



## Rules & Policies Agenda for Board Meeting August 9, 2023

- A. Rule Review Update
  - B. Review of DODD Rules
  - C. Internal Management Rules – Approval of Licensure Applications
  - D. Impairment Rules
  - E. Legislative Update
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**MEMORANDUM**

TO: Sherry Johnson, D.O., President  
Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Update

DATE: August 3, 2023

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Attached please find the rule spreadsheet and rule schedule for August 2023.

**Requested Action: No action requested.**

# Legal Dept. Rules Schedule

As of August 3, 2023

## RULES TO AUGUST BOARD MEETING

### Rule for Final Adoption

None

### Rules Filed with CSI

#### Comment Period Ended April 14, 2023

##### Medical Marijuana Rules

4731-32-01

4731-32-02

4731-32-03

4731-32-04

4731-32-05

#### Comment Period Ends August 9, 2023

##### Issuance of Licenses to Out of State Licensees or Certificate Holders

4731-38-02

4730-1-07

4759-11-01

4761-15-01

4774-1-04

4778-1-06

### Rules Proposed for CSI Filing

Reporting Rules-Chapter 4731-15

Impairment Rules-Chapter 4731-16

Inability to Practice Rules-Chapter 4731-28

### Rule Proposed for Initial Filing

4731-30-03-Internal Management Rule for Licensure  
Approval

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4730-1-01	Regulation of Physician Assistants - Definitions		06/12/19	07/16/19	11/07/19	06/18/20	No change rule			09/16/20	06/18/25	
4730-1-05	Quality Assurance System		06/12/19	07/16/19	11/07/19	06/19/20	No change rule			09/17/20	06/19/25	
4730-1-06	Licensure as a physician assistant	03/22/19	06/12/19	12/04/19		06/18/20	07/23/20	08/17/20	09/09/20	12/31/20	09/30/23	
4730-1-07	Miscellaneous Provisions	06/21/23	07/12/23	07/25/23						02/28/23	02/28/28	
4730-2-01	Physician Delegated Prescriptive Authority - Definitions		06/12/19	07/16/19	11/07/19	06/18/20	No change rule	01/30/23	02/08/23	02/28/23	02/28/28	
4730-2-04	Period of on-site supervision of physician-delegated prescriptive authority		06/12/19	07/16/19	11/07/19	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	11/15/23	
4730-2-05	Addition of valid prescriber number after initial licensure		06/12/19	07/16/19	11/07/19	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/23	
4730-2-07	Standards for Prescribing	02/12/22	05/11/22	05/16/22	09/22/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4730-2-10	Standards and Procedures for use of OARRS		06/12/19	07/16/19	11/07/19	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/23	
4730-4-01	Definitions	05/09/19		11/15/19	05/20/20	06/18/20	07/23/20	08/17/20	10/14/20	10/31/20	04/30/24	
4730-4-02	Standards and procedures for withdrawal management for drug or alcohol addiction	05/09/19		11/15/19	05/20/20	06/18/20	07/23/20	08/17/20	10/14/20	10/31/20	10/31/25	
4730-4-03	Office Based Treatment for Opioid addiction									04/30/19	04/30/24	
4730-4-04	Medication assisted treatment using naltrexone									04/30/19	04/30/24	
4730-5-01												new rules re consult rules
4730-5-02												
4731-1-01	Limited Practitioners - Definition of Terms	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-1-02	Application of Rules Governing Limited Branches of Medicine or Surgery	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	07/31/24	
4731-1-03	General Prohibitions	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-1-04	Scope of Practice: Mechanotherapy	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-1-05	Scope of Practice: Massage Therapy	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	11/05/24	
4731-1-06	Scope of Practice: Naprapathy									08/31/18	08/31/23	
4731-1-07	<i>Eligibility of Electrologists Licensed by the Ohio State Board of Cosmetology to Obtain Licensure as Cosmetic Therapists Pursuant to Chapter 4731 ORC and Subsequent Limitations</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-08	<i>Continuing Cosmetic Therapy Education Requirements for Registration or Reinstatement of a License to Practice Cosmetic Therapy</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-09	<i>Cosmetic Therapy Curriculum Requirements</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-10	<i>Distance Education</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-11	<i>Application and Certification for certificate to practice cosmetic therapy</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-12	<i>Examination</i>			09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-1-15	<i>Determination of Standing of School, College or Institution</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-16	<i>Massage Therapy curriculum rule (Five year review)</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-17	<i>Instructional Staff</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-18	<i>Grounds for Suspension, Revocation or Denial of Certificate of Good Standing, Hearing Rights</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-1-19	<i>Probationary Status of a limited branch</i>	06/17/21		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-2-01	Public Notice of Rules Procedure	05/15/22			10/31/22	09/28/22				09/28/22	09/28/27	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-4-01	Criminal Records Checks - Definitions									09/30/19	09/30/24	
4731-4-02	Criminal Records Checks									09/30/19	09/30/24	
4731-5-01	Admission to Examinations	05/15/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-5-02	Examination Failure; Inspection and Regrading	05/15/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-5-03	Conduct During Examinations	05/15/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-5-04	Termination of Examinations	05/15/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-6-01	Medical or Osteopathic Licensure: Definitions				10/31/22					07/31/19	07/31/24	
4731-6-02	Preliminary Education for Medical and Osteopathic Licensure				10/31/22					07/31/19	07/31/24	
4731-6-04	Demonstration of proficiency in spoken English	05/15/22		09/22/22	10/31/22	11/14/22			no change	11/14/22	11/14/27	
4731-6-05	Format of Medical and Osteopathic Examination		09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	01/31/27	
4731-6-14	Examination for physician licensure	09/03/20								07/31/19	07/31/24	
4731-6-15	Eligibility for Licensure of National Board Diplomats and Medical Council of Canada Licentiates									07/31/19	07/31/24	
4731-6-21	Application Procedures for Certificate Issuance; Investigation; Notice of Hearing Rights									07/31/19	07/31/24	
4731-6-22	Abandonment and Withdrawal of Medical and Osteopathic Licensure Applications									07/31/19	07/31/24	
4731-6-30	Training Certificates									07/31/19	07/31/24	
4731-6-31	Limited Preexamination Registration and Limited Certification									07/31/19	07/31/24	
4731-6-33	Special Activity Certificates									07/31/19	07/31/24	
4731-6-34	Volunteer's Certificates									07/31/19	07/31/24	
4731-7-01	Method of Notice of Meetings									07/31/19	07/31/24	
4731-8-01	Personal Information Systems	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26	
4731-8-02	Definitions	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26	
4731-8-03	Procedures for accessing confidential personal information	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26	
4731-8-04	Valid reasons for accessing confidential personal information	04/29/20		10/05/20	11/18/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-8-05	Confidentiality Statutes	04/29/20		10/05/20	11/18/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-8-06	Restricting & Logging access to confidential personal information	04/29/20		10/05/20	11/18/20	02/11/21			no change	02/11/21	02/11/26	
4731-9-01	Record of Board Meetings; Recording, Filming, and Photographing of Meetings									09/15/19	06/17/24	
4731-10-01	Definitions	10/25/19		05/26/20		Revised filing 11/3/20 10/30/20	12/04/20	12/07/20	05/12/21	05/31/21	05/31/26	
4731-10-02	Requisite Hours of Continuing Medical Education for License Renewal or Reinstatement	10/25/19		05/26/20		Revised filing 11/3/20 10/30/20	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-10-03	CME Waiver	10/25/19		05/26/20		Revised filings 11/24 & 11/3 - orig 10/30/20	12/04/20	12/07/20	05/12/21	05/31/21	05/31/26	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-10-04	Continuing Medical Education Requirements for Restoration of a License	10/25/19		05/26/20		Revised filings 11/24 & 11/3 - orig 10/30/20	12/04/20	12/07/20	05/12/21	05/31/21	05/31/26	
4371-10-08	Evidence of Continuing Medical Education	10/25/19		05/26/20		Revised filings 11/24 & 11/3 - orig 10/30/20	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-11-01	Controlled substances; General Provisions Definitions	02/12/22								10/31/20	10/31/25	
4731-11-02	Controlled Substances - General Provisions	07/26/19	11/13/19	10/05/20		05/27/21			no change		05/27/26	
4731-11-03	Schedule II Controlled Substance Stimulants			09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-11-04	Controlled Substances: Utilization for Weight Reduction			09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-11-04.1	Controlled substances: Utilization for chronic weight management			09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-11-07	Research Utilizing Controlled Substances	07/26/19	11/13/19	10/05/20		05/27/21			no change		05/27/26	
4731-11-08	Utilizing Controlled Substances for Self and Family Members	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26	
4731-11-09	Controlled Substance and telehealth prescribing	02/12/22	05/11/22	05/16/22	09/22/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-11-11	Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).	07/26/19	11/13/19	10/05/20		05/27/21	06/28/21		09/08/21	09/30/21	09/30/26	
4731-11-13	Prescribing of Opioid Analgesics for Acute Pain									08/31/17	08/31/22	
4731-11-14	Prescribing for subacute and chronic pain	11/18/22				04/17/23	05/24/23	06/01/23			12/23/23	
4731-12-01	Preliminary Education for Licensure in Podiatric Medicine and Surgery	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-12-02	Standing of Colleges of Podiatric Surgery and Medicine	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/02/23	02/28/28	
4731-12-03	Eligibility for the Examination in Podiatric Surgery and Medicine	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-12-04	Eligibility of Licensure in Podiatric Medicine and Surgery by Endorsement from Another State	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-12-05	Application Procedures for Licensure in Podiatric Medicine and Surgery, Investigation, Notice of Hearing Rights.	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-12-06	Visiting Podiatric Faculty Certificates	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23		Rescinded
4731-12-07	Podiatric Training Certificates	04/18/22		09/22/22	10/31/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-13-01	Conduct of Hearings - Representative; Appearances	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-02	Filing Request for Hearing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	No change				04/12/26	
4731-13-03	Authority and Duties of Hearing Examiners	08/26/20	10/14/20	amended filing 1/6/21 10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-04	Consolidation	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-05	Intervention	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-06	Continuance of Hearing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-07	Motions	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-13-07.1	Form and page limitations for briefs and memoranda	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-08	Filing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-09	Service	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-10	Computation and Extension of Time	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-11	Notice of Hearings	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-12	Transcripts	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-13	Subpoenas for Purposes of Hearing	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-14	Mileage Reimbursement and Witness Fees	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-15	Reports and Recommendations	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-16	Reinstatement or Restoration of Certificate	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-17	Settlements, Dismissals, and Voluntary Surrenders	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-18	Exchange of Documents and Witness Lists	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-20	Depositions in Lieu of Live Testimony and Transcripts in place of Prior Testimony	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-20.1	Electronic Testimony	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-21	Prior Action by the State Medical Board	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-22	Stipulation of Facts	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-23	Witnesses	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-24	Conviction of a Crime	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-25	Evidence	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-26	Broadcasting and Photographing Administrative Hearings	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-27	Sexual Misconduct Evidence	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-28	Supervision of Hearing Examiners	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-30	Prehearing Conference	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-31	Transcripts of Prior Testimony	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-32	Prior Statements of the Respondent	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-33	Physician's Desk Physician	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-13-34	Ex Parte Communication	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-35	Severability	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	no change				04/12/26	
4731-13-36	Disciplinary Actions	08/26/20	10/14/20	10/23/20	04/02/21	04/12/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4731-14-01	Pronouncement of Death	01/25/21	03/10/21	03/18/21		05/27/21	06/28/21		09/08/21	09/30/21	09/30/26	
4731-15-01	Licensee Reporting Requirement; Exceptions	07/28/23								11/17/17	05/17/23	*
4731-15-02	Healthcare Facility Reporting Requirement	07/28/23								11/17/17	05/17/23	*
4731-15-03	Malpractice Reporting Requirement	07/28/23								11/17/17	05/17/23	*
4731-15-04	Professional Society Reporting	07/28/23								11/17/17	05/17/23	*
4731-15-05	Liability; Reporting Forms; Confidentially and Disclosure	07/28/23								11/17/17	05/17/23	*
4731-16-01	Rules governing impaired physicians and approval of treatments programs - Definitions	07/28/23									05/17/23	*
4731-16-02	General Procedures in Impairment Cases	07/28/23									05/17/23	*
4731-16-04	Other Violations	07/28/23									05/17/23	*
4731-16-05	Examinations	07/28/23									05/17/23	*
4731-16-06	Consent Agreements and Orders for Reinstatement of Impaired Practitioners	07/28/23									05/17/23	*
4731-16-07	Treatment Provider Program Obligations	07/28/23									05/17/23	*
4731-16-08	Criteria for Approval	07/28/23									05/17/23	*
4731-16-09	Procedures for Approval	07/28/23									05/17/23	*
4731-16-10	Aftercare Contracts	07/28/23									05/17/23	*
4731-16-11	Revocation, Suspension, or Denial of Certificate of Good Standing	07/28/23									05/17/23	*

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-16-12	Out-of-State Impairment Cases	07/28/23									05/17/23	*
4731-16-13	Patient Consent; Revocation of Consent	07/28/23									05/17/23	*
4731-16-14	Caffeine, Nicotine, and Over-The Counter Drugs	07/28/23									05/17/23	*
4731-16-15	Patient Rights	07/28/23									05/17/23	*
4731-16-17	Requirements for the one-bite program	07/28/23									01/31/24	
4731-16-18	Eligibility for the one-bite program	07/28/23									01/31/24	
4731-16-19	Monitoring organization for one-bite program	07/28/23									01/31/24	
4731-16-20	Treatment providers in the one-bite program	07/28/23									01/31/24	
4731-16-21	Continuing care for the one-bite program	07/28/23									01/31/24	
4731-17-01	Exposure-Prone Invasive Procedure Precautions - Definitions	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-17-02	Universal Precautions	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21			no change		02/11/26	
4731-17-03	Hand Washing	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21			no change		02/11/26	
4731-17-04	Disinfection and Sterilization	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-17-05	Handling and Disposal of Sharps and Wastes	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-17-06	Barrier Techniques	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21			no change		02/11/26	
4731-17-07	Violations	08/26/20	10/14/20	10/23/20	11/24/20	02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-18-01	Definitions			09/22/22	12/22/22	03/06/23	02/10/23	03/06/23	04/12/23	04/30/23	04/30/28	
4731-18-02	Use of Light Based Medical Devices			09/22/22	12/22/22	03/06/23	02/10/23	03/06/23	04/12/23	04/30/23	04/30/28	
4731-18-03	Delegation of the Use of Light Based Medical Devices			09/22/22	12/22/22	03/06/23	02/10/23	03/06/23	04/12/23	04/30/23	04/30/28	
4731-18-04	Delegation of phototherapy and photodynamic therapy	01/10/18	01/20/20	05/12/20	04/05/21	04/09/21	refiled 6-9-21 5/17/2021	06/25/21	07/14/21	07/31/21	07/31/26	
4731-20-01	Surgery Privileges of Podiatrist - Definition of Foot									05/31/18	05/31/23	
4731-20-02	Surgery: Ankle Joint									05/31/18	05/31/23	
4731-22-01	Emeritus Registration - Definitions									08/31/17	08/31/22	
4731-22-02	Application									08/31/17	08/31/22	
4731-22-03	Status of Registrant									05/12/17	05/12/22	
4731-22-04	Continuing Education Requirements									05/12/17	05/12/22	
4731-22-06	Renewal of Cycle of Fees									05/12/17	05/12/22	
4731-22-07	Change to Active Status	06/17/21	09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	08/31/22	
4731-22-08	Cancellation of or Refusal to Issue an Emeritus Registration									05/12/17	05/12/22	
4731-23-01	Delegation of Medical Tasks - Definitions	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26	
4731-23-02	Delegation of Medical Tasks	01/25/21	03/10/21	03/18/21	04/23/21	refiled 7/14/21 5/27/2021	06/28/21		09/08/21	09/30/21	09/30/26	
4731-23-03	Delegation of Medical Tasks: Prohibitions	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26	
4731-23-04	Violations	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21			no change		05/27/26	
4731-24-01	Anesthesiologist Assistants - Definitions									07/31/19	07/31/24	
4731-24-02	Anesthesiologist Assistants; Supervision									07/31/19	07/31/24	
4731-24-03	Anesthesiologist Assistants; Enhanced Supervision									07/31/19	07/31/24	
4731-25-01	Office-Based Surgery - Definition of Terms	06/21/23									03/01/23	
4731-25-02	General Provisions	06/16/23								05/31/18	05/31/23	
4731-25-03	Standards for Surgery Using Moderate Sedation/Analgesia	06/16/23								05/31/18	08/31/23	
4731-25-04	Standards for Surgery Using Anesthesia Services	06/16/23								05/31/18	05/31/23	
4731-25-05	Liposuction in the Office Setting	06/16/23								03/01/18	03/01/23	



Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-25-07	Accreditation of Office Settings	06/16/23								05/31/18	05/31/23	
4731-25-08	Standards for Surgery	06/16/23								09/30/19	09/30/24	
4731-26-01	Sexual Misconduct - Definitions	01/25/21	03/10/21	03/18/21	04/23/21	refiled 7/14/21 5/27/2021	06/28/21		09/08/21	09/30/21	09/30/26	
4731-26-02	Prohibitions	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21	06/28/21		09/08/21	09/30/21	09/30/26	
4731-26-03	Violations; Miscellaneous	01/25/21	03/10/21	03/18/21	04/23/21	05/27/21	06/28/21		09/08/21	09/30/21	09/30/26	
4731-27-01	Definitions									02/04/19	02/02/24	
4731-27-02	Dismissing a patient from the medical practice									05/31/19	05/31/24	
4731-27-03	Notice of termination of physician employment or physician leaving a practice, selling a practice, or retiring from the practice of medicine									05/31/19	05/31/24	see comments for future folder
4731-28-01	Mental or Physical Impairment	07/28/23									08/31/22	
4731-28-02	Eligibility for confidential monitoring program	07/28/23									08/31/23	
4731-28-03	Participation in the confidential monitoring program	07/28/23									08/31/23	
4731-28-04	Disqualification from continued participation in the confidential monitoring program	07/28/23									08/31/23	
4731-28-05	Termination of the participation agreement for the confidential monitoring program	07/28/23									08/31/23	
4731-29-01	Standards and procedures for operation of a pain management clinic.									06/30/17	06/30/22	
4731-30-01	Internal Management Definitions									09/23/18	09/23/23	
4731-30-02	Internal Management Board Metrics	07/26/19								09/23/18	09/23/23	
4731-30-03	Approval of Licensure Applications	06/17/21				refiled 11-4-21 5/7/2020			01/12/22	01/31/22	10/17/24	
4731-30-04	Maintenance of List of Disqualifying Criminal Offenses	08/13/21				refiled 11-4-21			09/08/21	12/31/21	12/31/26	
4731-31-01	Requirements for assessing and granting clearance for return to practice or competition. (concussion rule)					04/10/19	05/13/19			11/30/19	11/30/24	
	Definition of Terms	02/09/23	03/08/23	03/30/23						09/08/17	09/08/22	
4731-32-02	Certificate to Recommend Medical Marijuana	02/09/23	03/08/23	03/30/23						09/08/17	09/08/22	
4731-32-03	Standard of Care	02/09/23	03/08/23	03/30/23						09/08/17	09/08/22	
4731-32-04	Suspension and Revocation of Certificate to Recommend	02/09/23	03/08/23	03/30/23						09/08/17	09/08/22	
4731-32-05	Petition to Request Additional Qualifying Condition or Disease	02/09/23	03/08/23	03/30/23						09/08/17	09/08/22	
4731-33-01	Definitions	05/09/19		11/15/19	05/20/20	06/18/20	07/23/20	08/17/20	10/14/20	10/31/20	04/30/24	
4731-33-02	Standards and procedures for withdrawal management for drug or alcohol addiction	05/09/19		11/15/19	05/20/20	06/18/20	07/23/20	08/17/20	10/14/20	10/31/20	10/31/25	
4731-33-03	Office-Based Treatment for Opioid Addiction									04/30/19	04/30/24	
4731-33-04	Medication Assisted Treatment Using Naltrexone									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.									07/31/19	07/31/24	
4731-35-01	Consult Agreements	01/25/21	04/14/21	04/26/21	06/04/21	09/22/21	10/29/21	11/08/21	12/08/21	12/31/21	10/31/25	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-35-02	Standards for managing drug therapy	01/25/21	04/14/21	04/26/21	06/04/21	09/22/21	10/29/21	11/08/21	12/08/21	12/31/21	10/31/25	
4731-36-01	Military provisions related to education and experience requirements for licensure	06/17/21	09/08/21	09/24/21	10/27/21	10/29/21	12/03/21		01/12/22	01/31/22	10/29/21	and 1/31/27
4731-36-02	Military provisions related to renewal of license and continuing education	03/22/19	06/12/19	12/05/19	09/11/20	09/25/20	10/27/20	11/16/20	12/09/20	12/31/20	12/31/25	
4731-36-03	Processing applications from service members, veterans, or spouses of service members or veterans.	03/22/19	06/12/19	12/05/19	09/11/20	09/25/20	10/27/20	11/16/20	12/09/20	12/31/20	12/31/25	
4731-36-04	Temporary license for military spouse	02/11/20	02/12/20	02/14/20		02/11/21	03/15/21	03/29/21	05/12/21	05/31/21	05/31/26	
4731-37-01	Telehealth	02/12/22	05/11/22	05/16/22	09/22/22	11/29/22	01/04/23	01/30/23	02/08/23	02/28/23	02/28/28	
4731-38-01	Licenses Issued or Renewed Under the Interstate Medical Licensure Compact	11/12/21	01/12/22	01/14/22	02/14/22	02/18/22	03/25/22		05/11/22	05/31/22	05/31/27	
4731-38-02	Issuance of Licenses to Out-of-State Licensees or Certificate Holders	06/21/23	07/12/23	07/25/23								
4759-2-01	Definitions									11/30/19	11/30/24	
4759-4-01	Applications									11/30/19	11/30/24	
4759-4-02	Preprofessional experience										08/28/24	
4759-4-03	Examination									11/30/19	11/30/24	
4759-4-04	Continuing Education	08/27/19		11/10/20	04/02/21	04/09/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4759-4-08	Limited permit	8/27/19 4/19/18	07/11/18	11/10/20	04/02/21	04/09/21	05/17/21	06/07/21	07/14/21	07/31/21	07/31/26	
4759-4-09	License certificates and permits	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-5-01	Supervision of persons claiming exemption									08/28/19	08/28/24	
4759-5-02	Student practice exemption									11/30/19	11/30/24	
4759-5-03	Plan of treatment exemption									11/30/19	11/30/24	
4759-5-04	Additional nutritional activities exemption										07/01/24	
4759-5-05	Distribution of literature exemption										07/01/24	
4759-5-06	Weight control program exemption										07/01/24	
4759-6-01	Standards of practice innutrition care									11/30/19	11/30/24	
4759-6-02	Standards of professional performance	04/19/18	07/11/18	11/10/20	04/02/21	refiled 6/9/21 4/9/2021	05/17/21	06/25/21	07/14/21	07/31/21	07/31/26	
4759-6-03	Interpretation of standards									11/30/19	11/30/24	
4759-9-01	Severability									11/30/19	11/30/24	
4759-11-01	Miscellaneous Provisions	06/21/23	07/12/23	07/25/23						02/28/23	02/28/28	
4761-2-03	Board Records									02/28/19	02/28/24	
4761-3-01	Definition of terms									02/28/19	02/28/24	
4761-4-01	Approval of educational programs									02/28/19	02/28/24	
4761-4-02	Monitoring of Ohio respiratory care educational programs									02/28/19	02/28/24	
4761-5-01	Waiver of licensing requirements pursuant to division (B) of section 4761.04 or the Revised Code	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25	
4761-5-02	Admission to the Ohio credentialing examination	04/23/19	06/12/19	11/06/19	01/10/20	06/19/20	No change rule			09/19/20	06/19/25	
4761-5-04	License application procedure	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25	
4761-5-06	Respiratory care practice by polysomnographic technologists	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	No change rule			09/18/20	06/18/25	
4761-6-01	Limited permit application procedure	04/23/19	06/12/19	11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	02/28/24	
4761-7-01	Original license or permit, identification card or electronic license verification									02/28/19	02/28/24	
4761-7-03	Scope of respiratory care defined										11/15/23	
4761-7-04	Supervision			11/06/19	01/10/20	06/18/20	07/23/20	08/17/20	09/09/20	09/30/20	09/30/25	
4761-7-05	Administration of medicines										11/15/23	





