are fellowship trained and board eligible. The opportunity for gaining certification in these areas is limited. Pain management offers the initial certification exams annually and hospice and palliative medicine offers initial certification exams biennially.

Additionally, we believe that a virtual telehealth visit meets the criteria for a "face to face visit and examination" for increasing opioid dosages above 120 MEDDD or increasing dosages for those already above 120 MEDDD. Our reasoning is based on 4731-11-01 (D) that states that "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 as defined in 21 C.F.R. 1300.04, in effect as of the effective date of this rule.”

Further, a virtual telehealth visit may enable cancer patients who live in rural areas with limited access to pain management physicians or palliative care physicians to have safe and sensible management of their cancer pain remotely. According to 4731-11-09(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... (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.¹ Board certified or board eligible pain or palliative physicians with a DEA license to prescribe controlled substances thus may be able to make recommendations on opioid pain management via telemedicine without conducting an in person evaluation provided they meet the criteria in 4731-11-09 (C).”

Therefore, we propose that the language be amended to read as follows: (1) The physician is fellowship trained and board eligible or is board certified in either pain medicine or hospice and palliative medicine. (2) the physician has received a written recommendation for a dosage exceeding an average of 120 MED per day from a board-certified/board eligible pain medicine physician or board-certified/board eligible hospice and palliative care physician who based on the recommendation on a face-to-face visit or virtual telehealth examination of the patient. The prescribing physician shall maintain the written recommendation in the patient’s record.

4731-11-14 (H)(2) Prescribing for Subacute and Chronic Pain

Current Language: This rule does not apply to the physician who prescribes an opioid in any of the following situations: (2): The patient has terminal cancer or another terminal condition, as that term defined in section 2133.01 of the revised code.

Cleveland Clinic Comments

The current rules apply to subacute and chronic pain. According to the definition in 4731-11-01 (V) “Chronic pain means pain that has persisted after reasonable medical efforts have been made to relieve it continues either episodically or continuously for 12 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 the progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.” *Here*, “Terminal condition” is defined, however, “Terminal cancer” is not explicitly defined. Therefore, we propose “terminal cancer” is indeed a “progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.” Indeed, the National Cancer Institute defines “terminal cancer” as “cancer that cannot be cured and leads to death.”² Amending the rules to clarify this exclusion may ensure

¹ <http://codes.ohio.gov/oac/4731-11-09>. Last accessed 2/15/19

² <https://www.cancer.gov/publications/dictionaries/cancer-terms/def/terminal-cancer>. Last accessed 2/15/19

that vulnerable patients with incurable cancer related pain continue to receive compassionate, supportive care.

Therefore, we propose that the language be amended to read as follows: (2): The patient ~~terminal cancer~~ has pain related to incurable cancer or another terminal condition, as that term defined in section 2133.01 of the revised code

47311-11-14 (D)(3) Prescribing for Subacute and Chronic Pain

Current Language: “Except when the patient was prescribed an average daily dosage that exceeded eighty MED before the effective date of this rule obtaining at least one of the following based on the patient’s clinical presentation: (a) consultation with a specialist in the area of the body affected by the pain; (b) consultation with the 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”

Cleveland Clinic Comments

It appears that this section is written under the assumption that a primary care physician is managing the patients opioids. If a physician is a “specialist in the area of the body part effected by the pain,” or a “pain management specialist,” are they excluded from considering/making a referral? We suggest that the Medical Board add language to the rule that excludes these physicians from considering a referral for MED >50 and excluded from a mandatory referral to either (a) (b) or (c) if MED>80. Otherwise, it seems that such of referral would be redundant. Because of the current language, physicians that are “specialists in the area of the body part affected by the pain” or “pain management specialists” would still be obligated to follow (d) refer to addiction medicine/psychiatry if aberrant behavior indicating substance misuse/abuse is present.

4731-11-14 (C) (4) (a); 4731-11-14 (D) (3) (a)

Current Language: “Consultation with a specialist in the area of the body treated by pain”

Cleveland Clinic Comments

Does the Board consider oncology specialists (radiation oncology, medical oncology, surgical oncology) as “specialists in the area of the body treated by pain,” with regards to cancer-related pain? We propose that these oncology specialists are specialists in the management of cancer related pain and should be included in the language.

4731-11-14 (C) (4) (b); 4731-11-14 (D) (3) (b);

Current language: “Consultation with a pain management specialist.”

Cleveland Clinic Comments

It appears that “pain management specialist” is not defined. Therefore, we suggest that the Board add a definition that reads as follows: A pain management specialist is defined as a board-certified/board-eligible pain medicine physicians and board-certified/board-eligible hospice and palliative medicine physicians.

4731-11-14 (I)

Current language: This rule does not apply to inpatient prescriptions as defined chapter 4729 of the revised code.

Cleveland Clinic Comments

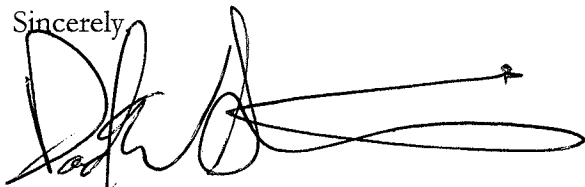
Are hospital-based physicians obligated to follow the regulations of 4731-11 when writing opioid prescriptions for treatment of subacute/chronic pain at the time of hospital discharge? These opioid medications will be filled by an outpatient institutional pharmacy or other outpatient pharmacy as defined in 4729-17-01: "Outpatient institutional pharmacy" means a pharmacy located within or on the campus of an institutional facility that provides outpatient pharmacy services which is physically separate from, and not contiguous to, the area in which inpatient pharmacy services are provided. An outpatient institutional pharmacy shall have a separate terminal distributor of dangerous drugs license in addition to the license for the institutional facility. Moreover, these prescriptions differ from "inpatient prescriptions" as defined in 4729-17-01: "Inpatient prescription" means a written, electronic, or oral order for a drug to be dispensed for use in treating an inpatient. Clarification on this matter is important for two reasons listed below.

First, if a patient is hospitalized for an acute pain flare of their subacute/chronic pain, as is frequently seen with cancer-related pain because of progressive disease, and is treated with opioids while inpatient in such a way that their new MED crosses a threshold of 80 MEDD or 120 MEDD while hospitalized, is the primary team obligated to consider consultation or consult, respectively based on the threshold crossed, a board-certified/board eligible pain medicine or palliative medicine physician prior to discharge in order for the patient to be discharged with the new, higher MED prescription? We propose that the patient be discharged with a short course of opiates at the higher MEDD - 30 days for example - without inpatient consultation provided they then follow up with a pain medicine specialist or board certified/eligible palliative or pain physician as an outpatient after discharge. Due to a shortage of pain medicine physicians and palliative physicians not all hospitals may be able to ensure an inpatient consultation on these patients prior to discharge. It is our recommendation that the rules be clarified for patients who have their opiates increased above the 80 or 120 MED threshold while inpatient to include an exemption for discharging physicians to provide 30 days-worth of the higher dose without inpatient palliative/pain consultation provided that the discharging physician has arranged outpatient follow up with palliative medicine or pain medicine within one week.

Second, if a board certified/eligible pain medicine physician or palliative physician evaluates the patient in a face-to-face examination and provides a written recommendation in the chart in the form of a consultation, is that consultant physician then obligated to personally write the recommended opioid prescription upon hospital discharge or is the written recommendation in the chart sufficient to allow a member of the patient's primary team to write for said prescription? Our recommendation is that any member of the primary team with a DEA license who is able to write for controlled substances may write for the opioid prescription upon discharge, following the written recommendations of the pain medicine or palliative medicine physician.

Thank you for conducting a thoughtful process that allows us to provide input on such important issues and for your consideration of this information. Please do not hesitate to contact me if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Stroom', with a long horizontal flourish extending to the right.

David Stroom, MD



Adena Health System
272 Hospital Road
Chillicothe, OH 45601
740-779-7500

www.adena.org

State Medical Board of Ohio
Sallie Debolt
Sallie.Debolt@med.ohio.gov
Re: 4731-11-01 and 4731-11-14

April 09, 2019

To Whom It May Concern,

Thank you for the opportunity to comment on 4731-11-01 and 4731-11-14. We are a 2 provider Radiation Oncology and 7 provider Medical Oncology Clinic for a regional medical center serving a large portion of southern Ohio. The opportunity to provide comment is much appreciated.

We would like to provide supporting comments and a recommendation related to the Ohio Common Sense Initiative, Business Impact Analysis for the State Medical Board of Ohio proposed amendments for Rule numbers 4731-11-01 and 4731-11-14:

1. We support the exemption of board-certified hematologists and oncologists from the prohibition in prescribing in excess of 120 MED for non-terminal cancer patients (4731-11-14).
2. We support the removal of the requirement for a second opinion in determining a terminal condition (4731-11-01).
3. **Please consider amending Proposed Rules 4731-11-01 (X) and (Y) to include board certified Radiation Oncologists.**

The proposed amendments will have a significant, positive impact on patient care within the rural, lower socio-economic communities. Our experience following the December implementation of the regulation has shown the potential for increased costs to the patient for additional medical appointments and travel. Other issues include scheduling challenges in an already complex plan of care and lack of available, local support services from Palliative Care and Pain Management. We appreciate the State Medical Board of Ohio's consideration and due diligence in amending the current regulations.