**MEMORANDUM**

TO: Sherry Johnson, D.O., President  
Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Consultation on Updates to Ohio Department of Developmental Disabilities rules

DATE: July 26, 2023

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Section 5123.46 of the Revised Code requires the Ohio Department of Developmental Disabilities to consult with the State Medical Board, the Board of Nursing, the Ohio Nurses Association and the Ohio Society for Respiratory Care regarding rules related to medication administration and performance of health-related activities.

Attached you will find an e-mail explaining the proposed changes in the rules and a copy of the draft updated rules.

**Requested Action: Review the attached rule changes. Any comments or questions can be forwarded to the Department of Developmental Disabilities.**

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**From:** [Donchess, Linda](#)  
**To:** [Anderson, Kimberly](#)  
**Cc:** [Mullins, Susan](#); [Phillips, Becky](#)  
**Subject:** Chapter 5123:2-6 Rules - Draft Revisions for Your Review  
**Date:** Wednesday, July 26, 2023 1:53:50 PM  
**Attachments:** [5123-2-6-01 2023-06-27.pdf](#)  
[5123-2-6-02 2023-06-27.pdf](#)  
[5123-2-6-03 2023-06-30.pdf](#)  
[5123-2-6-04 2023-06-27.pdf](#)  
[5123-2-6-05 2023-06-27.pdf](#)  
[5123-6-06 2022-06-30.pdf](#)  
[5123-6-07 2023-06-28.pdf](#)

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Hi Kim,

Five of the Ohio Department of Developmental Disabilities Medication Administration rules are due for a five-year review. In accordance with Section 5123.46 of the Revised Code, the Department is required to consult with the State Medical Board regarding development of rules.

Below is a summary of the proposed revisions.

Five rules in Chapter 5123:2-6 are due for five-year review:

- 5123:2-6-01 (Definitions of terms used in Chapter 5123:2-6 of the Administrative Code)
- 5123:2-6-02 (Self-administration or assistance with self-administration of prescribed medication)
- 5123:2-6-03 (Authorization of developmental disabilities personnel to perform health-related activities and administer prescribed medication)
- 5123:2-6-04 (Qualifications, training, and certification of registered nurse instructors and registered nurse trainers)
- 5123:2-6-05 (Qualifications and training of developmental disabilities personnel to activate a vagus nerve stimulator, use an epinephrine auto-injector, and administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces)

Generally, based on a comprehensive review, we are revising the rules to:

- Renumber the rules to eliminate the division number (i.e., 5123:2-6-01) in accordance with our established practice.
- Update references to the Revised Code and Administrative Code.
- Add purpose statements.
- Eliminate “regulatory restrictions” (e.g., use of “shall”).
- Align wording with newer rules (e.g., using only “individual service plan” and not “individual plan”).

Additionally, in 5123:2-6-04, we are:

- Tweaking wording regarding Registered Nurses to reflect changes made to Section 4723 of the Revised Code regarding the multistate license.
- Adding a provision that the Department may audit a Registered Nurse Trainer’s continuing education.

We are also making clean-up amendments to the other two medication administration rules which are not due for five-year:

5123-6-06 (Qualifications, training, and certification of developmental disabilities personnel who perform health-related activities and administer prescribed medication)

- 5123-6-07 (General provisions and compliance for performance of health-related activities and administration of prescribed medication)

Additionally, in 5123-6-06, we are:

- Clarifying that the background check of developmental disabilities personnel must be completed prior to enrollment in training.
- Adding detail regarding content of the *Health-Related Activities and Prescribed Medication Administration* training program.
- Changing the name of the *Prescribed Medication Through Feeding Tube by Nursing Delegation* training program to *Prescribed Medication Administration Through Gastrostomy and Jejunostomy Tube by Nursing Delegation* training program.
- Changing the name of the *Subcutaneous Injection by Nursing Delegation* training program to *Administration of Insulin and Medication for the Treatment of Metabolic Glycemic Disorders by Nursing Delegation* training program.
- Clarifying requirements for transcription of prescribed medication to be administered through stable labeled gastrostomy or jejunostomy tube, prescription for insulin and prescription for medication for the treatment of metabolic glycemic disorders to be transcribed on a medication administration record by only the delegating nurse or a licensed nurse in coordination/communication with the delegating nurse.

Additionally, in 5123-6-07, we are:

- Adding a provision that the Department may audit a Registered Nurse's training of developmental disabilities personnel to determine compliance with rule 5123-6-06.

The rules with proposed revisions are attached.

If there is someone else that should be included, can you share with them or let me know and I can forward this email.

If possible, please respond by August 11, 2023, with questions, suggestions, or comments. Please let me know if you would like to schedule a call/meeting to discuss the proposed revisions.

Thank you for your assistance with this process.

**Linda Donchess, RN**

Human Services Program Administrator  
Division of Medicaid Development and Administration  
Ohio Department of Developmental Disabilities  
30 East Broad Street  
Columbus, Ohio 43215  
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## \*\*\*Proposed Revisions - June 27, 2023\*\*\*

### ~~5123:2-6-01~~ 5123-6-01 Definitions of terms used in Chapter ~~5123:2-6~~ 5123-6 of the Administrative Code.

The following definitions ~~shall~~ apply to this chapter:

- (A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code.
- (B) "Annually" means within a three hundred sixty-five-day span of time.
- (C) "Business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.
- (D) "Certified home and community-based services provider" means a person or government entity certified under section 5123.045 of the Revised Code.
- (E) "Certified supported living provider" means a person or government entity certified under section 5123.161 of the Revised Code.
- (F) "Contact hour" has the same meaning as in Chapter 4723-14 of the Administrative Code.
- (G) "County board" means a county board of developmental disabilities.
- (H) "Delegable nursing task" means a nursing task, which a licensed nurse has determined meets the provisions listed in Chapter 4723-13 of the Administrative Code.
- (I) "Delegating nurse" means the licensed nurse who transfers the responsibility for performance of selected nursing tasks and/or medication administration to developmental disabilities personnel who have been trained and/or certified to do so, while retaining accountability of outcome. The delegating nurse determines the level of supervision required to ensure adequate oversight of developmental disabilities personnel to perform nursing tasks and/or administer medication. The delegating nurse is not necessarily the same nurse as the nurse who trains developmental disabilities personnel to perform or administer the functions set forth in paragraphs (KK)(1) to (KK)(8) of this rule.
- (J) "Department" means the Ohio department of developmental disabilities.
- (K) "Department-approved curriculum" means the standards for instruction, training, and performance approved by the Ohio department of developmental disabilities.
- (L) "Developmental disabilities personnel" means the workers who provide specialized services to individuals with developmental disabilities:
  - (1) Through direct employment with the Ohio department of developmental disabilities or a county board;
  - (2) Through an entity under contract with the Ohio department of developmental disabilities or a county board;
  - (3) Through direct employment or being under contract with private entities, including



## \*\*\*Proposed Revisions - June 27, 2023\*\*\*

private entities that operate residential facilities; or

- (4) As an independent provider.
- (M) "Director" means the director of the Ohio department of developmental disabilities or ~~his or her~~ the director's designee.
- (N) "Drug" has the same meaning as in section 4729.01 of the Revised Code.
- (O) "Employer oversight" means the monitoring of developmental disabilities personnel and ensuring developmental disabilities personnel perform health-related activities and administer medication in accordance with this chapter.
- (P) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.
- (Q) "Health-related activities" means only:
  - (1) Taking vital signs (i.e., temperature, pulse, respiration, and blood pressure);
  - (2) Application of clean dressings that do not require health assessment;
  - (3) Basic measurement of bodily intake and output;
  - (4) Oral suctioning;
  - (5) Use of glucometers;
  - (6) External urinary catheter care;
  - (7) Emptying and replacing ostomy bags;
  - (8) ~~Pulse~~ Obtaining pulse oximetry reading;
  - (9) Use of continuous positive airway pressure machines, including biphasic positive airway machines;
  - (10) Application of percussion vests;
  - (11) Use of cough assist devices and insufflators;
  - (12) Application of prescribed compression hosiery; and
  - (13) Collection of specimens by noninvasive means.
- (R) "Independent provider" has the same meaning as in section 5123.16 of the Revised Code.
- (S) "Individual" means a person with a developmental disability.
- ~~(T) "Individual plan" or "individual service plan" means the written description of services, supports, and activities to be provided to an individual.~~

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- (T) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual and includes an "individual program plan" as that term is used in 42 C.F.R. 483.440 in effect on the effective date of this rule.
- (U) "Individual-specific training" means training provided to developmental disabilities personnel by a licensed nurse or by an employer of developmental disabilities personnel through employer oversight, which ~~shall address~~ addresses:
- (1) The unique needs of the individual being served;
  - (2) A summary of the individual's relevant health care information; and
  - (3) Implementation of the individual's health care plan as part of the ~~individual plan or~~ individual service plan.
- (V) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.
- (W) "Licensed nurse" means a registered nurse or a licensed practical nurse who holds a current valid license to practice nursing in Ohio pursuant to Chapter ~~4723.~~ 4723 of the Revised Code.
- (X) "Major unusual incident" has the same meaning as in rule ~~5123:2-17-02~~ 5123-17-02 of the Administrative Code.
- (Y) "Medicaid" has the same meaning as in section 5162.03 of the Revised Code.
- (Z) "Medication/treatment error" means:
- (1) Wrong prescribed medication/treatment administered or performed;
  - (2) Medication/treatment administered or performed at the wrong time;
  - (3) Medication/treatment administered or performed by a route not prescribed or in the case of over-the-counter medication, not as indicated by the manufacturer;
  - (4) Incorrect dose or amount of medication/treatment administered or performed;
  - (5) Expired medication/treatment administered or performed;
  - (6) Contaminated medication/treatment administered or performed;
  - (7) Improperly stored medication/treatment administered or performed;
  - (8) Medication/treatment, other than over-the-counter medication authorized in accordance with section 5123.42 of the Revised Code, administered or performed without corresponding order from a licensed health professional authorized to prescribe drugs;
  - (9) Not performing or administering a prescribed medication/treatment during the prescribed time, including failure to ensure the medication/treatment, equipment, or

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supplies needed to administer or perform the medication/treatment are available at the prescribed time;

- (10) Not documenting a medication/treatment that was administered or performed;
  - (11) Administration or performance of prescribed medication/treatment by developmental disabilities personnel without certification or whose certification has expired;
  - (12) Administration of over-the-counter medication authorized in accordance with section 5123.42 of the Revised Code by developmental disabilities personnel without required training; and
  - (13) Administration or performance of medication/treatment without nursing delegation when nursing delegation is required.
- (AA) "Mentally alert" means the ability of an individual to cognitively understand and communicate specific information pertaining to ~~his or her~~ [the individual's](#) health, safety, and medication.
- (BB) "Metabolic glyceimic disorders" means medical conditions specifically related to metabolism [of glucose](#) such as diabetes, pre-diabetes, and metabolic syndrome.
- (CC) "Metered dose inhaled medication" means a pre-measured medication administered by inhalation using a hand-held dispenser or aerosol nebulizer.
- (DD) "Nursing delegation" means the process established in rules adopted by the Ohio board of nursing pursuant to Chapter ~~4723~~, [4723](#) of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers responsibility for the performance of a particular nursing activity, task, or prescribed medication administration to another person who is not otherwise authorized to perform the activity, task, or prescribed medication administration.
- (EE) "Nursing task" means those activities that constitute the practice of nursing as a licensed nurse and may include but is not limited to, assistance with activities that are performed to maintain or improve an individual's wellbeing when the individual is unable to perform those activities for himself or herself.
- (FF) "Oral prescribed medication" means any prescribed medication that can be ingested through the mouth.
- (GG) "Over-the-counter medication" means a drug that may be sold and purchased without a prescription, but that unless specifically authorized in division (B)(1)(c) of section 5123.42 of the Revised Code, requires a prescription for administration by unlicensed personnel to a person who is not able to self-administer.
- (HH) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs.
- (II) "Qualified intellectual disability professional" has the same meaning as in 42 C.F.R.

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483.430 in effect on the effective date of this rule.

- (JJ) "Quality assessment registered nurse" means a registered nurse who is a registered nurse instructor or registered nurse trainer employed by or under contract with a county board and who assists with consultation and quality assessment oversight as set forth in rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code.
- (KK) "Registered nurse instructor" means a registered nurse who is certified by the Ohio department of developmental disabilities in accordance with rule ~~5123:2-6-04~~ [5123-6-04](#) of the Administrative Code to plan, develop, coordinate, and deliver the registered nurse train-the-trainer program to prepare other registered nurses to train developmental disabilities personnel to:
- (1) Perform health-related activities;
  - (2) Administer oral prescribed medication;
  - (3) Administer topical prescribed medication;
  - (4) Administer topical over-the-counter musculoskeletal medication;
  - (5) Administer oxygen and metered dose inhaled medication;
  - (6) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled;
  - (7) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and
  - (8) Administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection.
- (LL) "Registered nurse trainer" means a registered nurse who is certified by the Ohio department of developmental disabilities in accordance with rule ~~5123:2-6-04~~ [5123-6-04](#) of the Administrative Code to train developmental disabilities personnel to perform or administer the functions set forth in paragraphs (KK)(1) to (KK)(8) of this rule.
- (MM) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.
- (NN) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.
- (OO) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code.
- (PP) "Task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of ~~his or her~~ professional practice.
- (QQ) "Topical over-the-counter musculoskeletal medication" means an over-the-counter

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medication that is applied topically or passes through the skin to provide relief from discomfort in the muscles, joints, or bones.

- (RR) "Topical prescribed medication" means any prescribed medication that is applied to the outer skin and drops applied to the eye, ear, or nose. "Topical prescribed medication" may include transdermal prescribed medication or vaginal or rectal suppositories.
- (SS) "Unusual incident" has the same meaning as in rule ~~5123:2-17-02~~ [5123-17-02](#) of the Administrative Code.
- (TT) "Vagus nerve stimulator" has the same meaning as "vagal nerve stimulator" as that term is used in section 5123.42 of the Revised Code.

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### ~~5123:2-6-02~~ 5123-6-02 Self-administration or assistance with self-administration of prescribed medication.

#### (A) Purpose

This rule sets forth the right of an individual who can safely self-administer prescribed medication or receive assistance with self-administration of prescribed medication to do so, establishes procedures for determining whether an individual can safely self-administer or receive assistance with self-administration of prescribed medication, and defines parameters for providing assistance with self-administration of prescribed medication.

#### (B) Right to self-administer or receive assistance with self-administration of prescribed medication

- ~~(A)~~ An individual who can safely self-administer prescribed medication or receive assistance with self-administration of prescribed medication has the right to self-administer or receive assistance with self-administration.

#### (C) Self-administration assessment

- ~~(B)~~ (1) Prior to restriction of an individual's right to self-administer prescribed medication, the service and support administrator or qualified intellectual disability professional, as applicable, ~~shall~~ will ensure that a department-approved self-administration assessment is completed for an individual who requires prescribed medication administration. Based on the outcome of the self-administration assessment, the ~~individual plan or~~ individual service plan, ~~as applicable, shall~~ will document when the individual cannot safely self-administer prescribed medication or receive assistance with self-administration of prescribed medication. The service and support administrator or qualified intellectual disability professional, as applicable, ~~shall~~ will ensure that the self-administration assessment is reviewed annually to confirm continued need for support for medication administration. A new self-administration assessment ~~shall~~ will be completed at least once every three years or more often when there is a change that affects the individual's medication routine such as a change in medication route, service setting, service provider, or health status.

- ~~(C)~~ (2) Each ~~individual plan or~~ individual service plan ~~shall~~ will indicate when the individual is able to safely self-administer prescribed medication or receive assistance with self-administration of prescribed medication including:

~~(+)~~ (a) When the individual is able to safely self-administer medication independently;

~~(+)~~ (b) When the individual is able to safely self-administer medication with assistance;  
and

~~(+)~~ (c) When the individual is not able to successfully self-administer medication with or without assistance and include a statement of how medication administration will be completed.

- ~~(D)~~ (3) When the self-administration assessment indicates an individual cannot safely self-

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administer prescribed medication or receive assistance with self-administration of prescribed medication:

- (+) (a) Further assessment ~~shall~~ will be conducted to determine exactly what specific steps of self-administration of medication the individual is able to safely complete. The individual ~~shall~~ will participate in these steps under the supervision of developmental disabilities personnel who have current certification in health-related activities and prescribed medication administration and have received individual-specific training.
- (-) (b) The details of the individual's specific abilities and the specific necessary support from licensed or certified personnel to complete medication administration ~~shall~~ will be noted in the ~~individual plan or~~ individual service plan.

### (D) Providing assistance with self-administration

- (E) (1) Developmental disabilities personnel who are not specifically authorized by other provisions of the Revised Code to provide assistance in the self-administration of prescribed medication may, under section 5123.651 of the Revised Code and this rule, provide that assistance as part of the services they provide to individuals. To provide assistance with self-administration of prescribed medication, developmental disabilities personnel are not required to be trained or certified in accordance with section 5123.42 of the Revised Code and rules ~~5123:2-6-05 and 5123:2-6-06~~ 5123-6-05 and 5123-6-06 of the Administrative Code.
- (E) (2) When assisting in the self-administration of prescribed medication, developmental disabilities personnel ~~shall~~ will take only the following actions as needed and identified in the ~~individual plan or~~ individual service plan:
  - (+) (a) Remind an individual when to take the medication and observe the individual to ensure that the individual follows the directions on the container;
  - (-) (b) Assist an individual by taking the medication in its container from the area where it is stored, handing the container with the medication in it to the individual, and opening the container, if the individual is physically unable to open the container; or
  - (-) (c) Assist, on request by or with the consent of, a physically impaired but mentally alert individual, with removal of oral prescribed medication or topical prescribed medication from the container and physically assist with the individual's taking or applying of the medication. If an individual is physically unable to place a dose of oral prescribed medication to the individual's mouth without spilling or dropping it, developmental disabilities personnel may place the dose in another container and place that container to the individual's mouth.
- (E) (3) When an individual has been assessed as able to safely self-administer prescribed medication or self-administer prescribed medication with assistance, developmental disabilities personnel are not authorized to verify accuracy of medication being taken by the individual on a routine basis unless specified in the ~~individual plan or~~ individual

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service plan. When there is reason to question the individual's ~~self-medication~~ self-administration skills, a new self-administration assessment ~~shall~~ will be completed.



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### ~~5123:2-6-03~~ 5123-6-03 Authorization of developmental disabilities personnel to perform health-related activities and administer prescribed medication.

#### (A) Purpose

This rule sets forth conditions under which developmental disabilities personnel may perform health-related activities and administer prescribed medication.

#### ~~(A)~~ (B) Individuals for whom developmental disabilities personnel may perform health-related activities and administer prescribed medication

Developmental disabilities personnel who are not specifically authorized by other provisions of the Revised Code to perform health-related activities or administer prescribed medication may do so pursuant to section 5123.42 of the Revised Code and rules adopted by the department under this chapter as part of the specialized services the developmental disabilities personnel provide to individuals who:

- (1) Are receiving early intervention, preschool, and school age services offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code;
- (2) Are receiving adult services offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code in a setting where seventeen or more individuals are receiving the services;
- (3) Are receiving adult services offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code in a setting where sixteen or fewer individuals are receiving the services;
- (4) Are receiving family support services offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code;
- (5) Are receiving services from certified supported living providers, if the services are offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code;
- (6) Are receiving residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals and the services are offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code;
- (7) Are receiving services not described in paragraphs ~~(A)(1) to (A)(6)~~ (B)(1) to (B)(6) of this rule that are offered or provided pursuant to Chapter ~~5123. 5123~~ or Chapter ~~5126. 5126~~ of the Revised Code;
- (8) Reside in a residential facility with five or fewer beds; or
- (9) Reside in a residential facility with six or more beds.

#### ~~(B)~~ (C) Authorization of developmental disabilities personnel to activate a vagus nerve

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stimulator, use an epinephrine auto-injector, and administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces

In the case of individuals receiving services described in paragraphs ~~(A)(1) to (A)(9)~~ (B)(1) to (B)(9) of this rule, developmental disabilities personnel, without nursing delegation and without certification issued in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code, may:

- (1) Activate a vagus nerve stimulator ~~or use an epinephrine auto-injector for urgent or emergency treatment of allergic reaction and anaphylaxis if all provisions of paragraphs (A) and (B) of rule 5123:2-6-05~~ if all provisions of paragraph (B) of rule 5123-6-05 of the Administrative Code are being followed;
- (2) Use an epinephrine auto-injector for urgent or emergency treatment of allergic reaction and anaphylaxis if all provisions of paragraph (C) of rule 5123-6-05 of the Administrative Code are being followed; or
- ~~(2)~~ (3) Administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces provided that:
  - (a) The topical over-the-counter medication is not being applied to an open wound;
  - (b) The topical over-the-counter medication is not being applied for specific treatment of a condition that requires a medical diagnosis including fungal infections; and
  - (c) All provisions of rule ~~5123:2-6-05~~ 5123-6-05 of the Administrative Code and paragraph ~~(C)~~ (D) of this rule are being followed.
- ~~(D)~~ (D) Authorization of developmental disabilities personnel to perform health-related activities and administer prescribed medication
- (1) In the case of individuals receiving services described in paragraph ~~(A)(1)~~ (B)(1) of this rule, trained and certified developmental disabilities personnel may, with nursing delegation:
  - (a) Perform health-related activities;
  - (b) Administer oral prescribed medication, administer topical prescribed medication, and administer topical over-the-counter musculoskeletal medication;
  - (c) Administer oxygen and metered dose inhaled medication;
  - (d) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled; and
  - (e) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump.

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- (2) In the case of individuals receiving services described in paragraphs ~~(A)(2), (A)(7), and (A)(9)~~ (B)(2), (B)(7), and (B)(9) of this rule, trained and certified developmental disabilities personnel may, with nursing delegation:
- (a) Perform health-related activities;
  - (b) Administer oral prescribed medication, administer topical prescribed medication, and administer topical over-the-counter musculoskeletal medication;
  - (c) Administer oxygen and metered dose inhaled medication;
  - (d) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled;
  - (e) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and
  - (f) Administer prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection.
- (3) In the case of individuals receiving services described in paragraphs ~~(A)(3), (A)(4), (A)(5), (A)(6), and (A)(8)~~ (B)(3), (B)(4), (B)(5), (B)(6), and (B)(8) of this rule:
- (a) Without nursing delegation, trained and certified developmental disabilities personnel may:
    - (i) Perform health-related activities;
    - (ii) Administer oral prescribed medication, administer topical prescribed medication, and administer topical over-the-counter musculoskeletal medication; and
    - (iii) Administer oxygen and metered dose inhaled medication.
  - (b) With nursing delegation, trained and certified developmental disabilities personnel may:
    - (i) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled;
    - (ii) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and
    - (iii) Administer prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection.
- (4) In the case of individuals living in a family home receiving services from an unlicensed in-home care worker providing the care through ~~an~~ employment or other arrangement entered into directly with a family member of the individual and who is not otherwise employed by or under contract with a person or government entity to

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provide services to individuals with developmental disabilities, the family member living in the home may be able to delegate health care tasks according to the provisions of section 5123.47 of the Revised Code.

~~(D)~~ (E) Requirements that apply when developmental disabilities personnel activate a vagus nerve stimulator, use an epinephrine auto-injector, or administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces pursuant to section 5123.42 of the Revised Code

- (1) Developmental disabilities personnel ~~shall~~ will successfully complete, initially and annually thereafter, a training course or courses as specified in rule ~~5123:2-6-05~~ 5123-6-05 of the Administrative Code.
- (2) Developmental disabilities personnel may activate a vagus nerve stimulator, use an epinephrine auto-injector, or administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces only as authorized by the training courses completed and according to manufacturer's instructions and individual-specific indications.
- (3) If an employer of developmental disabilities personnel or a county board believes the developmental disabilities personnel have not or will not safely activate a vagus nerve stimulator or use an epinephrine auto-injector, the employer or county board ~~shall~~ will prohibit the developmental disabilities personnel from continuing or commencing to do so and make appropriate arrangements for emergency interventions by another means for individuals who have a specified need for activation of a vagus nerve stimulator or use of an epinephrine auto-injector.
- (4) If an employer of developmental disabilities personnel or a county board believes the developmental disabilities personnel have not or will not safely administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces, the employer or county board ~~shall~~ will prohibit the developmental disabilities personnel from continuing or commencing to do so.
- (5) Developmental disabilities personnel ~~shall~~ will not engage in an action or actions subject to an employer's or county board's prohibition.

~~(E)~~ (F) Requirements that apply when developmental disabilities personnel perform health-related activities and administer prescribed medication pursuant to section 5123.42 of the Revised Code

- (1) To perform health-related activities; administer oral prescribed medication; administer topical prescribed medication; administer topical over-the-counter musculoskeletal medication; administer oxygen and metered dose inhaled medication; administer prescribed medication through stable labeled gastrostomy and jejunostomy tubes; administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection for individuals in the categories specified

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in paragraphs ~~(A)(1) to (A)(9)~~ (B)(1) to (B)(9) of this rule and in accordance with paragraph ~~(C)~~ (D) of this rule:

- (a) Developmental disabilities personnel ~~shall~~ will obtain the ~~certificate or certificates~~ certification or certifications required by the department and issued in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code;
  - (b) Developmental disabilities personnel ~~shall~~ will perform health-related activities and administer prescribed medication only as authorized by the ~~certificate or certificates~~ certification or certifications held;
  - (c) Developmental disabilities personnel ~~shall~~ will not perform health-related activities or administer prescribed medication for any individual for whom they have not received individual-specific training; and
  - (d) When nursing delegation is required in accordance with paragraph ~~(C)~~ (D) of this rule, developmental disabilities personnel ~~shall~~ will not act without nursing delegation or act in a manner that is inconsistent with nursing delegation.
- (2) Prior to delegating to developmental disabilities personnel under this rule and in accordance with all standards and conditions set forth in Chapter 4723-13 of the Administrative Code, the delegating nurse ~~shall~~ will:
- (a) Assess the individual and complete an evaluation of the conditions under which the delegated tasks or delegated prescribed medication administration will be done.
  - (b) Select developmental disabilities personnel that, as applicable:
    - (i) Are certified pursuant to rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code; and
    - (ii) Comply with all standards and conditions set forth in Chapter 4723-13 of the Administrative Code.
  - (c) Ensure developmental disabilities personnel have received individual-specific training for each individual for whom they perform health-related activities, administer oral prescribed medication; administer topical prescribed medication; administer topical over-the-counter musculoskeletal medication, administer oxygen and metered dose inhaled medication; administer prescribed medication through stable labeled gastrostomy and jejunostomy tubes; administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; or administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection.
  - (d) Document the assessment of the individual and individual-specific training.
  - (e) Comply with all standards and conditions for nursing delegation in accordance with Chapter 4723-13 of the Administrative Code.

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- (3) When delegating nursing tasks that are not taught as part of the curriculum specified in rule ~~5123:2-6-06~~ [5123-6-06](#) of the Administrative Code, the delegating nurse ~~shall~~ [will](#) train and verify the skills of developmental disabilities personnel in accordance with Chapter 4723-13 of the Administrative Code.
- (4) The employer of developmental disabilities personnel or the county board for independent providers ~~shall~~ [will](#) ensure that developmental disabilities personnel have received individual-specific training for each individual for whom they perform health-related activities or administer prescribed medication. Developmental disabilities personnel ~~shall~~ [will](#) not perform health-related activities or administer prescribed medication for any individual for whom they have not been specifically trained.
- (5) In situations in which nursing delegation is required, the delegating nurse ~~shall~~ [will](#) also ensure that developmental disabilities personnel have received individual-specific training provided by the delegating nurse or by another licensed nurse for each individual for whom the developmental disabilities personnel perform health-related activities or administer prescribed medication.
- (6) If the employer of developmental disabilities personnel believes or is notified by the county board, the department, a delegating nurse, or the quality assessment registered nurse that developmental disabilities personnel have not safely performed or will not safely perform health-related activities, or have not safely administered or will not safely administer prescribed medication, the employer ~~shall~~ [will](#):
  - (a) Prohibit the action from commencing or continuing;
  - (b) Immediately make other staffing arrangements so that performance of health-related activities or administration of prescribed medication are completed as prescribed, including compliance with the requirements of this chapter;
  - (c) If applicable, immediately notify the county board via the major unusual incident reporting system pursuant to rule ~~5123:2-17-02~~ [5123-17-02](#) of the Administrative Code; if applicable, the county board ~~shall~~ [will](#) notify the quality assessment registered nurse; and
  - (d) If applicable, immediately notify the delegating nurse.
  - (e) Enter a notation in the certification record of the developmental disabilities personnel in the medication administration information system database described in rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code.
- (7) If the delegating nurse believes that developmental disabilities personnel have not safely performed or will not safely perform health-related activities or have not safely administered or will not safely administer prescribed medication, the delegating nurse ~~shall~~ [will](#):
  - (a) Prohibit the action from commencing or continuing;

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- (b) Immediately notify the employer of the developmental disabilities personnel;
  - (c) If applicable, immediately notify the county board via the major unusual incident reporting system pursuant to rule ~~5123:2-17-02~~ [5123-17-02](#) of the Administrative Code; if applicable, the county board ~~shall~~ [will](#) notify the quality assessment registered nurse; and
  - (d) Enter a notation in the certification record of the developmental disabilities personnel in the medication administration information system database described in rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code.
- (8) Developmental disabilities personnel ~~shall~~ [will](#) not engage in an action or actions subject to an employer's prohibition or a delegating nurse's prohibition.
- (9) A registered nurse ~~shall~~ [will](#) reassess nursing delegation and the needs of the individual on an ongoing basis, but at least annually. The reassessment may be more frequent if necessary in the judgment of the delegating registered nurse. The reassessment ~~shall~~ [will](#) include a determination that:
- (a) Nursing delegation continues to be necessary;
  - (b) The individual and circumstances continue to adhere to standards and conditions for nursing delegation in accordance with Chapter 4723-13 of the Administrative Code; and
  - (c) The developmental disabilities personnel continue to demonstrate the skill to accurately perform the nursing tasks, health-related activities, and prescribed medication administration being delegated.

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### ~~5123:2-6-04~~ 5123-6-04 Qualifications, training, and certification of registered nurse instructors and registered nurse trainers.

#### (A) Purpose

This rule establishes requirements for registered nurse instructors and registered nurse trainers as well as the curriculum for the registered nurse train-the-trainer program.

#### ~~(A)~~ (B) Requirements for registered nurse instructors

- (1) Only a registered nurse certified by the department as a registered nurse instructor may plan, develop, coordinate, and deliver the registered nurse train-the-trainer program that prepares registered nurses to train developmental disabilities personnel to:
  - (a) Perform health-related activities;
  - (b) Administer oral prescribed medication;
  - (c) Administer topical prescribed medication;
  - (d) Administer topical over-the-counter musculoskeletal medication;
  - (e) Administer oxygen and metered dose inhaled medication;
  - (f) Administer prescribed medication through stable labeled gastrostomy and jejunostomy tubes;
  - (g) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and
  - (h) Administer prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection.
- (2) Only a registered nurse who meets the following requirements may be certified as a registered nurse instructor:
  - (a) Current valid licensure as a registered nurse in good standing ~~with the Ohio board of nursing to practice as a registered nurse~~ to practice nursing in Ohio pursuant to Chapter 4723 of the Revised Code.
  - (b) A minimum of sixty months full-time (or equivalent part-time) experience in the practice of nursing as a registered nurse, of which at least twenty-four months have been in the field of developmental disabilities.
  - (c) Knowledge of the current laws and rules which regulate the practice of nursing, sections 5123.41 to 5123.47 of the Revised Code, and this chapter.
  - (d) Knowledge of and experience with the principles of adult education.
  - (e) Current certification as a registered nurse trainer in accordance with this rule.



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- (f) Successful completion of the department-provided registered nurse instructor orientation program and maintenance of registered nurse instructor certification pursuant to this rule.
  - (3) The department may certify a registered nurse who meets the requirements of this rule as a registered nurse instructor for a period of two years.
  - (4) Registered nurse instructors ~~shall~~ will make entries in the medication administration information system database described in rule ~~5123:2-6-07~~ 5123-6-07 of the Administrative Code in accordance with procedures established by the department for renewal of registered nurse instructor certification.
- ~~(B)~~ (C) Requirements for registered nurse trainers
- (1) Only a registered nurse certified by the department as a registered nurse trainer may plan, develop, coordinate, and train developmental disabilities personnel to perform or administer the functions set forth in paragraphs ~~(A)(1)(a) to (A)(1)(h)~~ (B)(1)(a) to (B)(1)(h) of this rule.
  - (2) Only a registered nurse who meets the following requirements may be certified as a registered nurse trainer:
    - (a) Current valid licensure as a registered nurse as in good standing ~~with the Ohio board of nursing to practice as a registered nurse~~ to practice nursing in Ohio pursuant to Chapter 4723 of the Revised Code.
    - (b) A minimum of eighteen months full-time (or equivalent part-time) experience in the practice of nursing as a registered nurse.
    - (c) Previous experience caring for an individual with developmental disabilities.
    - (d) Computer and internet access and computer literacy sufficient for entering data in the medication administration information system database described in rule ~~5123:2-6-07~~ 5123-6-07 of the Administrative Code; receiving and sending electronic mail; and creating, saving, and sending electronic file attachments.
    - (e) Successful completion of a registered nurse train-the-trainer program that has been authorized by an Ohio board of nursing continuing education approver unit. Successful completion of the registered nurse train-the-trainer program requires the registered nurse to:
      - (i) Submit a completed application to the registered nurse instructor;
      - (ii) Attend the entire registered nurse train-the-trainer program;
      - (iii) Participate in registered nurse train-the-trainer program class discussions and activities;
      - (iv) Successfully complete the post-program requirements to demonstrate core knowledge and preparedness for teaching; and

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- (v) Submit a completed program evaluation to the registered nurse instructor.
- (3) The department ~~shall~~ will certify a registered nurse who meets the requirements of this rule as a registered nurse trainer for a period of two years.
- (4) To maintain certification as a registered nurse trainer, the registered nurse ~~shall~~ will, during the effective period of the certification complete, at a minimum, four contact hours of continuing education related to information addressed in the registered nurse train-the-trainer program or that will enhance the role of the registered nurse trainer. Training in cardiopulmonary resuscitation, first aid, or universal precautions for infection control ~~shall~~ will not count toward the four contact hours. The four contact hours may be part of the continuing education required by the Ohio board of nursing to maintain licensure as a registered nurse.
- (5) The department may conduct an audit of proof of completion of continuing education to ensure compliance with paragraph (C)(4) of this rule. When a registered nurse fails to meet or cannot show proof of meeting the requirements set forth in paragraph ~~(B)(4)~~ (C)(4) of this rule, ~~he or she shall~~ the registered nurse will be required to repeat the registered nurse train-the-trainer program in its entirety. Until such time that the registered nurse successfully repeats the registered nurse train-the-trainer program in its entirety, ~~he or she shall~~ the registered nurse will not plan, develop, or coordinate the program of instruction for developmental disabilities personnel to perform or administer the functions set forth in paragraphs ~~(A)(1)(a) to (A)(1)(h)~~ (B)(1)(a) to (B)(1)(h) of this rule.
- ~~(E)~~ (D) Minimum curriculum for the registered nurse train-the-trainer program
- (1) The registered nurse train-the-trainer program ~~shall~~ will be at a minimum eight hours; one hour equals sixty minutes of classroom instruction. The registered nurse train-the-trainer program ~~shall~~ will address:
- (a) Review of sections 4723.071 and 5123.41 to 5123.47 of the Revised Code, rules adopted under this chapter, and other applicable sections of the Revised Code and rules of the Administrative Code pertaining to the functioning of a county board, nursing delegation, and developmental disabilities personnel.
- (b) Review of all components required when teaching developmental disabilities personnel to perform or administer the functions set forth in paragraphs ~~(A)(1)(a) to (A)(1)(h)~~ (B)(1)(a) to (B)(1)(h) of this rule.
- (c) Quality measures and quality assessment requirements pursuant to this chapter.
- (d) Documentation requirements for licensed nurses and developmental disabilities personnel.
- (e) Principles of developmental disabilities personnel certification and nursing delegation including, but not limited to:
- (i) The scope of authority granted to developmental disabilities personnel by

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- certification and the responsibilities of developmental disabilities personnel to acquire and maintain certification as required for medication administration;
- (ii) Direct and indirect supervision and determination of the appropriate type of supervision pursuant to this chapter;
  - (iii) Explanation that nursing delegation requires developmental disabilities personnel to receive individual-specific training for each individual served; and
  - (iv) Explanation that nursing delegation is expressly authorized for a specific individual served and does not confer nursing delegation authority to or for another individual.
- (f) How to provide indirect supervision, including methods for remaining accessible and training developmental disabilities personnel how and when to access help.
- (g) How to evaluate the skills of developmental disabilities personnel, including developing and using a skills check list in the training program that teaches developmental disabilities personnel to perform or administer the functions set forth in paragraphs ~~(A)(1)(a) to (A)(1)(h)~~ [\(B\)\(1\)\(a\) to \(B\)\(1\)\(h\)](#) of this rule.
- (h) Responsibility and accountability pursuant to rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code related to the use of the medication administration information system database and prohibition of actions by developmental disabilities personnel who the registered nurse or employer believes have not or will not safely perform or administer the functions set forth in paragraphs ~~(A)(1)(a) to (A)(1)(h)~~ [\(B\)\(1\)\(a\) to \(B\)\(1\)\(h\)](#) of this rule.
- (i) Responsibility and accountability pursuant to Chapter 4723-4 of the Administrative Code relating to standards of competent nursing practice including but not limited to, demonstration of competence and accountability in all areas of practice in which the nurse is engaged.
- (j) General principles of adult basic education.
- (k) Instruction that health-related activities and medication administration certification applies only while providing services in settings under the administrative oversight of the department and that such certification does not confer authority or apply in any other setting or course of medication administration.
- (l) Information and instruction regarding the medication administration information system database described in rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code, including required entry of data regarding developmental disabilities personnel trained.
- (m) Instruction that only a department-approved curriculum ~~shall~~ [will](#) be used to train

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developmental disabilities personnel to perform or administer the functions set forth in paragraphs ~~(A)(1)(a) to (A)(1)(h)~~ (B)(1)(a) to (B)(1)(h) of this rule.

- (2) A registered nurse instructor may engage other licensed health care professionals to assist with instruction of the registered nurse train-the-trainer program as long as the other licensed health care professionals have received instruction on the material and are acting within the scope of their professional practice as outlined in the Revised Code.

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~~5123:2-6-05~~ 5123-6-05 Qualifications and training of developmental disabilities personnel to activate a vagus nerve stimulator; ~~use an epinephrine auto-injector;~~ and administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces.

### (A) Purpose

This rule establishes requirements for developmental disabilities personnel to activate a vagus nerve stimulator; use an epinephrine auto-injector; and administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces.

~~(A)~~ (B) Qualifications for developmental disabilities personnel to activate a vagus nerve stimulator

- (1) Developmental disabilities personnel ~~shall~~ will complete training prior to activating a vagus nerve stimulator and at least annually thereafter that includes:
  - (a) All content in the department-approved curriculum for activation of a vagus nerve stimulator including:
    - (i) Signs and symptoms of seizure;
    - (ii) Seizure first aid;
    - (iii) Correct care and use of the stimulator magnet;
    - (iv) Ensuring availability of the stimulator magnet at all times;
    - (v) Reporting potential side effects and seizure-related problems to a healthcare professional; and
    - (vi) Documentation of seizure activity and stimulator magnet use.
  - (b) Demonstration by the developmental disabilities personnel of the skills and information on the department-approved skills ~~list~~ checklist for activation of a vagus nerve stimulator.
  - (c) Individual-specific training about any individuals for whom the developmental disabilities personnel are going to activate a vagus nerve stimulator, including individual-specific indications for use of the stimulator magnet, seizure first aid, and at a minimum the information on the individual-specific training guidelines for individuals with an implanted vagus nerve stimulator.
- (2) To be eligible to receive training to activate a vagus nerve stimulator, developmental disabilities personnel must be able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.