Respectfully,

A handwritten signature in blue ink, appearing to read "W. Wilson", is written over a light blue horizontal line.

William A. Wilson M.D., D.A.B.R.
Radiation Oncologist
Medical Director, Adena Cancer Center

4435 State Route 159
Chillicothe, Ohio 45601
740.542.3030 (P)
740.779.7950 (F)



MEMORANDUM

TO: Robert P. Giacalone, Acting Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Internal Management Rule for License Approval

DATE: August 9, 2019

Rule 4731-30-02, the internal management rule for licensure was circulated to interested parties on July 26, 2019. The deadline for comments was August 9, 2019. Two comments were received and are attached for your review.

The Ohio Academy of Nutrition and Dietetics indicated general approval of the rule, but expressed concern that Rule 4731-30-02(E) would permit the Secretary and Supervising Member or the Deputy Director of licensure to refer an application or class of applications to the Board for review, which could result in delay for those license applicants.

The Ohio Society for Respiratory Care provided a letter expressing approval for the rule and that it will be beneficial for employers, applicants for licensure, and the Board.

The rule allows for the delegation of the routine authorization of most license types and reflects the Board's commitment to reducing processing times for licensure issuance. Changes made in the FY20-21 Budget allow for the delegation of authorization to issue licenses, so the rule cannot be effective until October 16, 2019, the effective date of the Budget.

Requested Action: Recommend consideration of the comments and any amendments, and refer to the full Board authorize filing with JCARR, LSC and the Secretary of State's office to be effective October 16, 2019.

4731-30-02 Approval of Licensure Applications.

- (A) For purposes of this rule, routine authorization means issuance of a license or certificate to an individual pursuant to an application that meets the following criteria:
- (1) The applicant meets eligibility requirements for the license or certificate under the applicable provisions of the Revised Code and Administrative Code
 - (2) The applicant is not seeking a waiver of, or a determination of equivalency to, any eligibility requirement, as may be provided for under the applicable provisions of the Revised Code and Administrative Code
 - (3) The applicant is not required to demonstrate fitness to resume practice due to inactivity under the applicable provisions of the Revised Code and Administrative Code
 - (4) The application presents no grounds for discipline under the applicable provisions of the Revised Code or Administrative Code.
- (B) The board authorizes the secretary and supervising member of the board to issue the following routine authorizations under the provisions of the Revised Code and Administrative Code, without prior consultation or approval by the board:
- (1) Certificate of conceded eminence pursuant to section 4731.297 of the Revised Code;
 - (2) Clinical research faculty certificate pursuant to section 4731.293 of the Revised Code;
 - (3) Visiting clinical professional development certificate pursuant to section 4731.298 of the Revised Code;
 - (4) Special activity certificate pursuant to section 4731.294 of the Revised Code;
 - (5) Special activity license to practice as a genetic counselor pursuant to section 4778.09 of the Revised Code.
 - (6) Expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement pursuant to section 4731.299 of the Revised Code;
 - (7) Certificate to recommend medical use of marijuana pursuant to section 4731.30 of the Revised Code;
- (C) The board authorizes the deputy director of licensure, or the deputy director's designee, to issue the following routine authorizations under the provisions of the Revised Code and Administrative Code, without prior consultation or approval by the board:
- (1) License to practice as a physician assistant pursuant to section 4730.12 of the Revised Code;
 - (2) License to practice medicine and surgery or osteopathic medicine and surgery pursuant to section 4731.14 of the Revised Code;
 - (3) License to practice limited branch of medicine pursuant to section 4731.17 of the Revised Code;

- (4) Training certificate pursuant to section 4731.291 of the Revised Code;
- (5) Volunteer's certificate pursuant to section 4731.295 of the Revised Code;
- (6) License to practice podiatric medicine and surgery pursuant to section 4731.56 of the Revised Code;
- (7) Visiting podiatric faculty certificate pursuant to section 4731.572 of the Revised Code;
- (8) Podiatric training certificate pursuant to section 4731.573 of the Revised Code;
- (9) License to practice dietetics and limited permit to practice dietetics pursuant to section 4759.06 of the Revised Code;
- (10) Certificate to practice as an anesthesiologist assistant pursuant to section 4760.04 of the Revised Code;
- (11) License to practice respiratory care and limited permit to practice respiratory care pursuant to section 4761.05 of the Revised Code;
- (12) Certificate to practice as an oriental medicine practitioner pursuant to section 4762.03 of the Revised Code;
- (13) License to practice as an acupuncturist pursuant to section 4762.03 of the Revised Code;
- (14) License to practice as a radiologist assistant pursuant to section 4774.04 of the Revised Code;
- (15) License to practice as a genetic counselor pursuant to section 4778.05 of the Revised Code;
- (16) Supervised practice license as a genetic counselor pursuant to section 4778.08 of the Revised Code;

(D) An application for a license or certificate that is ineligible for routine authorization under this rule will be referred to the board for determination of whether an applicant shall be granted a license. An affirmative vote of not fewer than six members of the board is necessary for issuance of a license or certificate pursuant to an application that is not eligible for routine authorization.