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- (3) Only a licensed nurse or developmental disabilities personnel with health-related activities and prescribed medication administration certification in accordance with rule ~~5123:2-6-06~~ [5123-6-06](#) of the Administrative Code may provide the training for activation of a vagus nerve stimulator and only according to the department-approved curriculum.
- ~~(B)~~ (C) Qualifications for developmental disabilities personnel to use an epinephrine auto-injector for urgent or emergency treatment of allergic reaction and anaphylaxis
- (1) Developmental disabilities personnel ~~shall~~ will complete training prior to using an epinephrine auto-injector for urgent or emergency treatment of allergic reaction and anaphylaxis and at least annually thereafter that includes:
- (a) All content in the department-approved curriculum for use of an epinephrine auto-injector including:
- (i) Signs and symptoms of allergic reaction;
  - (ii) Correct care and use of the epinephrine auto-injector;
  - (iii) Ensuring availability of the epinephrine auto-injector at all times;
  - (iv) Medical follow-up after use of an epinephrine auto-injector; and
  - (v) Documentation of major unusual incidents and unusual incidents involving use of an epinephrine auto-injector in accordance with rule ~~5123:2-17-02~~ [5123-17-02](#) of the Administrative Code.
- (b) Demonstration by the developmental disabilities personnel of the skills and information on the department-approved skills ~~list~~ [checklist](#) for use of an epinephrine auto-injector.
- (c) Individual-specific training about any individuals for whom the developmental disabilities personnel are going to use an epinephrine auto-injector, including individual-specific indications for known allergens and symptoms associated with personal history of allergic reactions and at a minimum the information on the individual-specific training guidelines for individuals who have been prescribed an epinephrine auto-injector.
- (2) To be eligible to receive training to use an epinephrine auto-injector, developmental disabilities personnel must be able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.
- (3) Only a licensed nurse or developmental disabilities personnel with health-related activities and prescribed medication administration certification in accordance with rule ~~5123:2-6-06~~ [5123-6-06](#) of the Administrative Code may provide the training for use of an epinephrine auto-injector and only according to the department-approved curriculum.

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- (4) Developmental disabilities personnel who have documentation of having received training in the use of an epinephrine auto-injector as part of another recognized certification training (such as "American Red Cross" first aid) may use an epinephrine auto-injector according to that certification while that certification is in effect without the training specified in paragraph (B)(1) of this rule.
- (E) (D) Qualifications for developmental disabilities personnel to administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces
- (1) Developmental disabilities personnel ~~shall~~ will complete training prior to administering topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces and at least annually thereafter that includes:
- (a) All content in the department-approved curriculum for administration of topical over-the-counter medication including:
- (i) That topical over-the-counter medication is not to be applied to an open wound;
- (ii) That topical over-the-counter medication is not to be applied for specific treatment of a condition that requires a medical diagnosis including but not limited to, fungal infection;
- (iii) That an individual's known allergies must be confirmed as not present in the topical over-the-counter medication each time before the topical over-the-counter medication is administered;
- (iv) That the manufacturer's label directions for amount and frequency must be followed unless a prescription to administer at an alternate amount or frequency has been provided by a licensed health professional authorized to prescribe drugs;
- (v) That over-the-counter medication for oral consumption requires a prescription from a licensed health professional authorized to prescribe drugs and ~~shall~~ will only be administered by developmental disabilities personnel with health-related activities and prescribed medication administration certification in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of Administrative Code and section 5123.42 of the Revised Code;
- (vi) That topical over-the-counter medication for any purpose other than cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces may be applied only by developmental disabilities personnel with health-related activities and prescribed medication administration certification in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of Administrative Code and section 5123.42 of the Revised Code; and
- (vii) Appropriate documentation of the use of topical over-the-counter

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medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces.

- (b) Demonstration by the developmental disabilities personnel of the skills and information on the department-approved skills ~~list~~ [checklist](#) for administration of topical over-the-counter medication.
  - (c) Individual-specific training about any individuals for whom the developmental disabilities personnel are going to administer topical over-the-counter medication including individual-specific allergies and history of the use of topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces and at a minimum the information on the individual-specific training guidelines for individuals for whom developmental disabilities personnel will be administering topical over-the-counter medication without a prescription.
- (2) To be eligible to receive training to administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces, developmental disabilities personnel must be able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.
- (3) Only a licensed nurse or developmental disabilities personnel with health-related activities and prescribed medication administration certification in accordance with rule ~~5123:2-6-06~~ [5123-6-06](#) of the Administrative Code may provide the training for administration of topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces.



5123-6-06

**Qualifications, training, and certification of developmental disabilities personnel who perform health-related activities and administer prescribed medication.**

(A) Purpose

This rule sets forth eligibility and requirements for three types of training programs and resulting certification held by developmental disabilities personnel:

- (1) Health-related activities and prescribed medication administration;
- (2) Prescribed medication administration through gastrostomy and jejunostomy tube by nursing delegation; and
- (3) Administration of insulin and medication for the treatment of metabolic glyceic disorders by nursing delegation.

~~(A)~~(B) Eligibility to take a training program required to perform health-related activities and administer prescribed medication

- (1) To be eligible to take a training program described in paragraph ~~(B)~~ (C) of this rule, developmental disabilities personnel ~~shall~~ will:
  - (a) Be at least eighteen years of age;
  - (b) Hold a high school diploma or general education development certificate; and
  - (c) Be able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.
- (2) Prior to permitting developmental disabilities personnel to enroll in a training program described in paragraph ~~(B)~~ (C) of this rule, the registered nurse trainer ~~shall~~ will, as applicable:
  - (a) Secure an attestation from the employer of developmental disabilities personnel that the developmental disabilities personnel has been subject to a completed background check conducted in accordance with rule 5123-2-02 of the Administrative Code with results received; or
  - (b) Verify that the developmental disabilities personnel holds independent provider certification issued by the department.

~~(B)~~(C) Training programs for developmental disabilities personnel

(1) Health-related activities and prescribed medication administration training program

(a) A health-related activities and prescribed medication administration training program provided pursuant to this rule, to prepare developmental disabilities personnel to perform health-related activities, administer oral prescribed medication, administer topical prescribed medication, administer topical over-the-counter musculoskeletal medication, and administer oxygen and metered dose inhaled medication, ~~shall~~ will be at a minimum a fourteen-hour course; one hour equals sixty minutes of classroom instruction. Relevant agency-specific and/or facility-specific material may be added to the department-approved curriculum described in paragraph ~~(B)(1)(e)~~ (C)(1)(c) of this rule only with additional corresponding classroom instruction time beyond the fourteen-hour course.

(b) The department may authorize a registered nurse trainer to provide a portion of the health-related activities and prescribed medication administration training program by audio-visual distance learning. The department's authorization will be based upon review and approval of a training program syllabus and supporting documentation submitted by the registered nurse trainer that demonstrate the audio-visual distance learning meets the following requirements:

(i) The registered nurse trainer will develop a syllabus that:

(a) Outlines specific content and number of hours of the training program to be conducted by audio-visual distance learning and by in-person classroom instruction;

(b) Describes methods for providing students with training manuals and materials;

(c) Reflects incorporation of evidence-based principles of adult learning in the instructional design;

(d) Includes interactive learning activities to achieve student engagement with the registered nurse trainer and other students;

- (e) Describes methods to be used by the registered nurse trainer to verify student comprehension of information and skills;
- (f) Sets forth that a student will complete the return demonstration of proficiency, including transcription, described in paragraph ~~(D)(1)(e)~~ (E)(1)(c) of this rule, the written examination described in paragraph ~~(D)(1)(d)~~ (E)(1)(d) of this rule, and the evaluation of the training program described in paragraph ~~(D)(1)(e)~~ (E)(1)(e) of this rule during the in-person classroom instruction portion of the training program; and
- (g) Provides sufficient detail to demonstrate how the requirements set forth in paragraphs ~~(B)(1)(b)(ii) and (B)(1)(b)(iii)~~ (C)(1)(b)(ii) and (C)(1)(b)(iii) of this rule will be met.
- (ii) Audio-visual distance learning will be conducted using conferencing software that provides for:

  - (a) Two-way audio and video interactive capability by all participants;
  - (b) All participants to see one another including each participant's face and upper body from the desktop and above;
  - (c) The registered nurse trainer to share and present materials on screen;
  - (d) A private chat feature that enables a student to chat with the registered nurse trainer and ask questions if muted;
  - (e) Authenticated log-on by participants;
  - (f) An enabled waiting room so that the registered nurse trainer controls admission of students;
  - (g) The registered nurse trainer to track a student's attendance and presence in the meeting room;
  - (h) Prevention of anyone other than the registered nurse trainer

from recording the training program; and

- (i) The registered nurse trainer to control and disable a student's audio and video capability and remove a student when necessary.
- (iii) The registered nurse trainer is responsible for ensuring:
  - (a) A student's video monitor is large enough to allow clear visualization of the registered nurse trainer, the presented materials, and demonstrations. Neither a student nor the registered nurse trainer is permitted to participate in the audio-visual distance learning via a hand-held cellular telephone.
  - (b) The class size is such that the registered nurse trainer clearly visualizes each student on the registered nurse trainer's video monitor.
  - (c) A student experiencing technical difficulties with the audio-visual conferencing software is not considered in attendance for that portion of the training program.
- (c) The health-related activities and prescribed medication administration training program ~~shall~~ will address:
  - (i) A review of an individual's right to self-administer medication, self-administer medication with assistance, and participate in steps of medication administration when not able to self-administer medication or self-administer medication with assistance.
  - (ii) Concepts of person-centered planning relevant to an individual's consent or ~~refusal~~ declination of prescribed medication.
  - (iii) Universal precautions for infection control. The registered nurse trainer may waive the universal precautions for infection control instruction material and instruction time of the program if the developmental disabilities personnel can document training on that topic within the previous year.
  - (iv) A review of applicable federal and state drug laws and rules.

(v) Information and instruction on the concepts underlying each step for correctly administering oral prescribed medication, administering topical prescribed medication, administering topical over-the-counter musculoskeletal medication, and administering oxygen and metered dose inhaled medication according to current standards of safe practice, procedures, and techniques.

(vi) Information and instruction to train the developmental disabilities personnel to administer the right medication, at the right dose, to the right individual, by the right route, at the right time and with the right documentation.

(vii) Written step-by-step directions on how to administer oral prescribed medication, administer topical prescribed medication, administer topical over-the-counter musculoskeletal medication, and administer oxygen and metered dose inhaled medication.

~~(viii) Instruction in the administration of oxygen as prescribed by a licensed health professional authorized to prescribe drugs.~~

~~(ix)~~(viii) Instruction in safe storage and transport of oxygen.

(ix) Instruction in taking vital signs (i.e. temperature, pulse, respiration, and blood pressure).

(x) Instruction in application of clean dressings that do not require health assessment.

(xi) Instruction in basic measurement of bodily intake and output.

(xii) Instruction in oral suctioning.

(xiii) Instruction in use of glucometers.

(xiv) Instruction in external urinary catheter care.

(xv) Instruction in emptying and replacing ostomy bags.

(xvi) Instruction in application of prescribed compression hosiery.

(xvii) Instruction in collection of specimens by noninvasive means.

~~(x)~~(xviii) Instruction in the use of pulse oximetry to accurately record an individual's oxygen saturation as prescribed by a licensed

health professional authorized to prescribe drugs.

~~(xi)~~[\(xix\)](#) Instruction in the use of continuous positive airway pressure machines, including biphasic positive airway machines, for the delivery of continuous positive airway pressure to treat obstructive sleep apnea or sleep-related hypoventilation as prescribed by a licensed health professional authorized to prescribe drugs.

~~(xii)~~[\(xx\)](#) Instruction in the application of percussion vests to promote airway secretion clearance as prescribed by a licensed health professional authorized to prescribe drugs.

~~(xiii)~~[\(xxi\)](#) Instruction in the use of cough assist devices and insufflators to promote the removal of airway secretions in those with respiratory muscle weakness as prescribed by a licensed health professional authorized to prescribe drugs.

~~(xiv)~~[\(xxii\)](#) Instruction in the use of metered dose inhaled medication administered by a hand-held dispenser and the use of an aerosol nebulizer to administer a pre-measured medication for the treatment of asthma or other respiratory condition as prescribed by a licensed health professional authorized to prescribe drugs.

~~(xv)~~[\(xxiii\)](#) Information and instruction in responsibility of developmental disabilities personnel for following the step-by-step procedures for administration of all medication and performance of health-related activities and completing additional training before attempting any action for which the developmental disabilities personnel is not competent.

~~(xvi)~~[\(xxiv\)](#) Information and instruction in responsibility of developmental disabilities personnel for knowing the purpose of medication and health-related activities being performed or administered and facilitating the reporting of problems, including lack of effectiveness and potential side effects, to a healthcare professional.

~~(xvii)~~[\(xxv\)](#) Instruction in quality measures, including but not limited to, procedures for reporting and documenting medication/treatment errors that may occur when performing health-related activities, administering oral prescribed medication, administering topical prescribed medication, administering topical over-the-counter

musculoskeletal medication, and administering oxygen and metered dose inhaled medication.

~~(xviii)~~(xxvi) Procedures to be followed in case of medication emergency including when, why, and how to contact the employer of developmental disabilities personnel or designee, a healthcare professional, or the supervising licensed nurse when medication is administered or a nursing task is performed pursuant to nursing delegation.

~~(xix)~~(xxvii) Information about what developmental disabilities personnel may be authorized to perform with respect to administering oral prescribed medication, administering topical prescribed medication, administering topical over-the-counter musculoskeletal medication, or administering oxygen and metered dose inhaled medication.

~~(xx)~~(xxviii) Limitations with respect to "as needed" (or "PRN") prescribed medication, which state that developmental disabilities personnel ~~shall~~ will not administer a prescribed medication ordered by a physician or other licensed health professional authorized to prescribe drugs when the prescribed medication is to be administered as needed, unless the order is written with specific parameters which preclude independent judgment.

~~(xxi)~~(xxix) Limitations with respect to over-the-counter medication which include the need for a prescription from a licensed health professional authorized to prescribe drugs to administer all over-the-counter medication not authorized for administration by developmental disabilities personnel pursuant to section 5123.42 of the Revised Code.

~~(xxii)~~(xxx) The requirement for specialized training pursuant to this rule for the administration of topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces.

~~(xxiii)~~(xxxii) Instruction in the use of topical over-the-counter musculoskeletal medication.

~~(xxiv)~~(xxxii) Information about what developmental disabilities personnel are prohibited from administering, which includes but is not limited to:

- (a) An intramuscular injection;
  - (b) An intravenous injection;
  - (c) A subcutaneous injection, except a subcutaneous injection of insulin or prescribed medication for the treatment of metabolic glyceimic disorders, provided the developmental disabilities personnel are trained and hold ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation certification in accordance with this rule and the subcutaneous injection of insulin or prescribed medication for the treatment of metabolic glyceimic disorders is delegated to a specific person by a licensed nurse pursuant to section 5123.42 of the Revised Code and this chapter;
  - (d) Any prescribed medication administered through a nasogastric tube or an unstable or unlabeled gastrostomy tube or an unstable or unlabeled jejunostomy tube; and
  - (e) Any debriding agent used in the treatment of a skin condition or minor abrasion.
- ~~(xxv)~~(xxxiii) Instruction in the use of commercially packaged rectal diazepam gel for the treatment of epilepsy as prescribed by a licensed health professional authorized to prescribe drugs.
- ~~(xxvi)~~(xxxiv) Instruction in the use of commercially packaged glucagon for the treatment of hypoglycemia as prescribed by a licensed health professional authorized to prescribe drugs. Teaching must be completed and nursing delegation must be in place prior to administration of glucagon.
- ~~(xxvii)~~(xxxv) Instruction in potential drug reactions, including known side effects, interactions, and the proper course of action if a side effect occurs, and sources for prescribed medication information (such as pharmacist, physician, nurse, or poison control center).
- ~~(xxviii)~~(xxxvi) The requirements for documentation of prescribed medication administered, missed, held, or ~~refused~~ declined to, by, or for each individual.



~~(xxx)~~[\(xxxvii\)](#) The definition of a medication/treatment error and requirements for documentation and notification of unusual incidents and major unusual incidents related to medication/treatment errors.

~~(xxx)~~[\(xxxviii\)](#) Information regarding the appropriate and secure storage and care of prescribed medication.

~~(xxx)~~[\(xxxix\)](#) Instruction that in settings where developmental disabilities personnel are administering prescribed medication, with or without nursing delegation, medication may be administered only from pharmacy-labeled or manufacturer-labeled containers and only by the person who prepared the dosage from those containers.

~~(xxxii)~~[\(xl\)](#) Information and instruction about who may receive and who may transcribe physician orders and prescriptions ~~into a prescribed~~ [on to a](#) medication administration record or treatment administration record specific to each category pursuant to rule ~~5123:2-6-03~~ [5123-6-03](#) of the Administrative Code.

~~(xxxiii)~~[\(xli\)](#) Performance of a successful return demonstration for each route of prescribed medication administration in which developmental disabilities personnel are trained.

~~(xxxiv)~~[\(xlii\)](#) Performance of a successful return demonstration for each health-related activity in which developmental disabilities personnel are trained.

~~(xxxv)~~[\(xliii\)](#) Information that health-related activities are performed only pursuant to nursing delegation except for individuals:

(a) Receiving family support services or services from certified supported living providers, if the services are offered or provided pursuant to Chapter ~~5123~~ [5123](#) or Chapter ~~5126~~ [5126](#) of the Revised Code;

(b) Receiving residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes no more than four individuals;

(c) Residing in a residential facility with five or fewer beds; or

(d) Receiving adult day services in a setting where services are provided to sixteen or fewer individuals.

~~(xxxvi)~~(xliv) Information and instruction on the concepts underlying each step for performing health-related activities according to current standards of safe practice, including instruction in the correct and safe practices, procedures, and techniques for performing health-related activities.

~~(xxxvii)~~(xlv) Instruction in the usual parameters of health-related activities and instruction in the course of action to be taken when parameters of health-related activities are above or below those taught.

~~(xxxviii)~~(xlvi) Completion of written examination pursuant to paragraph ~~(D)(1)(d)~~ (E)(1)(d) of this rule.

~~(xxxix)~~(xlvii) Requirements for individual-specific training which ~~shall~~ will occur after certification and prior to administration of prescribed medication or performance of health-related activities. The employer of developmental disabilities personnel, the delegating nurse, or the county board ~~shall~~ will ensure that developmental disabilities personnel receive individual-specific training.

(2) Prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation training program

(a) A prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation training program provided pursuant to this rule to prepare developmental disabilities personnel to administer prescribed medication through stable labeled gastrostomy and jejunostomy tubes ~~shall~~ will be at a minimum a four-hour course and ~~shall~~ will be in addition to the health-related activities and prescribed medication administration training program described in paragraph ~~(B)(1)~~ (C)(1) of this rule; one hour equals sixty minutes of classroom instruction. Relevant agency-specific and/or facility-specific material may be added to the department-approved curriculum described in paragraph ~~(B)(2)(b)~~ (C)(2)(b) of this rule only with additional corresponding classroom instruction time beyond the

four-hour course. Developmental disabilities personnel ~~shall~~ will successfully complete the health-related activities and prescribed medication administration training program described in paragraph ~~(B)(1)~~ (C)(1) of this rule prior to participating in the prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation training program.

- (b) The prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation training program ~~shall~~ will address:
- (i) Correct and safe practices, procedures, and techniques for administering prescribed medication through stable labeled gastrostomy and jejunostomy tubes, including possible signs and symptoms of gastrostomy or jejunostomy tube malfunction or tube problems, complication or intolerance of prescribed medication by the individual, and appropriate response to a gastrostomy or jejunostomy tube that becomes dislodged.
  - (ii) Requirements for documentation of prescribed medication administered, missed, held, or ~~refused~~ declined to, by, or for each individual through stable labeled gastrostomy or jejunostomy tube.
  - (iii) Requirements for documentation and notification of prescribed medication errors through stable labeled gastrostomy or jejunostomy tube.
  - (iv) Information regarding the proper storage, care, and preparation of prescribed medication to be administered through stable labeled gastrostomy or jejunostomy tube.
  - (v) Information regarding the proper storage and care of gastrostomy and jejunostomy tubes.
  - (vi) Requirements for nursing delegation of prescribed medication administration through stable labeled gastrostomy and jejunostomy tubes.
  - (vii) Instruction that only the delegating nurse ~~shall~~ or a licensed nurse in coordination/communication with the delegating nurse will receive prescriptions for prescribed medication to be administered

through stable labeled gastrostomy or jejunostomy tube and only the delegating nurse ~~shall~~ or a licensed nurse in coordination/communication with the delegating nurse will transcribe these prescriptions ~~into a prescribed~~ on to a medication administration record or treatment administration record.

- (viii) Performance of successful return demonstration of proficiency in administering prescribed medication through stable labeled gastrostomy and jejunostomy tubes.
  - (ix) Completion of written examination pursuant to paragraph ~~(D)(1)(d)~~ (E)(1)(d) of this rule.
  - (x) Requirements for individual-specific training which ~~shall~~ will occur after certification and prior to administration of prescribed medication through stable labeled gastrostomy or jejunostomy tube. The delegating nurse ~~shall be~~ is responsible for the individual-specific training.
- (3) ~~Subcutaneous injection~~ Administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation training program
- (a) ~~A subcutaneous injection~~ An administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation training program provided pursuant to this rule to prepare developmental disabilities personnel to administer insulin through subcutaneous injection, of insulin inhalation, and insulin pump and administer prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection by nursing delegation ~~shall~~ will be a minimum a four-hour course and ~~shall~~ will be in addition to the health-related activities and prescribed medication administration training program described in paragraph ~~(B)(1)~~ (C)(1) of this rule; one hour equals sixty minutes of classroom instruction. Relevant agency-specific and/or facility-specific material may be added to the department-approved curriculum described in paragraph ~~(B)(3)(b)~~ (C)(3)(b) of this rule only with additional corresponding classroom instruction time beyond the four-hour course. Developmental disabilities personnel ~~shall~~ will successfully complete the health-related activities and prescribed medication administration training program described in paragraph ~~(B)(1)~~ (C)(1) of this rule prior to participating in the ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation training program.

- (b) The ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceic disorders by nursing delegation training program ~~shall~~ will address:
- (i) Information on the basic pathophysiology of metabolic glyceic disorders.
  - (ii) Correct and safe practices, procedures, and techniques for administering insulin and subcutaneous injections, possible signs and symptoms of subcutaneous injection complication, and instruction in safe handling and disposal of sharps.
  - (iii) The requirements for documentation of subcutaneous injections administered, missed, held, or ~~refused~~ declined to, by, or for each individual.
  - (iv) Requirements for documentation and notification of prescribed medication errors and subcutaneous injection errors.
  - (v) Information regarding the proper storage, care, and preparation of insulin or prescribed medication for treatment of metabolic glyceic disorders to be administered by subcutaneous injection.
  - (vi) Signs and symptoms of hypoglycemia and hyperglycemia and procedure for intervention and notification of nurse, physician, or emergency medical services.
  - (vii) Instruction in the use of commercially packaged glucagon for the treatment of hypoglycemia as prescribed by a licensed health professional authorized to prescribe drugs. Teaching must be completed and nursing delegation must be in place prior to administration of glucagon.
  - (viii) Instruction that only the delegating nurse or a licensed nurse ~~shall~~ in coordination/communication with the delegating nurse will transcribe a prescription for insulin or prescribed medication for treatment of metabolic glyceic disorders on to a ~~prescribed~~ medication administration record.
  - (ix) Performance of successful return demonstration of proficiency in administering insulin and subcutaneous injections.

- (x) Completion of written examination pursuant to paragraph ~~(D)(1)(d)~~ (E)(1)(d) of this rule.
- (xi) Requirements for nursing delegation of ~~subcutaneous injections of insulin and prescribed medication for the treatment of metabolic glyceimic disorders~~ administration of insulin through subcutaneous injection, inhalation, and insulin pump and administration of prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection.
- (xii) Requirements for individual-specific training which ~~shall~~ will occur after certification and prior to administration of ~~subcutaneous injections of~~ insulin through subcutaneous injection, inhalation and insulin pump and administration of prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection. The delegating nurse ~~shall be~~ is responsible for the individual-specific training.

~~(E)~~(D) Requirements for training programs

- (1) The health-related activities and prescribed medication administration training program, the prescribed medication administration through ~~feeding gastrostomy or jejunostomy~~ tube by nursing delegation training program, and the ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation training program ~~shall~~ will be planned, developed, and delivered by a registered nurse trainer certified by the department in accordance with rule ~~5123:2-6-04~~ 5123-6-04 of the Administrative Code. The registered nurse trainer ~~shall~~ will ensure that training programs are conducted in accordance with requirements set forth in this chapter.
- (2) A registered nurse trainer ~~shall~~ will use only a department-approved curriculum for the health-related activities and prescribed medication administration training program, the prescribed medication administration through ~~feeding gastrostomy and jejunostomy~~ tube by nursing delegation training program, or the ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation training program.
- (3) A registered nurse trainer ~~shall~~ will personally conduct the majority of a training program but may utilize other licensed health professionals to assist with conducting the training program as long as the other licensed health

professionals have received instruction on the material and are acting within their professional scope of practice as outlined in the Revised Code.

~~(D)~~(E) Initial certification of developmental disabilities personnel

- (1) To receive initial certification in health-related activities and prescribed medication administration, prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation, or ~~subcutaneous-injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation, developmental disabilities personnel ~~shall~~ will:
  - (a) Attend the entire applicable training program.
  - (b) Actively participate in the training program class discussions and activities.
  - (c) Successfully perform a return demonstration of proficiency.
  - (d) Complete the closed book final written examination for the training program with a score of at least eighty per cent. Developmental disabilities personnel scoring less than eighty per cent on the final written examination ~~shall~~ will retake the training program in its entirety to be eligible to retake the final written examination. The final written examination developed and maintained by the department ~~shall~~ will be the only final written examination used.
  - (e) Complete and submit to the registered nurse trainer the evaluation of the training program.
- (2) Certification in health-related activities and prescribed medication administration is a prerequisite for certification in prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation or certification in ~~subcutaneous-injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation.
- (3) The registered nurse trainer ~~shall~~ will ensure developmental disabilities personnel meet all requirements for initial certification before indicating so in the medication administration information system database.

~~(E)~~(F) Maintenance of developmental disabilities personnel certification

- (1) To maintain certification in health-related activities and prescribed medication administration, prescribed medication administration through ~~feeding gastrostomy and jejunostomy~~ tube by nursing delegation, or ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceic disorders by nursing delegation, developmental disabilities personnel ~~shall~~ will annually complete continuing education that will enhance the role of developmental disabilities personnel who have completed the training program as determined by the registered nurse trainer. Developmental disabilities personnel ~~shall~~ will provide documentation of completion of the required continuing education to the registered nurse trainer.
  - (a) To maintain certification in health-related activities and prescribed medication administration, developmental disabilities personnel ~~shall~~ will annually complete at least two hours of continuing education that relates to the information taught in the health-related activities and prescribed medication administration training program (as determined by the registered nurse trainer) and perform a successful return demonstration of skills.
  - (b) To maintain certification in prescribed medication administration through ~~feeding gastrostomy and jejunostomy~~ tube by nursing delegation, developmental disabilities personnel ~~shall~~ will annually complete at least one hour of continuing education that relates to the information taught in the prescribed medication administration through ~~feeding gastrostomy and jejunostomy~~ tube by nursing delegation training program (as determined by the registered nurse trainer) and perform a successful return demonstration of skills. The continuing education required in this paragraph is in addition to the two hours of continuing education required for health-related activities and prescribed medication administration certification and, if applicable, the one hour of continuing education required for ~~subcutaneous—injection~~ administration of insulin and medication for the treatment of metabolic glyceic disorders by nursing delegation certification.
  - (c) To maintain certification in ~~subcutaneous—injection~~ administration of insulin and medication for the treatment of metabolic glyceic disorders by nursing delegation, the developmental disabilities personnel ~~shall~~ will annually complete at least one hour of continuing education that relates to the information taught in the ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceic disorders by nursing delegation training program (as determined by the registered nurse trainer) and perform a successful



return demonstration of skills. The continuing education required in this paragraph is in addition to the two hours of continuing education required for health-related activities and prescribed medication administration certification and, if applicable, the one hour of continuing education required for prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation certification.

- (2) Training in cardiopulmonary resuscitation, first aid, activation of a vagus nerve stimulator, use of an epinephrine auto-injector, administration of topical over-the-counter medication, or universal precautions for infection control ~~shall will~~ not count toward continuing education required by paragraph ~~(E)(1)(a), (E)(1)(b), or (E)(1)(c)~~ (F)(1)(a), (F)(1)(b), or (F)(1)(c) of this rule.
- (3) Maintaining certification in health-related activities and prescribed medication administration is required to maintain certification in prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation and certification in ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glycemic disorders by nursing delegation.
- (4) When developmental disabilities personnel fail to complete the required continuing education and return demonstration of skills by the annual certification expiration date, the certification of the developmental disabilities personnel ~~shall will~~ be temporarily inactive for a maximum period of sixty calendar days, during which time the developmental disabilities personnel ~~shall will~~ complete the required continuing education and return demonstration of skills. If the developmental disabilities personnel fail to complete the required continuing education and return demonstration of skills within the sixty-day suspension period, the developmental disabilities personnel ~~shall will~~ be required to repeat each training program in its entirety to become recertified.
- (5) While the certification of developmental disabilities personnel is temporarily inactive in accordance with paragraph ~~(E)(4)~~ (F)(4) of this rule, the developmental disabilities personnel ~~shall will~~ not:
  - (a) Perform health-related activities;
  - (b) Administer oral prescribed medication;
  - (c) Administer topical prescribed medication;

- (d) Administer topical over-the-counter musculoskeletal medication;
  - (e) Administer oxygen or metered dose inhaled medication;
  - (f) Administer prescribed medication through gastrostomy or jejunostomy tubes;
  - (g) Receive nursing delegation to administer prescribed medication through gastrostomy or jejunostomy tubes;
  - (h) Administer prescribed insulin through subcutaneous injection, inhalation, or insulin pump;
  - (i) Receive nursing delegation to administer prescribed insulin through subcutaneous injection, inhalation, or insulin pump;
  - (j) Administer prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection; or
  - (k) Receive nursing delegation to administer prescribed medication for the treatment of metabolic glyceimic disorders through subcutaneous injection.
- (6) The registered nurse trainer ~~shall~~ will ensure developmental disabilities personnel meet all requirements for renewal certification before indicating so in the medication administration information system database.
- ~~(F)~~(G) For adequate reasons and when requested in writing, the director may waive a condition or specific requirement of this rule. Approval to waive a condition or specific requirement ~~shall~~ will not be contrary to the rights, health, or safety of individuals served. The decision to grant or deny a rule waiver is final and may not be appealed.
- ~~(G)~~(H) The standards established by the Ohio board of nursing ~~under~~ pursuant to Chapter 4723-13 of the Administrative Code ~~shall~~ will apply when an unlicensed person is performing delegable nursing tasks that are not defined as health-related activities.

5123-6-07

**General provisions and compliance for performance of health-related activities and administration of prescribed medication.**

(A) Purpose

This rule sets forth requirements for the medication administration information system database, documentation of performance of health-related activities and administration of medication, compliance and quality assessment, and actions that may be taken by the department regarding certification issued pursuant to Chapter 5123-6 of the Administrative Code.

~~(A)~~(B) Medication administration information system database

- (1) The department ~~shall~~ will operate and maintain the medication administration information system database of registered nurse instructors and registered nurse trainers holding valid certification issued in accordance with rule ~~5123:2-6-04~~ 5123-6-04 of the Administrative Code and developmental disabilities personnel holding valid certification issued in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code in health-related activities and prescribed medication administration, prescribed medication administration through ~~feeding~~ gastrostomy and jejunostomy tube by nursing delegation, and ~~subcutaneous injection~~ administration of insulin and medication for the treatment of metabolic glyceimic disorders by nursing delegation.
- (2) The department ~~shall~~ will provide read and write access to the medication administration information system database to all registered nurse instructors. Each registered nurse instructor ~~shall~~ will enter in the database initial information about each ~~person he or she~~ registered nurse the registered nurse instructor trained to be a registered nurse trainer in accordance with rule ~~5123:2-6-04~~ 5123-6-04 of the Administrative Code.
- (3) The department ~~shall~~ will provide read and write access to the medication administration information system database to all registered nurse trainers. Each registered nurse trainer ~~shall~~ will enter in the database current information about developmental disabilities personnel ~~he or she~~ the registered nurse trainer trained in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code at the time of certification and recertification of the developmental disabilities personnel.
- (4) ~~Each registered nurse trainer shall~~ Registered nurse trainers will enter in the medication administration information system database, ~~information about himself or herself at the time of recertification and thereafter, within sixty calendar days of any change of information. Each registered nurse trainer~~

~~shall enter information required for renewal of his or her registered nurse trainer certification prior to expiration of the certification.;~~

(a) Information about themselves at the time of their recertification and thereafter, within sixty calendar days of any change of information.

(b) Information required for renewal of their registered nurse trainer certification prior to expiration of the certification.

(5) The department ~~shall~~ will provide read only access to the medication administration information system database to the public.

~~(B)~~(C) Documentation of performance of health-related activities and administration of prescribed medication by developmental disabilities personnel

(1) All prescribed medication administered pursuant to this chapter ~~shall~~ will be administered according to the written directions of a licensed health professional authorized to prescribe drugs and according to the training received by developmental disabilities personnel in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code.

(2) Performance of health-related activities and administration of prescribed medication and treatments ~~shall~~ will be documented in a medication/treatment administration record indicating the completion of prescribed orders, including the signature or initials of the developmental disabilities personnel administering the prescribed medication or treatment, date, time, and when appropriate, observations or difficulties noted. This written documentation is required for all prescribed medication and treatments performed, administered, missed, held, or ~~refused~~ declined, including:

(a) Routine and as-needed prescribed medication and treatments;

(b) Health-related activities; and

(c) ~~Subcutaneous injections~~Administration of insulin and subcutaneous injections of prescribed medication for the treatment of metabolic glycemc disorders.

(3) Medication/treatment administration records ~~shall~~ will include at a minimum:

(a) Name of individual served;

- (b) All allergies of individual served;
  - (c) Day, month, and year of documentation;
  - (d) Name of drug or treatment;
  - (e) Complete dosage and frequency of prescribed medication;
  - (f) Route of prescribed medication administration;
  - (g) Scheduled/prescribed time or intervals for administration;
  - (h) Any special instructions regarding each medication administration or treatment as provided by the pharmacy, physician, or prescriber; and
  - (i) Parameters provided by the physician or licensed health professional for ordered health-related activities.
- (4) The employer of developmental disabilities personnel ~~shall~~ will maintain a means of identifying signatures and initials of developmental disabilities personnel making entries in the medication/treatment administration record. Identification ~~shall~~ will be included in the medication/treatment administration record or by using a separate master signatures/initials log.
- (5) Certified developmental disabilities personnel transcribing any information in a medication/treatment administration record or checking the accuracy of information transcribed in the medication/treatment administration record ~~shall~~ will document when transcription and/or check has been completed, including date, time, and signature or initials.
- (a) Only a licensed nurse or developmental disabilities personnel with health-related activities and prescribed medication administration certification may transcribe information in a medication/treatment administration record or check the accuracy of information transcribed in the medication/treatment administration record.
  - (b) Checking the accuracy of transcriptions ~~shall~~ will include:
    - (i) Verifying changes are transcribed as specified by the prescriber;

- (ii) Verifying special instructions are indicated as instructed by pharmacy or prescriber directives; and
  - (iii) Ensuring the availability of equipment and/or supplies required to administer medication or perform the task in the setting.
- (6) With any change to medication and/or treatment orders, the employer of developmental disabilities personnel or delegating nurse ~~shall~~ will ensure the medication/treatment administration record has been checked.
- (7) Employers of developmental disabilities personnel and independent providers ~~shall~~ will ensure documentation, including the date, time, and signature or initials of certified developmental disabilities personnel who sign the medication/treatment administration record is completed in accordance with this rule.

~~(E)~~(D) Requirements for developmental disabilities personnel to report medication/treatment errors

- (1) Any medication/treatment error by developmental disabilities personnel in the performance of health-related activities, ~~administration of oral prescribed medication,~~ or administration of ~~topical prescribed~~ medication that results in physical harm to the individual ~~shall~~ will be immediately reported to an appropriate licensed health care professional. The requirement to immediately report medication/treatment errors applies to errors involving prescribed medication, treatments, over-the-counter medication, and health-related activities.
- (2) Any medication/treatment error by developmental disabilities personnel ~~shall~~ will be reported in accordance with rule 5123-17-02 of the Administrative Code when the medication/treatment error meets the definition of major unusual incident or unusual incident.
- (3) All medication/treatment errors ~~shall~~ will be documented in an unusual incident report in accordance with rule 5123-17-02 of the Administrative Code. Developmental disabilities personnel who observe, identify, or become aware of a medication/treatment error ~~shall~~ will report to the delegating nurse and/or supervisory staff immediately in accordance with the employer's written policy and procedure.
- (4) The employer of developmental disabilities personnel ~~shall~~ will train developmental disabilities personnel in accordance with the employer's

written policy and procedure that medication/treatment errors and related plans of prevention ~~shall~~ will be documented in an unusual incident report.

~~(D)~~(E) Compliance and quality assessment

- (1) Each county board ~~shall~~ will employ or enter into a contract with a registered nurse instructor or a registered nurse trainer who will serve as a quality assessment registered nurse to assist with consultation and quality assessment oversight.
- (2) Quality assessment reviews ~~shall~~ will be conducted when certified developmental disabilities personnel perform health-related activities, administer oral prescribed medication, administer topical prescribed medication, administer topical over-the-counter musculoskeletal medication, administer oxygen, or administer metered dose inhaled medication for individuals who:
  - (a) Receive services from certified supported living providers;
  - (b) Receive residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals;
  - (c) Receive adult services in a setting where sixteen or fewer individuals receive services; and
  - (d) Reside in residential facilities of five or fewer beds, excluding intermediate care facilities for individuals with intellectual disabilities.
- (3) The quality assessment registered nurse ~~shall~~ will complete quality assessment reviews so that a review of each provider location in the county where certified developmental disabilities personnel perform health-related activities, administer oral prescribed medication, administer topical prescribed medication, administer topical over-the-counter musculoskeletal medication, administer oxygen, or administer metered dose inhaled medication is conducted at least once every three years. The quality assessment registered nurse may conduct more frequent reviews if the quality assessment registered nurse, county board, provider, or department determines there are issues to warrant such.
- (4) Quality assessment reviews ~~shall~~ will be completed in a format prescribed by

the department.

- (5) Quality assessment reviews ~~shall~~ will include, but are not limited to:
- (a) Observation of performance of health-related activities and administration of prescribed medication;
  - (b) Review of the system of communication and supports related to performance of health-related activities and administration of prescribed medication for the provider location being assessed to ensure complete and accurate administration of health care directives given by health care professionals for the individuals being served at the provider location;
  - (c) Review of documentation of performance of health-related activities and administration of prescribed medication for completeness of documentation and for documentation of appropriate actions taken based on parameters provided in the health-related activities and prescribed medication administration training program described in rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code;
  - (d) Review of all medication/treatment errors from the past twelve months; and
  - (e) Review of the system of processes and procedures used by the employer of developmental disabilities personnel or independent provider to monitor and document completeness and correct techniques used during performance of health-related activities, administration of oral prescribed medication, and administration of topical prescribed medication.
- (6) The quality assessment registered nurse ~~shall~~ will evaluate for patterns of failure to comply or maintain compliance with this chapter.
- (7) The quality assessment registered nurse ~~shall~~ will provide a copy of the quality assessment review report to the county board and the provider of services within ten business days of the quality assessment review. The quality assessment review report ~~shall~~ will identify findings specific to provisions of this chapter and may recommend to the county board and the provider of services steps to be taken to improve the systems and procedures used by the provider to support the functioning of the trained developmental disabilities personnel and suggestions for improving quality related to performance of



health-related activities and administration of prescribed medication and maintaining compliance with this chapter.

- (8) The quality assessment registered nurse ~~shall~~ will maintain a copy of each quality assessment review ~~he or she performs~~ performed in accordance with paragraph ~~(D)(3)~~ (E)(3) of this rule.
- (9) The quality assessment registered nurse ~~shall~~ will coordinate with, as applicable, the county board, the employer of developmental disabilities personnel, or independent provider to ensure that safety concerns are immediately addressed.
- (10) The employer of developmental disabilities personnel or the independent provider, as applicable, ~~shall~~ will submit a written plan of improvement to the quality assessment registered nurse that addresses specific rule violations identified in the quality assessment review within thirty calendar days of receipt of the quality assessment review report.
- (11) The quality assessment registered nurse ~~shall~~ will notify the county board and the department when the employer of developmental disabilities personnel or the independent provider fails to:
  - (a) Submit a written plan of improvement within sixty calendar days of receipt of the quality assessment review report; or
  - (b) Successfully implement the written plan of improvement within sixty calendar days of submission of the plan to the quality assessment registered nurse.
- (12) The quality assessment registered nurse ~~shall act~~ will serve as a resource for the county board and providers of services concerning health management issues and may assist in expanding health care services in the community.

~~(E)~~ (F) Prohibition on performance of health-related activities and administration of prescribed medication by developmental disabilities personnel

- (1) If an employer of developmental disabilities personnel believes or is notified by the county board, the department, a delegating nurse, or the quality assessment registered nurse that developmental disabilities personnel have not or will not safely perform health-related activities or administer prescribed medication, the employer ~~shall~~ will prohibit the action from continuing or commencing. Developmental disabilities personnel ~~shall~~ will

not engage in the action or actions subject to an employer's prohibition.