(E) Notwithstanding the provisions of this rule, the secretary, supervising member and deputy director for licensure may refer any application or class of applications to the board for approval.

Effective:

Promulgated Under: 111.15

Statutory Authority: 4730.07;4731.05, 4759.05, 4760.19, 4761.03, 4762.19, 4774.11,4778.12

Rule Amplifies: 4730.12;4731.297;4731.293, 4731.298, 4731.294, 4731.299, 4731.30,

4731.14, 4731.17, 4731.291, 4731.295, 4731.56, 4731.572, 4731.573, 4759.06, 4760.04,
4761.05, 4762.03, 4762.03, 4774.04, 4778.05, 4778.08, 4778.09.



Sallie Debolt, Senior Counsel
State Medical Board of Ohio
Sallie.Debolt@med.ohio.gov

August 9, 2019

Dear Ms. Debolt;

On behalf of the Ohio Academy of Nutrition and Dietetics I would like to thank you for the opportunity to review **4731-30-02: A proposed internal management rule for approval of licensure applications.**

The Ohio Academy of Nutrition and Dietetics is pleased to support the initial draft of the internal management rule which would permit routine approval of complete license applications meeting the criteria set forth in the rule. The rule specifies the specific license types eligible for “routine authorizations under the provision of the Revised Code and Administrative Code without prior consultation or approval by the board”.

However, OAND is concerned that 4731-30-02 (E) would permit individual board members (secretary or supervising member) or a staff member (deputy director) to refer an entire “class of applications” to the board. We ask that the words “or class of applications” be removed at 4731-30-02 (E).

The proposed rule permits “any application” to be referred to the board for approval which seems reasonable and prudent - on an individual, case by case basis. However, we feel that the decision to remove an entire license “class” of applications (really a license type) should not be permitted by individual board members or particularly by individual staff members.

License applicants, their employers, and ultimately the public could be negatively impacted by the delay that would result if an entire “class” of applications had to await majority board approval. Additionally, there appears to be no process to determine if, when, or how the “class” may return to eligibility for automatic approval and issuance process.

Permitting individual board members or staff to unilaterally delay the processing of applications within an entire profession’s application type appears to exceed the intent of the rule. We believe that the decision to exclude any “class” or application type from processing and issuance as permitted by the rule is of such importance that it should require a considered decision made by a majority of the members of the full board, and an opportunity for input from the affected group of practitioners.

OAND commends the State Medical Board of Ohio for its current efforts to reduce the time it takes to process and issue professional licenses, and appreciates the opportunity to comment on draft rule 4731-30-02.

Kay Mavko, MS, RDN, LD
State Regulatory Specialist
Ohio Academy of Nutrition and Dietetics



Sallie Debolt
Senior Counsel
State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215

Dear Ms. Debolt,

The Ohio Society for Respiratory Care (OSRC) appreciates the opportunity to comment on proposed rule 4731-30-02: "Approval of Licensure Applications" impacting the issuance of licenses to practice respiratory care and limited permits to practice respiratory care.

The OSRC is pleased to support the first draft of the proposed rule as written. This rule allows applicants who meet all eligibility requirements (without waivers for such requirements, without fitness to resume practice requirements and without grounds for disciplinary action) to have their applications processed without waiting for approval of the Board at the next monthly Board meeting. Delegating the routine authorization of licenses or limited permits to the deputy director of licensure or the deputy director's designee will significantly reduce the turnaround time from application to license or limited permit to practice respiratory care.

We believe this rule is: 1) a win for the employer as open positions are filled more quickly by a qualified licensee/limited permit holder; 2) a win for the employee who can begin earning wages with less delay; and 3) a win for the State Medical Board of Ohio which will no longer trouble its esteemed Board members with routine authorizations.

Thank you for this opportunity to comment. If you have any questions, please feel free to contact me at susanciar@outlook.com or call me at 937-239-2458.

Sincerely,

Sue Ciarlariello, MBA RRT, RRT-NPS RCP
OSRC Legislative Chair



Sallie Debolt
Senior Counsel
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