- (2) When the employer prohibits the action from continuing or commencing, the employer ~~shall~~ will:
  - (a) Notify the developmental disabilities personnel of the prohibition and immediately make other staffing arrangements so that the needs of individuals served are met in a manner that ensures compliance with the requirements of this chapter;
  - (b) Immediately notify the department by making a notation regarding the prohibition of the developmental disabilities personnel in the medication administration information system database;
  - (c) If applicable, immediately notify the county board via the major unusual incident reporting system in accordance with rule 5123-17-02 of the Administrative Code; the county board, as applicable, ~~shall~~ will notify the quality assessment registered nurse; and
  - (d) If applicable, immediately notify the delegating nurse.
- (3) The employer ~~shall~~ will ensure corrective action is taken prior to allowing the developmental disabilities personnel to resume the performance of health-related activities or the administration of prescribed medication.
- (4) The employer ~~shall~~ will notify the department by making an entry regarding the corrective action and end of prohibition of the developmental disabilities personnel in the medication administration information system database and, as applicable, the county board, the quality assessment registered nurse, and/or the delegating nurse of the corrective action taken.

~~(F)~~(G) Denial, suspension, or revocation of certification issued under this chapter

- (1) The department may deny, suspend, or revoke a certificate holder's certification issued ~~under~~ pursuant to this chapter for good cause including:
  - (a) Misfeasance;
  - (b) Malfeasance;
  - (c) Nonfeasance;

- (d) Substantiated abuse or neglect;
  - (e) A violation of sections 5123.41 to 5123.45 of the Revised Code or rules adopted under this chapter;
  - (f) The conviction or plea of guilty to a disqualifying offense as set forth in paragraph (E) of rule 5123-2-02 of the Administrative Code and the corresponding exclusionary period has not elapsed;
  - (g) Other conduct the department determines to be injurious to individuals being served; or
  - (h) The board of nursing has taken disciplinary action against a certificate holder under Chapter ~~4723~~: [4723](#) of the Revised Code.
- (2) When denying, suspending, or revoking certification under this rule, the department ~~shall~~ [will](#) comply with the notice and hearing requirements of Chapter ~~119~~: [119](#) of the Revised Code and section 5123.452 of the Revised Code.

~~(G)~~[\(H\)](#) Procedures for accepting complaints and conducting investigations

- (1) Any complaint regarding the performance of health-related activities or administration of prescribed medication by developmental disabilities personnel pursuant to the authority granted under section 5123.42 of the Revised Code or compliance with rules adopted under this chapter ~~shall~~ [will](#) be made to a county board or the department. This paragraph ~~shall~~ [will](#) not be construed to allow developmental disabilities personnel, a representative of developmental disabilities personnel, or an employee organization as defined in Chapter ~~4117~~: [4117](#) of the Revised Code to make a complaint to a county board or the department regarding a personnel action.
- (2) Any complaints related to the scope of nursing practice ~~shall~~ [will](#) be referred to the Ohio board of nursing.
- (3) Any complaints regarding registered nurses related to training of developmental disabilities personnel ~~shall~~ [will](#) be referred to the department.
- [\(4\) The department may conduct an audit of a registered nurse's training of developmental disabilities personnel to determine compliance with rule 5123-6-06 of the Administrative Code.](#)

~~(4)~~(5) When a quality assessment registered nurse receives a complaint or identifies concerns based on a quality ~~assurance~~ assessment review conducted pursuant to paragraph ~~(D)~~ (E) of this rule related to the performance or qualifications of developmental disabilities personnel, the quality assessment registered nurse ~~shall~~ will conduct an initial investigation which ~~shall include~~ includes a discussion with the developmental disabilities personnel and ~~his or her~~ the employer. After completing the initial investigation, the quality assessment registered nurse ~~shall~~ will contact and work with the department's designee to ensure that the cases are handled in a consistent manner statewide.

~~(H)~~(I) Immunity from liability

Developmental disabilities personnel who perform health-related activities or administer medication pursuant to the authority granted under section 5123.42 of the Revised Code and rule ~~5123:2-6-03~~ 5123-6-03 of the Administrative Code are not liable for any injury caused by performing the health-related activity or administering the medication when:

- (1) The developmental disabilities personnel acted in accordance with the methods taught in training completed in compliance with section 5123.42 of the Revised Code and rules ~~5123:2-6-05 and 5123:2-6-06~~ 5123-6-05 and 5123-6-06 of the Administrative Code; and
- (2) The developmental disabilities personnel did not act in a manner that constitutes wanton or reckless misconduct.

~~(I) Authority of director to suspend provisions of this rule~~

~~During the COVID-19 state of emergency declared by the governor, the director may suspend quality assessment reviews described in paragraph (D) of this rule.~~



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**MEMORANDUM**

TO: Sherry Johnson, D.O., President  
Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Updates to 4731-30-03, OAC  
Approval of Licensure Applications

DATE: August 3, 2023

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With the changes for reciprocal licensure for individuals holding out-of-state licenses, certificates and occupational work experience, some updates are needed for the internal management rule that governs the approval of licensure applications.

The attached rule proposes the following amendments:

- 1) Removal of the role of the supervising member in approving certain licenses and granting of waivers;
- 2) Adds licenses applied for under reciprocity to be approved by the Deputy Director of Licensure, identical to non-reciprocity licenses;
- 3) Permits the secretary to grant waivers of the work experience requirements for reciprocity applicants; and
- 4) Permits the secretary to approve the use of a protocol for certain situations where the Deputy Director of Licensure may grant a waiver of the work experience requirement for reciprocal license applicants.

Since this is an internal management rule, the rule filing process is much simpler. The Board is required to distribute the rules for initial comment. After consideration of comments received, the rules can be filed with JCARR. There is no requirement to file with CSI or to have a public rules hearing.

**Requested Action: Approve draft rule for initial circulation to interested parties.**

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## Ohio Administrative Code

### Rule 4731-30-03 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) If applicable, the secretary ~~and supervising member~~ of the board has granted to the applicant 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) If applicable, the secretary ~~and supervising member~~ of the board has determined that the applicant has demonstrated fitness to resume practice due to inactivity under the applicable provisions of the Revised Code and Administrative Code; and
- (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; and
- ~~(6) Expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement pursuant to section 4731.299 of the Revised Code;~~
- ~~(67)~~ Certificate to recommend medical use of marijuana pursuant to section 4731.30 of the Revised Code; and

(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 a 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) License to practice as an acupuncturist pursuant to section 4762.03 of the Revised Code;
  - (13) License to practice as a radiologist assistant pursuant to section 4774.04 of the Revised Code;
  - (14) License to practice as a genetic counselor pursuant to section 4778.05 of the Revised Code;
  - (15) Supervised practice license as a genetic counselor pursuant to section 4778.08 of the Revised Code;
  - (16) Temporary expedited license for members of the military and spouses who are licensed in another jurisdiction pursuant to section 4743.04 of the Revised Code; and
  - (17) Licenses, certificates, and permits applied for under Chapter 4796. of the Revised Code.
- (D) The board authorizes the secretary ~~and supervising member~~ of the board to do the following:
- (1) Grant a waiver pursuant to the provisions of rule 4731-6-05 of the Administrative Code;

(2) Determine graduate medical education equivalency pursuant to section 4731.09 of the Revised Code;

(3) Determine whether an applicant has demonstrated fitness to resume practice due to inactivity under the applicable provisions of the Revised Code and Administrative Code; and

(4) Pursuant to the provisions of Chapter 4796. of the Revised Code, grant a waiver of the requirement that an applicant has been actively engaged in the practice of the profession, occupation, or occupational activity for the applicable minimum time period immediately preceding the date of application.

(E) In the interest of operational efficiency, the secretary ~~and supervising member~~ of the board may approve the use of protocols whereby, if the deputy director of licensure, or the deputy director's designee, finds that the parameters of an approved protocol are met:

(1) A waiver pursuant to the provisions of rule 4731-6-05 may be deemed granted;

(2) It may be deemed that an applicant's education, post-graduate medical training, experience, or other qualifications, is equivalent to the graduate medical education requirements set forth in section 4731.09 of the Revised Code;

(3) It may be deemed that an applicant has demonstrated fitness to resume practice due to inactivity under the applicable provisions of the Revised Code and Administrative Code; and

(4) A waiver pursuant to the provisions of Chapter 4796. of the Revised Code may be deemed granted.

(F) 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.

(G) Notwithstanding the provisions of this rule, the board may designate the referral of any class of applications to the board for approval. The secretary, ~~supervising member~~, or deputy director for licensure may refer any individual application to the board for approval.





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**MEMORANDUM**

TO: Sherry Johnson, D.O., President  
Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Changes to Rules in Chapter 4731-15, 4731-16, and 4731-28, Ohio Administrative Code

DATE: August 7, 2023

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HB 33, which will become effective on or about October 3, 2023, made significant changes to the Board's laws related to impaired practitioners. The Board approved initial circulation of rules in Chapters 4731-15, 4731-16, and 4731-28, Ohio Administrative Code. The attached draft rules were circulated internally and to Ohio Professionals Health Program after the Board meeting and to stakeholders on July 28, 2023, with comments due on August 7, 2023.

As of close of business today, the following comments were received:

(1) Ohio Professionals Health Program expressed support for the rule changes and recommended making a change to Rule 4731-16-05(A)(2)(a) which would expand toxicology testing beyond urine, hair or blood. Dr. Whitney provided information that sometimes oral fluid testing or fingernail/toenail testing are appropriate. OPHP's recommended change is set forth below.

**4731-16-05(A)(2)**

**(a) Urine, hair or blood toxicology testing, or any ~~combination~~ other appropriate toxicology testing, with legal chain of custody and forensic capability protocol;**

**I recommend making this change.**

(2) The Ohio Society of Respiratory Care expressed support for the proposed changes to the rules.

(3) The Columbus Medical Association expressed support for the proposed changes to the rules and indicated appreciation of the work by the Board and stakeholders to allow licensees and applicants of the Medical Board to work with OPHP when they need help with substance use disorder, mental health condition or a physical impairment.

(4) The Academy of Medicine of Cleveland & Northern Ohio stated that they applaud the proposed changes to the rules and see the adjustment from the one-bite program to a confidential monitoring program as beneficial for practitioners who may not feel personally well enough to see and treat patients. Allowing more flexibility around individuals' specific circumstances related to mental impairment, physical impairment, and overdose may allow for a more empathy-centered approach toward providers who are experiencing additional strain in the workplace.

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**Requested Action: Approve amendment of 4731-16-05 as set forth above and approve rules for filing with the Common Sense Initiative**

**From:** [Jennifer Hayhurst](#)  
**To:** [Anderson, Kimberly](#)  
**Cc:** [Kelley Long](#)  
**Subject:** OhioPHP Rule Comment Re: OAC 4731-16-05(A)(2)(a)  
**Date:** Wednesday, August 2, 2023 10:41:03 AM  
**Attachments:** [image002.png](#)

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Kim,

Good morning.

As you are aware, Ohio Professionals Health Program (OhioPHP) is supportive of the changes proposed to OAC sections 4731-15, 4731-16, and 4731-28 and we look forward to further developing our collaborative relationship with the Medical Board.

Our Medical Director, Dr. Richard Whitney, was reviewing the draft rules and noticed something that I wanted to bring to your attention. In draft rule 4731-16-05, section (A)(2)(a), the rule, as drafted, limits toxicology testing to urine, hair, or blood testing. Dr. Whitney mentioned that sometimes “oral fluid” testing and fingernail/toenail testing is appropriate. To be inclusive of all types of toxicology testing, we suggest amending the section to read:

- a. Urine, hair or blood toxicology testing, or any ~~combination~~ other appropriate toxicology testing, with legal chain of custody and forensic capability protocol;

Please feel free to contact me if you have any questions.

We thank the Board for the opportunity to comment!

Sincerely,

Jenn

Jennifer Hayhurst (she/her/hers)  
Policy Director  
Ohio Professionals Health Program  
130 E. Chestnut Street, Suite 200  
Columbus, OH 43215  
(614) 841-9690 ext. 39  
(614) 469-9580 (fax)  
[www.ohiophp.org](http://www.ohiophp.org)

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**From:** [Sue Ciarlariello](#)  
**To:** [Anderson, Kimberly](#)  
**Cc:** [Reardon, Jill](#); [Kallergis, Courtney A.](#); [Nancy Colletti](#); [Ohio Society for Respiratory Care](#)  
**Subject:** Comments on proposed rules  
**Date:** Thursday, August 3, 2023 9:37:56 AM

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Dear Ms. Anderson,

The OSRC has reviewed the State Medical Board of Ohio proposed rule changes under OAC Chapters 4731-15: Reporting Requirements, 4731-16: Impaired Practitioners, and 4731-28 Mental or Physical Impairment.

We concur with the proposed changes to these rules which define the “Confidential Monitoring Program” available to impaired Respiratory Care Professionals.

We appreciate this opportunity to review these rules early in the rule-making process.

Sincerely,

Sue Ciarlariello  
OSRC Legislative Committee

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**From:** [Robert Falcone](#)  
**To:** [Anderson, Kimberly](#)  
**Subject:** Comment on Proposed Rules Changes to 4731-15, 4731-16, and 4731-28  
**Date:** Monday, August 7, 2023 9:23:06 AM

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Ms. Anderson,

The Columbus Medical Association is writing to express our support for the Board's proposed rule changes to Chapter 4731-15, 4731-16, and 4731-28.

The CMA very much appreciates all the work by the Board and stakeholders that has happened over time to bring forth these draft rules to allow licensees and applicants of the medical board to work with Ohio PHP when they need help with a substance use disorder, a mental health condition, or a physical impairment. It is clinically appropriate to allow a clinician to assess a licensee's impairment and create an individualized treatment plan tailored to the needs of that person's specific condition.

We very much believe that Ohio physicians, and ultimately patients, will be better served by the adoption and implementation of these rules.

Thank you for your efforts in this work and for the opportunity to offer our perspective.

Robert Falcone, MD  
CEO  
Columbus Medical Association  
1390 Dublin Road Columbus, OH 43215  
614.240.7410 ph 614.240.7415 fx  
[www.ColumbusMedicalAssociation.org](http://www.ColumbusMedicalAssociation.org)



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August 7, 2023

**Kimberly Anderson, Chief Legal Officer**

Ohio State Medical Board  
30 East Broad Street, 3<sup>rd</sup> Floor  
Columbus, OH 43215

Sent via Email to Medical Board at: [Kimberly.Anderson@med.ohio.gov](mailto:Kimberly.Anderson@med.ohio.gov)

**RE: Proposed Rules 4731-15, 4731-16, 4731-28**

Dear Ms. Anderson,

Thank you for the opportunity to comment on Rules 4731-15 (Reporting Requirements), 4731-16 (Impaired Practitioners), and 4731-28 (Mental or Physical Impairment).

The Academy of Medicine of Cleveland & Northern Ohio (AMCNO), founded in 1824, is the region's professional medical association and the oldest professional association in Ohio. We are a non-profit 501(c)6 representing over 6,700 physicians and medical students from all the contiguous counties in Northern Ohio. We are proud to be the stewards of Cleveland's medical community of the past, present, and future.

The mission of the AMCNO is to support physicians in being strong advocates for all patients and to promote the practice of the highest quality of medicine. With that in mind, we offer the following comments.

We applaud the proposed changes to these rules. Specifically, we see the adjustment from the one-bite program to a confidential monitoring program as beneficial for practitioners who may not feel personally well enough to see and treat patients. Allowing more flexibility around individuals' specific circumstances related to mental impairment, physical impairment, and overdose may allow for a more empathy-centered approach toward our providers who are experiencing additional strain in the workplace.

According to the National Institute for Health Care Management Foundation, around 71% of physicians reported exhaustion and burnout in 2020, up from an estimated 29%- 54% of health care workers in 2019. The COVID-19 pandemic has highlighted the critical need to reduce the stigma physicians encounter when seeking help and increase their access to mental health services<sup>1</sup>. We are encouraged to see resources becoming more available to physicians who need help during this difficult and personally demanding period of medical practice.

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<sup>1</sup> <https://nihcm.org/publications/its-ok-not-to-be-ok-physician-burnout-and-mental-health#:~:text=Around%2071%25%20of%20physicians%20reported%20exhaustion%20and%20burnout,increase%20their%20access%20to%20mental%20health%20health%20services.>



Additionally, as a founding partner of the Ohio Professionals Health Program (OPHP), we are pleased to have them as a part of this evaluation and treatment process. We believe that they are an appropriate body to act in the best interest of both providers and their patients.

Thank you for your continued efforts to advocate in the best interest of Ohio's physicians.

Sincerely,

A handwritten signature in black ink that reads "Jen Johns". The signature is written in a cursive, flowing style.

Jen Johns, MPH  
AMCNO Executive Director

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-15-01 Licensee reporting requirement; exceptions.

~~(A) Licensees of the board shall be required to report as listed below:~~

~~(1) Subject to paragraph (B) of this rule, any individual licensed under Chapter 4731. of the Revised Code or any association or society of individuals licensed under Chapter 4731. of the Revised Code shall report to the board a belief that a violation of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board has occurred.~~

~~(2) Subject to paragraph (B) of this rule, any physician assistant or any association or society of physician assistants shall report to the board a belief that a violation of Chapter 4730. or 4731. of the Revised Code, or any rule of the board has occurred.~~

~~(3) Subject to paragraph (B) of this rule, any anesthesiologist assistant or any association or society of anesthesiologist assistants shall report to the board a belief that a violation of Chapter 4731. or 4760. of the Revised Code, or any rule of the board has occurred.~~

~~(4) Subject to paragraph (B) of this rule, any acupuncturist or any association or society of acupuncturists shall report to the board a belief that a violation of Chapter 4731. or 4762. of the Revised Code, or any rule of the board has occurred.~~

~~(5) Subject to paragraph (B) of this rule, any radiologist assistant or any association of radiologist assistants shall report to the board a belief that a violation of Chapter 4731. or 4774. of the Revised Code, or any rule of the board has occurred.~~

~~(B) An individual, association or society shall be relieved of the obligation to report under paragraph (A) of this rule if one of the following requirements is met:~~

~~(1) The individual or organization is an approved treatment provider under section 4731.25 of the Revised Code or the individual is an employee, agent or representative of an approved treatment~~

provider, and

~~(a) The practitioner maintains participation in treatment or aftercare in accordance with section 4731.25 of the Revised Code and any rules of the board adopted pursuant to that section; and~~

~~(b) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice, as provided in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, or division (B)(6) of section 4774.13 of the Revised Code.~~

~~(2) The individual is a member of an impaired practitioner committee, or the equivalent, established by a hospital or its medical staff, or is a representative or agent of a committee or program sponsored by a professional association of individuals licensed under Chapter 4731. of the Revised Code to provide peer assistance to practitioners with substance abuse problems, and~~

~~(a) The practitioner has been referred for examination to an approved treatment program;~~

~~(b) The practitioner co-operates with the referral for examination and any determination that he or she should enter treatment; and~~

~~(c) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice, as provided in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, or division (B)(6) of section 4774.13 of the Revised Code.~~

(3) The individual reasonably believes all of the following:

~~(a) The practitioner has been referred for examination to an approved treatment program;~~

~~(b) The practitioner co-operates with the referral for examination and any determination that he or she should enter treatment; and~~

~~(c) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice, as provided in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, or division (B)(6) of section 4774.13 of the Revised Code.~~

~~(4) The individual is a member of a review committee described in section 2305.25 of the Revised Code and the sole source for the belief that a violation has occurred and there has been evidence or other matters produced or presented during the proceedings of such committee.~~

~~(5) The individual is otherwise prohibited from reporting to the board by a superseding state or federal law.~~

~~(6) For purposes of this paragraph any individual licensed under Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any association or society of individuals so licensed, shall report a practitioner who has, at any time during or following treatment, experienced a relapse, as that term is defined in rule 4731-16-01 of the Administrative Code. The relapsing practitioner shall self report the relapse.~~

~~(C) For purposes of paragraphs (B)(1)(b), (B)(2)(c), and (B)(3)(c) of this rule, violations of provisions of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs,~~

~~alcohol, or other substances that impair ability to practice, need not be reported if all of the following requirements are met, but if any or all of the following conditions are not met, the individual or organization shall report to the board all violations which are believed to have occurred:~~

~~(1) All acts or omissions by the practitioner which would otherwise have constituted violations occurred while the practitioner was impaired; and~~

~~(2) The practitioner has not been criminally convicted based on any such acts or omissions; and~~

~~(3) There is no reason to believe that such acts or omissions might have an adverse impact on other individuals.~~

~~(D) For purposes of section 4730.32, section 4731.224, section 4760.16, section 4762.16, or section 4774.16 of the Revised Code, and this rule, "reason to believe" or "belief" does not require absolute certainty or complete unquestioning acceptance, but only an opinion that a violation has occurred based upon firsthand knowledge or reliable information.~~

~~(E) Any report required under paragraph (A) of this rule shall be made to the board within forty-eight hours. Reporting of any belief that a violation has occurred to a review committee as described in section 2305.251 of the Revised Code or any entity other than the board does not discharge the duty or obligation to report to the board. In cases where the secretary and supervising member determined that peer review is being conducted by a review committee as described in section 2305.251 of the Revised Code for purposes of denying, determining, changing or modifying the scope of the licensee's clinical privileges, they may defer further investigation by the board while awaiting the outcome of that peer review.~~

~~(F) Any individual licensed by the board or any association or society of individuals who are licensed by the board who reports to the board a belief that a violation of Chapter 4731., Chapter 4730., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board has occurred shall be considered to be reporting pursuant to the requirements of section 4730.32, 4731.224, 4760.16, 4762.16, or 4774.16 of the Revised Code and shall be immune from civil liability as provided by division (H) of section 4730.32, division (H) of section 4731.224, division (H) of section 4760.16, division (H) of section 4762.16, or division (H) of section 4774.16 of the~~

~~Revised Code and paragraph (A) of rule 4731-15-05 of the Administrative Code. The individual, association, or society may remain anonymous by complying with all of the following actions:~~

~~(1) The individual, association, or society shall request and shall be assigned a confidential identifying number by the board.~~

~~(2) The individual, association, or society shall be responsible for notifying the board that he or she is a licensee or is an association or society of licensees and shall be responsible for maintaining the confidential identifying number in order to verify compliance with the reporting obligations of section 4730.32 of the Revised Code, section 4731.224 of the Revised Code, section 4760.16 of the Revised Code, section 4762.16 of the Revised Code, or section 4774.16 of the Revised Code and this chapter.~~

~~(G) Each report pursuant to this rule shall include:~~

~~(1) The name of the practitioner or other individual in violation;~~

~~(2) The violation which is believed to have occurred; and~~

~~(3) The date(s) of and place(s) of occurrence(s), if known.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-15-01 Licensee reporting requirement; exceptions.

(A) As used in this chapter of the Administrative Code:

(1) “The board” means the state medical board of Ohio;

(2) “Confidential monitoring program” means a confidential non-disciplinary program for the evaluation and treatment of practitioners and applicants who are, or may be impaired under sections 4731.25 through 4731.255 of the Revised Code.

(3) “Impaired” or "Impairment" has the same meaning as used in section 4731.25(A)(2)(a) and (b) of the Revised Code. Impairment includes inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.

(4) “Monitoring organization” means an entity that meets the requirements of section 4731.25(B) of the Revised Code and enters into a contract with the board for the operation of the confidential monitoring program for impaired practitioners and applicants, review and approval of evaluators and treatment providers in section 4731.251 of the Revised Code, and assists the board with monitoring impaired practitioners who are subject to formal disciplinary action by the board under section 4731.251(C) of the Revised Code.

(5) “Licensee” means any of the following:

(a) An individual authorized under chapter 4730. of the Revised Code to practice as a physician assistant;

(b) An individual authorized under chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine;

(c) An individual authorized under chapter 4759. of the Revised Code to practice as a dietitian;

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;

(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;

(f) An individual licensed under Chapter 4762. of the Revised Code to practice as an acupuncturist;

(g) An individual licensed under Chapter 4774. of the Revised Code to practice as a radiologist assistant; or

(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.

(6) “Duty to report” includes the obligation to report violations of laws and rules under section 4730.32 of the Revised Code, section 4731.224 of the Revised Code, section 4759.13 of the Revised Code, section 4760.16 of the Revised Code, section 4761.19 of the Revised Code, section 4762.16 of the Revised Code, section 4774.16 of the Revised Code, section 4778.17 of the Revised Code and this chapter of the Administrative Code.

(7) “Malpractice reporting statutes” includes the obligation to report malpractice payments under division (D) of section 4730.32 of the Revised Code, division (D) of section 4731.224 of the Revised Code, division (D) of section 4760.16 of the Revised Code, division (D) of section 4762.16 of the Revised Code, and division (D) of section 4774.16 of the Revised Code.

(B) Licensees of the board shall be required to report as listed below, subject to paragraph (C) of this rule:

(1) Any individual licensed under Chapter 4731. of the Revised Code or any association or society of individuals licensed under Chapter 4731. of the Revised Code shall report to the board a belief that a violation of Chapter 4730., Chapter 4731., Chapter 4759., Chapter 4760., Chapter 4761., Chapter 4762., Chapter 4774., or Chapter 4778. of the Revised Code, or any rule of the board has occurred.

(2) Any physician assistant or any association or society of physician assistants shall report to the board a belief that a violation of Chapter 4730. or 4731. of the Revised Code, or any rule of the board has occurred.

(3) Any dietitian or any association or society of dietitians shall report to the board a belief that a violation of Chapter 4731. or Chapter 4759. of the Revised Code, or any rule of the board has occurred.

(4) Any anesthesiologist assistant or any association or society of anesthesiologist assistants shall report to the board a belief that a violation of Chapter 4731. or 4760. of the Revised Code, or any rule of the board has occurred.

(5) Any respiratory care professional or any association or society of respiratory care professionals shall report to the board a belief that a violation of Chapter 4731. or 4761. of the Revised Code, or any rule of the board has occurred.

(6) Any acupuncturist or any association or society of acupuncturists shall report to the board a belief that a violation of Chapter 4731. or 4762. of the Revised Code, or any rule of the board has occurred.



(7) Any radiologist assistant or any association of radiologist assistants shall report to the board a belief that a violation of Chapter 4731. or 4774. of the Revised Code, or any rule of the board has occurred.

(8) Any genetic counselor or any association of genetic counselors shall report to the board a belief that a violation of Chapter 4731. or 4778. of the Revised Code or any rule of the board has occurred.

(C) An individual, association or society shall be relieved of the obligation to report under paragraph (B) of this rule if one of the following requirements is met:

(1) The individual or organization is an approved treatment provider under section 4731.251 of the Revised Code, or the individual is an employee, agent, or representative of an approved treatment provider, and

(a) The licensee or applicant has been referred to the monitoring organization that conducts the confidential monitoring program;

(b) The licensee or applicant cooperates with the requirements of the confidential monitoring program and the treatment plan; and

(c) There is no reason to believe that the licensee has violated any provision of Chapter 4730., Chapter 4731., Chapter 4759., Chapter 4760., Chapter 4761., Chapter 4762, Chapter 4774., or Chapter 4778. of the Revised Code or any rule of the board other than impairment of ability to practice.

(2) The individual is a member of an impaired practitioner committee, or the equivalent, established by a hospital or its medical staff, or is a representative or agent of a committee or program sponsored by a professional association of individuals licensed under Chapter 4731. of the Revised Code to provide peer assistance to impaired practitioners, and

(a) The practitioner has been referred to the monitoring organization that conducts the confidential monitoring program under section 4731.25 of the Revised Code;

(b) The practitioner co-operates with requirements of the confidential monitoring program; and

(c) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4759., Chapter 4760., Chapter 4761., Chapter 4762., Chapter 4774., or Chapter 4778. of the Revised Code, or any rule of the board, other than impairment of ability to practice .

(3) The individual reasonably believes all of the following:

(a) The practitioner has been referred to the monitoring organization that conducts the monitoring program under section 4731.25 of the Revised Code;

(b) The practitioner co-operates with the requirements of the confidential monitoring program; and

(c) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4759., Chapter 4760., Chapter 4761., Chapter 4762., Chapter 4774., or Chapter 4778. of the Revised Code, or any rule of the board, other than impairment of ability to practice pursuant to section 4731.25(A)(2) of the Revised Code.

(4) The individual is a member of a review committee described in section 2305.25 of the Revised Code and the sole source for the belief that a violation has occurred is derived from evidence or other matters produced or presented during the proceedings of such committee.

(5) The individual is otherwise prohibited from reporting to the board by a superseding state or federal law.

(D) For purposes of section 4730.32, section 4731.224, section 4759.13, section 4760.16, section 4761.19, section 4762.16, section 4774.16, or section 4778.17 of the Revised Code, and this rule, "reason to believe" or "belief" does not require absolute certainty or complete unquestioning acceptance, but only an opinion that a violation may have occurred based upon firsthand knowledge or reliable information.

(E) Any report required under paragraph (B) of this rule shall be made to the board within forty-eight hours. Reporting of any belief that a violation has occurred to a review committee as described in section 2305.251 of the Revised Code or any entity other than the board does not discharge the duty or obligation to report to the board. In cases where the secretary and supervising member determined that peer review is being conducted by a review committee as described in section 2305.251 of the Revised Code for purposes of denying, determining, changing, or modifying the scope of the licensee's clinical privileges, they may defer further investigation by the board while awaiting the outcome of that peer review.

An individual, association, or society making a report of a violation of law or rule may remain anonymous by complying with all of the following actions:

(1) The individual, association, or society shall request and shall be assigned a confidential identifying number by the board.

(2) The individual, association, or society shall be responsible for notifying the board that he or she is a licensee or is an association or society of licensees and shall be responsible for maintaining the confidential identifying number in order to verify compliance with the reporting obligations of section 4730.32 of the Revised Code, section 4731.224 of the Revised Code, section 4759.13, section 4760.16 of the Revised

Code, section 4761.19, section 4762.16 of the Revised Code, or section 4774.16 or section 4778.17 of the Revised Code and this chapter.

(F) Each report pursuant to this rule shall include:

(1) The name of the practitioner or other individual in violation;

(2) The violation which is believed to have occurred; and

(3) The date(s) of and place(s) of occurrence(s), if known.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-15-02 Healthcare facility reporting requirement.

~~(A) The chief administrator or executive officer of any healthcare facility as defined in section 3702.51 of the Revised Code, including a hospital, healthcare facility operated by a health insuring corporation, ambulatory surgical facility or similar facility, shall report to the board any formal disciplinary action against any individual licensed under Chapter 4730., 4731., 4760., 4762., or 4774. of the Revised Code within sixty days after its completion.~~

~~(B) "Formal disciplinary action" means any procedure resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence, medical malpractice, or drug or alcohol abuse. Clinical privileges means the authorization by the healthcare facility to a person licensed under Chapter 4730, 4731., 4760., 4762., or 4774. of the Revised Code for the provision of health care services.~~

~~(C) Formal disciplinary actions shall include:~~

~~(1) Summary actions, actions that take effect notwithstanding any appeal rights that may exist and actions that result in an individual surrendering clinical privileges while under investigation during proceedings regarding the action being taken or in return for not being investigated or having proceedings held, resulting in revocation, restriction, reduction, or termination of privileges for the violations or reasons set forth in paragraph (B) of this rule; and~~

~~(2) Actions resulting in refusal or denial of clinical privileges for the violations or reasons set forth in paragraph (B) of this rule;~~

~~(D) Formal disciplinary actions shall not include any action taken for the sole reason of failure to maintain records on a timely basis, failure to pay dues, or failure to attend staff, department or section meetings.~~

~~(E) Formal disciplinary actions need not be reported if:~~

~~(1) The practitioner has been referred for examination to an approved treatment program; and~~

~~(2) The practitioner cooperates with the referral for examination and any determination that he should enter treatment; and~~

~~(3) There is no reason to believe that the practitioner has violated any provision of Chapter 4730., Chapter 4731., Chapter 4760., Chapter 4762., or Chapter 4774. of the Revised Code, or any rule of the board, other than impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice, as provided in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, or division (B)(6) of section 4774.13 of the Revised Code.~~

~~(F) Each report shall include:~~

~~(1) The name and address of the facility reporting;~~

~~(2) The practitioner's name and license number;~~

~~(3) The action taken by the facility;~~

~~(4) The date of the action taken by the facility;~~

~~(5) The effective date of the action taken by the facility; and~~

~~(6) A summary of the underlying facts leading to the action.~~

~~(G) A facility's timely filing with the board of a copy of the national practitioner data bank adverse action report shall satisfy the reporting requirement of this rule when, upon contact by the board, the reporting facility verifies that the filing of the report has been approved by the peer review committee which reviewed the case or by the governing board of the facility.~~

~~(H) Any request for patient records by the board as provided under division (A) of section 4730.32 of the Revised Code, division (A) of section 4731.224 of the Revised Code, division (A) of section 4760.16 of the Revised Code, division (A) of section 4762.16 of the Revised Code, or division (A) of section 4774.16 of the Revised Code shall be made by certified mail directed to the chief administrator or executive officer of the facility. Failure to provide the board with the requested certified copies of patient records within thirty days of receipt of that request shall constitute a failure to comply with the applicable reporting requirements, unless the board has granted a prior extension in writing.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-15-02 Healthcare facility reporting requirement.

(A) The chief administrator or executive officer of any healthcare facility as defined in section 3702.51 of the Revised Code, including a hospital, healthcare facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, shall report to the board any formal disciplinary action against any individual licensed by the board within sixty days after its completion.

(B) "Formal disciplinary action" means any procedure resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence, medical malpractice, misconduct, or impairment. Clinical privileges mean the authorization by the healthcare facility to a person licensed by the board for the provision of health care services.

(C) Formal disciplinary actions shall include:

(1) Summary actions, actions that take effect notwithstanding any appeal rights that may exist and actions that result in an individual surrendering clinical privileges while under investigation during proceedings regarding the action being taken or in return for not being investigated or having proceedings held, resulting in revocation, restriction, reduction, or termination of privileges for the violations or reasons set forth in paragraph (B) of this rule; and

(2) Actions resulting in refusal or denial of clinical privileges for the violations or reasons set forth in paragraph (B) of this rule;

(D) Formal disciplinary actions shall not include any action taken for the sole reason of failure to maintain records on a timely basis, failure to pay dues, or failure to attend staff, department, or section meetings.

(E) Formal disciplinary actions need not be reported if:

(1) The practitioner has been referred to the monitoring organization that conducts the confidential monitoring program for examination by an approved treatment program;

(2) The practitioner cooperates with the requirements of the confidential monitoring program; and

(3) There is no reason to believe that the practitioner has violated any laws or rules of the board.

(F) Each report shall include:

(1) The name and address of the facility reporting;

(2) The practitioner's name and license number;

- (3) The action taken by the facility;
- (4) The date of the action taken by the facility;
- (5) The effective date of the action taken by the facility; and
- (6) A summary of the underlying facts leading to the action.

(G) A facility's timely filing with the board of a copy of the national practitioner data bank adverse action report shall satisfy the reporting requirement of this rule when, upon contact by the board, the reporting facility verifies that the filing of the report has been approved by the peer review committee which reviewed the case or by the governing board of the facility.

(H) Any request for patient records by the board as provided under division (A) of section 4730.32 of the Revised Code, division (A) of section 4731.224 of the Revised Code, division (A) of section 4760.16 of the Revised Code, division (A) of section 4762.16 of the Revised Code, or division (A) of section 4774.16 of the Revised Code shall be directed to the chief administrator or executive officer of the facility. Failure to provide the board with the requested certified copies of patient records within thirty days of receipt of that request shall constitute a failure to comply with the applicable reporting requirements unless the board has granted a prior extension in writing.



**PROPOSED TO AMEND**

**7.28.23**

Ohio Administrative Code  
Rule 4731-15-03 Malpractice reporting requirement.

(A) Any insurer providing professional liability insurance or any other entity that seeks to indemnify the professional liability of any person holding a valid license certificate issued pursuant to ~~Chapter 4730., 4731., 4760., 4762., or 4774. of the Revised Code~~ shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment which exceeds twenty-five thousand dollars.

(B) For purposes of the malpractice reporting statutes ~~division (D) of section 4730.32 of the Revised Code, division (D) of section 4731.224 of the Revised Code, division (D) of section 4760.16 of the Revised Code, division (D) of section 4762.16 of the Revised Code, division (D) of section 4774.16 of the Revised Code,~~ and this rule:

- (1) The amount of payment shall mean the aggregate gross settlement, not including court costs or other litigation costs;
- (2) The present value of future payments shall be utilized in calculating the aggregate gross settlement in cases of structured payments;
- (3) In cases involving multiple defendants where payment exceeds twenty-five thousand dollars, but no specific allocation is made in the disposition of the claim, a report shall be filed with the board for each of the defendants upon whose behalf the payment is made;
- (4) Payments made solely for damages not arising from patient care need not be reported;
- (5) The waiver of an outstanding debt is not construed as a payment.

(C) Each notification to the board shall include the following:

- (1) The name and address of the person submitting the notification;

- (2) The identity of the insurer or other indemnifying entity;
- (3) The name and address of the insured who is the subject of the claim;
- (4) The name of the person filing the written claim;
- (5) The date of final disposition;
- (6) The amount of payment;
- (7) If applicable, the identity of the court in which the final disposition took place.

(D) An insurer that reports a medical malpractice payment to the national practitioner data bank may satisfy the reporting requirement of this rule by timely filing a copy of the national practitioner data bank medical malpractice report with the board.

(E) The reports received under the malpractice reporting statutes ~~division (D) of section 4730.32 of the Revised Code, division (D) of section 4731.224 of the Revised Code, division (D) of section 4760.16 of the Revised Code, division (D) of section 4762.16 of the Revised Code, division (D) of section 4774.16 of the Revised Code,~~ and this rule ~~may be~~ shall be listed for periodic review by the secretary and supervising member at least once every three months. The review shall determine the need to investigate for possible violations of any law Chapter 4730., 4731., 4759., 4760., 4761., 4762., or 4774. or 4778. of the Revised Code or any rule of the board.

**PROPOSED TO AMEND**

**7.28.23**

Ohio Administrative Code

Rule 4731-15-04 Professional society reporting.

(A) Any professional association or society composed primarily of doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, practitioners of the limited branches of medicine, dietitians, anesthesiologist assistants, respiratory care professionals, physician assistants, acupuncturists, ~~or~~ radiologist assistants, or genetic counselors that suspends or revokes an individual's membership in that society for violations of professional ethics or for reasons of professional incompetence or professional malpractice shall report that action to the board within sixty days after a final decision.

(B) Each report shall include:

- (1) The licensee's name and license number;
- (2) The action taken; and
- (3) A summary of the underlying facts leading to the action.

(C) A professional association or society that reports an adverse action to the national practitioner data bank (NPDB) may satisfy the reporting requirement of this rule by timely filing a copy of the NPDB adverse action report with the board.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-15-05 Liability; reporting forms; confidentiality and disclosure.

~~(A) Any person, health care facility, association, society, or insurer who reports to the board or who refers an impaired practitioner to an approved treatment program shall not be subject to suit for civil damages as a result of the report, referral, or provision of information.~~

~~(B) The board shall provide, upon request, forms for reporting under the provisions of section 4730.32 of the Revised Code, section 4731.224 of the Revised Code, section 4760.16 of the Revised Code, section 4762.16 of the Revised Code, section 4774.16 of the Revised Code, and this chapter of the Administrative Code.~~

~~(C) When a national practitioner data bank report form is accepted by the board for the purpose of satisfying the requirements of section 4731.224 of the Revised Code and this chapter of the Administrative Code, the board shall redact the following information prior to disclosing the report as authorized under section 4731.224 of the Revised Code and this chapter of the Administrative Code:~~

~~(1) National practitioner data bank identification number of the reporting entity, and~~

~~(2) All national practitioner data bank references and federal form indicia.~~

~~(D) Summaries, reports, and records received and maintained by the board pursuant to section 4730.32 of the Revised Code, section 4731.224 of the Revised Code, section 4760.16 of the Revised Code, section 4762.16 of the Revised Code, section 4774.16 of the Revised Code and this chapter of the Administrative Code shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters which are the subject of such reporting to the board.~~

~~(1) The board may only disclose the summaries and reports to hospital committees which are involved in credentialing or recredentialing the practitioner or in reviewing the practitioner's clinical~~

~~privileges, and in credentialing or recredentialing or reviewing the clinical privileges of the supervising physician of a practitioner licensed pursuant to Chapter 4730., 4760., 4762., or 4774. of the Revised Code. Such disclosure may be made through an independent credentialing service if the service merely communicates the information to the hospital committees and maintains strict confidentiality as provided in a written agreement with the board.~~

~~(2) Reports filed by an individual licensee pursuant to division (B) of section 4730.32 of the Revised Code, division (B) of section 4731.224 of the Revised Code, division (B) of section 4760.16 of the Revised Code, division (B) of section 4762.16 of the Revised Code, division (B) of section 4774.16 of the Revised Code and rule 4731-16-01 of the Administrative Code shall not be disclosed.~~

~~(E) Except for reports filed by an individual licensee pursuant to division (B) of section 4730.32 of the Revised Code, division (B) of section 4731.224 of the Revised Code, division (B) of section 4760.16 of the Revised Code, division (B) of section 4762.16 of the Revised Code, division (B) of section 4774.16 of the Revised Code and rule 4731-15-01 of the Administrative Code, a copy of any reports or summaries received by the board pursuant to section 4730.32 of the Revised Code, section 4731.224 of the Revised Code, section 4760.16 of the Revised Code, section 4762.16 of the Revised Code, section 4774.16 of the Revised Code and Chapter 4731-15 of the Administrative Code shall be sent to the practitioner by the board. The practitioner shall have the right to file a statement with the board concerning the correctness or relevance of the information. Such statement, upon receipt by the board, shall at all times accompany that part of the record in contention.~~

~~(F) The board need not accept reports, summaries, or statements that consist of or include proceedings or records of review committees as described in section 2305.25 of the Revised Code. If the board determines that materials submitted are unacceptable, it shall return those materials to the submitting individual or entity, and provide an opportunity for submission of appropriate materials.~~

**TO BE RESCINDED**

**7.28.23**

~~Ohio Administrative Code  
Rule 4731-16-01 Definitions.~~

~~As used in this chapter of the Administrative Code:~~

~~(A) "Impairment" means impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. Impairment includes inability to practice in accordance with such standards, and inability to practice in accordance with such standards without appropriate treatment, monitoring or supervision.~~

~~(B) "Relapse" means any use of, or obtaining for the purpose of using, alcohol or a drug or substance that may impair ability to practice, by someone who has received a diagnosis of and treatment for chemical dependency or abuse, except pursuant to the directions of a treating physician who has knowledge of the patient's history and of the disease of addiction, or pursuant to the direction of a physician in a medical emergency. An instance of use that occurs during detoxification treatment or inpatient or residential treatment before a practitioner's disease of addiction has been brought into remission does not constitute a relapse.~~

~~(C) "Approved treatment provider" means a treatment provider approved pursuant to section 4731.25 of the Revised Code and this chapter of the Administrative Code.~~

~~(D) "The board" means the state medical board of Ohio.~~

~~(E) "Sobriety" means abstinence from alcohol, and from drugs or substances that may impair ability to practice, except pursuant to the directions of a treating physician who has knowledge of the patient's history and of the disease of addiction, or pursuant to the direction of a physician in a medical emergency.~~

~~(F) "Order" for a controlled substance or other drug means a preprinted order or standing order as defined in rule 4729-5-01 of the Administrative Code.~~

~~(G) "Impaired physician committee" includes health committees, physician assistance committees, peer support committees, and similar bodies.~~

~~(H) "Massage therapist or cosmetic therapist" means a person who holds or has applied for a certificate to practice massage therapy or cosmetic therapy, or both, and who does not currently hold or have a pending application for any other certificate issued by the board.~~

**PROPOSED NEW RULE**

**7.28.23**

4731-16-01 Definitions

As used in this chapter of the Administrative Code:

(A) “Applicant” has the same meaning as used in section 4731.25(A)(1) of the Revised Code.

(B) "Approved evaluator or treatment provider" means an evaluator or treatment provider approved by the monitoring organization pursuant to section 4731.251 of the Revised Code and this chapter of the Administrative Code.

(C) "The board" means the state medical board of Ohio.

(D) “Confidential monitoring program” means a confidential non-disciplinary program for the evaluation and treatment of practitioners and applicants who are, or may be impaired under sections 4731.25 through 4731.255 of the Revised Code.

(E) “Continuing care” or “Aftercare” means regular treatment sessions following the successful completion of primary treatment which are facilitated by a licensed healthcare provider to address ongoing recovery issues and are provided by a treatment provider approved by the monitoring organization.

(F) “Impaired” or "Impairment" has the same meaning as used in section 4731.25(A)(2)(a) and (b) of the Revised Code. Impairment includes the inability to practice according to acceptable and prevailing standards of care by reason of mental illness, mental disorder, or physical illness, including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills. Impairment includes the inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.

(G) "Impaired physician committee" includes health committees, physician assistance committees, peer support committees, and similar bodies.

(H) “Monitoring organization” means an entity that meets the requirements of section 4731.25(B) of the Revised Code and enters into a contract with the board for the operation of the confidential monitoring program for impaired practitioners and applicants, review and approval of evaluators and treatment providers in section 4731.251 of the Revised Code, and assists the board with monitoring impaired practitioners who are subject to formal disciplinary action by the board under section 4731.251(C) of the Revised Code.

(I) “Practitioner” has the same meaning as used in section 4731.25(A)(3) of the Revised Code.



**TO BE RESCINDED**

**7.28.23**

~~Ohio Administrative Code~~

~~Rule 4731-16-02 General procedures in impairment cases.~~

~~(A) Should the board have reason to believe that any licensee or applicant suffers from impairment, as that term is used in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (A)(18) of section 4759.07 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (A)(18) of section 4761.09 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, division (B)(6) of section 4774.13 of the Revised Code, or division (B)(6) of 4778.14 of the Revised Code, it may compel the individual to submit to a mental or physical examination, or both.~~

~~(1) Such examinations shall be undertaken by an approved treatment provider designated by the board.~~

~~(2) The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired.~~

~~(3) Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual's control.~~

~~(B) In cases where the only disciplinary action initiated against the individual is for violation of division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (A)(18) of section 4759.07 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (A)(18) of section 4761.09 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, division (B)(6) of section 4774.13 of the Revised Code, or division (B)(6) of section 4778.14 of the Revised Code, the following general pattern of action shall be followed:~~

~~(1) Upon identification by the board of reason to believe that a licensee or applicant is impaired it may compel an examination or examinations as set forth in paragraph (A) of this rule. The examination must meet all requirements of rule 4731-16-05 of the Administrative Code.~~

~~(a) If the examination or examinations fail to disclose impairment, no action shall be initiated pursuant to division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (A)(18) of section 4759.07 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (A)(18) of section 4761.09 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, division (B)(6) of section 4774.13 of the Revised Code, or division (B)(6) of section 4778.14 of the Revised Code unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment.~~

~~(b) If the examination or examinations disclose impairment, or if the board has other reliable, substantial and probative evidence demonstrating impairment, the board shall initiate proceedings to suspend the license or deny the applicant. The board may issue an order of summary suspension as provided in division (G) of section 4730.25 of the Revised Code, division (G) of section 4731.22 of the Revised Code, division (G) of section 4759.07 of the Revised Code, division (G) of section 4760.13 of the Revised Code, division (G) of section 4761.09 of the Revised Code, division (G) of section 4762.13 of the Revised Code, division (G) of section 4774.13 of the Revised Code, or division (G) of section 4778.14 of the Revised Code.~~

~~(2) The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:~~

~~(a) The individual has relapsed during or following treatment;~~

~~(b) The individual has applied for or requested treatment in lieu of conviction of a criminal charge or intervention in lieu of conviction of a criminal charge, or has applied for or requested entry into a similar diversion or drug intervention program;~~

~~(c) The individual has pled guilty to or has had a judicial finding of guilt of a criminal offense that involved the individual's personal use or abuse of any controlled substance.~~

~~(3) Before being eligible to apply for reinstatement of a license suspended under this paragraph the impaired individual must demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's~~

license. Such demonstrations shall include but shall not be limited to the following:

~~(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed all required treatment, as follows:~~

~~(i) Except as provided in paragraph (B)(3)(a)(ii) of this rule, the required treatment shall include inpatient or residential treatment that extends a minimum of twenty-eight days with the following exception: If the individual has previously completed an inpatient or residential treatment program of at least twenty-eight days and maintained sobriety for at least one year following completion of that inpatient or residential treatment, the treatment required shall be determined by the treatment provider.~~

~~(ii) If the impaired individual is a massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor who does not meet the criteria set forth in paragraph (B)(3)(a)(iii) of this rule, the required treatment shall include intensive outpatient treatment meeting the requirements of paragraph (A)(13) of rule 4731-16-08 of the Administrative Code. The required intensive outpatient treatment must include a minimum of twenty treatment sessions over no less than five consecutive weeks with the following exception: If the massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor has previously completed an intensive outpatient treatment program of at least twenty treatment sessions over no less than five consecutive weeks and has maintained sobriety for at least one year following completion of that intensive outpatient treatment, the treatment required shall be determined by the treatment provider.~~

~~(iii) If the impaired individual is a massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor who was investigated by the board for possible impairment as part of a previous application for or while holding any license issued by the board other than a license to practice massage therapy, dietetics, respiratory care, as a radiologist assistant, or as a genetic counselor, the required treatment shall be in compliance with paragraph (B)(3)(a)(i) of this rule.~~

~~(b) Evidence of continuing full compliance with an aftercare contract that meets the requirements of rule 4731-16-10 of the Administrative Code, and with any consent agreement or order of the board then in effect;~~

~~(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for this determination. A physician who is the medical director of a treatment provider approved under section 4731.25 of the Revised Code and this chapter of the Administrative Code may perform such an assessment without prior board approval.~~

~~(4) Subject to the provisions of paragraph (D) of this rule, the board may reinstate a license suspended under this paragraph after the demonstration described in paragraph (B)(3) of this rule and after the individual has entered into a written consent agreement which conforms to the requirements set forth in rule 4731-16-06 of the Administrative Code, or after the board has issued a final order in lieu of a consent agreement.~~

~~(5) When the impaired individual resumes practice after license reinstatement, the board shall require continued monitoring of the individual. This monitoring shall include but not be limited to compliance with the written consent agreement entered into before reinstatement or compliance with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission by the individual to the board, for at least two years, of annual written progress reports made under penalty of perjury stating whether the license holder has maintained sobriety.~~

~~(C) In cases where the board has initiated a disciplinary action for violations of any provisions of Chapter 4731., Chapter 4730., Chapter 4759., Chapter 4760., Chapter 4761., Chapter 4762., Chapter 4774., or Chapter 4778. of the Revised Code or any of its rules in addition to division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (A)(18) of section 4759.07 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (A)(18) of section 4761.09 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code, the general pattern of action described in paragraph (B) of this rule will be followed with the following exceptions:~~

~~(1) If the board permanently revokes a license, the individual shall not be eligible for further consideration for licensure or license reinstatement;~~

~~(2) If the board imposes a period of ineligibility for licensure, the individual shall not be eligible for licensure or license reinstatement until the period of ineligibility has lapsed;~~

~~(3) If the board imposes an indefinite period of ineligibility, licensure or license reinstatement shall depend upon successful completion of the requirements in paragraphs (B)(3) and (B)(4) of this rule and determination by the board that the period of suspension or ineligibility served is commensurate with the violations found.~~

~~(D) Except as provided in this paragraph, an individual who has relapsed during or following treatment shall be ineligible to apply for reinstatement for at least ninety days following the date of license suspension for a first relapse, for at least one year following the date of license suspension for a second relapse, and for at least three years following the date of license suspension for a third relapse. An individual who suffers a relapse, as that term is defined in paragraph (B) of rule 4731-16-01 of the Administrative Code, will not be subjected to suspension or other board discipline based on that relapse if all of the following conditions are met:~~

~~(1) The relapse was the first ever suffered by the individual;~~

~~(2) The relapse occurred under circumstances that the board finds minimized the probability that the individual would either provide patient care while under influence of alcohol or drugs or leave patients without necessary care while under the influence of alcohol or drugs;~~

~~(3) The relapse involved a single occasion of use for less than one day;~~

~~(4) The individual self-reported the relapse within forty-eight hours in accordance with rule 4731-15-01 of the Administrative Code;~~

~~(5) The individual does not thereafter suffer another relapse;~~

~~(6) The board does not obtain evidence of acts, conduct or omissions that would support the imposition of discipline, apart from the relapse itself;~~

- ~~(7) The relapse does not lead to the individual being charged with any criminal offense;~~
- ~~(8) The individual reported the relapse to an approved treatment provider within forty-eight hours, submitted to evaluation as requested by the approved treatment provider, and obtained any additional treatment recommended;~~
- ~~(9) The individual suspended practice until the approved treatment provider reported in writing to the board that it had made a clear determination that the individual was capable of practicing according to acceptable and prevailing standards of care; and~~
- ~~(10) The approved treatment provider provides the board a full report of the evaluation, and the board's secretary and supervising member decide that there are not circumstances warranting the initiation of disciplinary action.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-02 General procedures in impairment cases.

(A) Should the board have reason to believe that any practitioner or applicant is impaired, it shall refer the individual to the monitoring organization. In addition, upon notification by the monitoring organization that the practitioner or applicant is not eligible for the confidential monitoring program, the board may compel the individual to submit to a mental or physical examination, or both.

(1) Such examinations shall be undertaken by an evaluator or treatment provider under contract with the board and on the approved list maintained by the monitoring organization.

(2) The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired.

(3) Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual's control.

(B) In cases where the only potential disciplinary violation is based on impairment, the Board may do the following:

(1) Upon identification by the board of reason to believe that a practitioner or applicant is impaired and not eligible for the confidential monitoring program, it may require an examination or examinations as set forth in paragraph (A) of this rule. The examination must meet all requirements of rule 4731-16-05 of the Administrative Code.

(a) If the examination or examinations fail to disclose impairment, the board shall not issue discipline based on impairment unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment.

(b) If the examination or examinations disclose impairment, or if the board has other reliable, substantial, and probative evidence demonstrating impairment, the board may initiate proceedings to suspend the license or deny the applicant. The board may issue an order of summary suspension.

(2) The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:

(a) The individual has relapsed during or following treatment and the individual is not under a current monitoring agreement with the monitoring organization;

(b) The individual has applied for or requested treatment in lieu of conviction of a criminal charge or intervention in lieu of conviction of a criminal charge, or has applied for or requested entry into a similar diversion or drug intervention program and the individual is not eligible for the confidential monitoring program;

(c) The individual has pled guilty to or has had a judicial finding of guilt of a criminal offense that involved the individual's personal use or abuse of any controlled substance, and the individual is not eligible for the confidential monitoring program.

(3) Before being eligible to apply for reinstatement of a license suspended under this paragraph the impaired individual must demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's license. Such demonstrations shall include but shall not be limited to the following:

(a) Certification from a treatment provider approved by the monitoring organization under section 4731.251 of the Revised Code that the individual has successfully completed all required treatment as determined by the treatment provider and the medical director or designee of the monitoring organization. The treatment may include withdrawal management, inpatient, residential, extended residential, partial hospitalization, intensive outpatient, outpatient, continuing care, or other therapy or treatment.

(b) Evidence of continuing full compliance with any aftercare or continuing care contract as determined by the treatment provider and the medical director or designee of the monitoring organization, and with any consent agreement or order of the board then in effect;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board or monitoring organization for making such assessments and shall describe the basis for this determination. A physician who is the medical director of a treatment provider approved by the monitoring organization under section 4731.251 of the Revised Code may perform such an assessment without prior board approval.

(4) The board may reinstate a license suspended under this paragraph after the demonstration described in paragraph (B)(3) of this rule and after the individual has entered into a written consent agreement which conforms to the requirements set forth in rule 4731-16-06 of the Administrative Code, or after the board has issued a final order in lieu of a consent agreement.



(5) When the impaired individual resumes practice after license reinstatement, the board shall require continued monitoring of the individual. This monitoring, which may be completed by the monitoring organization at the discretion of the board, shall include but not be limited to compliance with the written consent agreement entered into before reinstatement or compliance with conditions imposed by board order after a hearing, if applicable.

(C) In cases where the board has initiated a disciplinary action for violations other than for impairment and the practitioner or applicant is participating in the confidential monitoring program or is under a board order or consent agreement for impairment, the general pattern of action described in paragraph (B) of this rule will be followed with the following exceptions:

(1) If the board permanently revokes a license, the individual shall not be eligible for further consideration for licensure or license reinstatement;

(2) If the board imposes a period of ineligibility for licensure, the individual shall not be eligible for licensure or license reinstatement until the period of ineligibility has lapsed;

(3) If the board imposes an indefinite period of ineligibility, licensure or license reinstatement shall depend upon successful completion of the requirements in paragraphs (B)(3) and (B)(4) of this rule and determination by the board that the period of suspension or ineligibility served is commensurate with the violations found.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code Rule 4731-16-04 Other violations.

~~For purposes of board disciplinary action for violations of any board rule or any provision of Chapter 4731., Chapter 4730., Chapter 4760. or Chapter 4762. of the Revised Code other than division (B)(26) of section 4731.22 of the Revised Code, division (B)(5) of section 4730.25 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code or division (B)(6) of section 4762.13 of the Revised Code, impairment shall not excuse acts which result in conviction or which might, as determined by the board, have an adverse impact on other individuals. Such acts shall constitute independent basis for disciplinary action.~~

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**PROPOSED NEW RULE            7.28.23**

Rule 4731-16-04 Other violations.

For purposes of board disciplinary action for violations of any board rule or law, impairment shall not excuse acts which result in a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony, a misdemeanor committed in the course of practice, or a misdemeanor involving moral turpitude, the commission an act that constitutes a felony, misdemeanor in the course of practice, or misdemeanor of moral turpitude, in this state, or which might, as determined by the board, have an adverse impact on other individuals. Such acts shall constitute independent basis for disciplinary action.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-05 Examinations.

~~(A) Any examination ordered by the board under division (F)(2) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (F) of section 4759.07 of the Revised Code, division (F)(2) of section 4760.13 of the Revised Code, division (F) of section 4761.09 of the Revised Code, division (F)(2) of section 4762.13 of the Revised Code, division (F)(2) of section 4774.13 of the Revised Code, or division (F)(2) of section 4778.14 of the Revised Code in order to determine impairment, or any examination of an applicant for or a holder of a certificate issued under Chapter 4730., Chapter 4731., Chapter 4759., Chapter 4760. Chapter 4761., Chapter 4762., Chapter 4774., or Chapter 4778. of the Revised Code performed by an approved treatment provider shall include all of the following:~~

~~(1) Urine, hair or blood toxicology testing, or any combination, with legal chain of custody and forensic capability protocol;~~

~~(2) Comprehensive evaluation pertinent to the reasons for referral, including:~~

~~(a) Complete medical history and physical examination;~~

~~(b) Routine laboratory tests, to include complete blood count and liver function studies;~~

~~(c) Psychiatric evaluation, except as in paragraph (A)(3)(b)(ii);~~

~~(d) Comprehensive biopsychosocial assessment;~~

~~(e) Corroborating interviews of at least two persons who are close to the individual;~~

~~(f) Administration of at least two clinically approved substance use disorder assessment tools; and~~

~~(3) One of the following assessment standards, as applicable:~~

~~(a) Except as provided in paragraph (A)(3)(b) of this rule, observation of the individual in an inpatient setting for at least seventy two consecutive hours, unless the approved treatment provider diagnoses the individual as chemically dependent and formulates a treatment plan in a shorter time period.~~

~~(b) If the individual is a massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor who does not meet the criteria set forth in paragraph (A)(3)(c) of this rule:~~

~~(i) Outpatient assessment that meets the requirements of (A)(1) and (2);~~

~~(ii) Any other requirements as identified by the board or treatment provider. Psychiatric evaluation is not required in an examination administered under this paragraph unless the need for such an evaluation is identified by the board of the treatment provider.~~

~~(c) If the individual is a massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor who was investigated by the board for possible impairment as part of a previous application for or while holding any certificate issued by the board, observation of the individual in an inpatient setting for at least seventy two consecutive hours, unless the approved treatment provider diagnoses the individual as chemically dependent and formulates a treatment plan in a shorter time period.~~

~~(B) A diagnosis made by an approved treatment provider based on an examination ordered by the board under division (F)(2) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (F) of section 4759.07 of the Revised Code, division (F)(2) of section 4760.13 of the Revised Code, division (F) of section 4761.09 of the Revised Code, division (F)(2) of section 4762.13 of the Revised Code, division (F)(2) of section 4774.13 of the Revised Code, or division (G)(2) of section 4778.14 of the Revised Code shall be made solely for the purpose of providing evidence for use by the board. A licensee or applicant who undergoes an examination ordered by the board but who refuses to authorize the treatment provider to release reports or information to the board shall be deemed to have failed to submit to the examination due to circumstances within the individual's control, and a default and final order may be entered without~~

~~the taking of testimony or presentation of evidence as provided in division (F)(2) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (F) of section 4759.07 of the Revised Code, division (F)(2) of section 4760.13 of the Revised Code, division (F) of section 4761.09 of the Revised Code, division (F)(2) of section 4762.13 of the Revised Code, division (F)(2) of section 4774.13 of the Revised Code, or division (F)(2) of section 4778.14 of the Revised Code.~~

~~(C) The report issued pursuant to an examination ordered by the board shall be submitted to the board within five days following completion of the examination.~~

~~(D) The board may require the certificate holder or applicant to submit to a drug toxicology screen at the time it serves its order to submit to an examination or at any time after it issues the examination order and before the examination is completed.~~

~~(1) The drug toxicology screen shall be considered part of the examination.~~

~~(2) Refusal to submit to the drug toxicology screen immediately upon such request shall constitute failure to submit to a mental or physical examination ordered by the board and shall constitute an admission of the allegations against the individual, unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence.~~

~~(E) An individual ordered by the board to an examination who refuses to authorize the treatment provider to contact any person identified by the treatment provider as being appropriate for the purpose of conducting a corroborating interview as part of the examination shall be deemed to have failed to submit to the examination due to circumstances within the individual's control, and a default and final order may be entered into without the taking of testimony or presentation of evidence.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code  
Rule 4731-16-05 Examinations.

(A) Any impairment examination of an applicant or practitioner ordered by the board and performed by an evaluator or treatment provider approved by the monitoring organization and under contract with the board shall include all of the following:

(1) Comprehensive evaluation pertinent to the reasons for referral, including:

- (a) Routine laboratory tests;
- (b) Psychiatric evaluation, if applicable;
- (c) Comprehensive biopsychosocial assessment; and
- (d) Physical examination, if applicable.

(2) For individuals referred for examination related to substance use disorder, the evaluation shall also include:

- (a) Urine, hair or blood toxicology testing, or any combination, with legal chain of custody and forensic capability protocol;
- (b) Corroborating interviews of at least two persons who are close to the individual; and
- (c) Administration of at least two clinically approved substance use disorder assessment tools.

(3) The duration and type of the examination shall be determined by the evaluator or treatment provider based upon the individual's condition and based on an assessment of the impact of the potential impairment on patient safety.

(B) A diagnosis made by an approved evaluator or treatment provider based on an examination ordered by the board shall be made solely for the purpose of providing evidence for use by the board. A practitioner or applicant who undergoes an examination ordered by the board but who refuses to authorize the evaluator or treatment provider to release reports or information to the board shall be deemed to have failed to submit to the examination due to circumstances within the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

(C) The report issued pursuant to an examination ordered by the board shall be submitted to the board within five days following completion of the examination.

(D) The board may require the practitioner or applicant to submit to a drug toxicology screen at the

time it serves its order to submit to an examination or at any time after it issues the examination order and before the examination is completed.

(1) The drug toxicology screen shall be considered part of the examination.

(2) Refusal to submit to the drug toxicology screen immediately upon such request shall constitute failure to submit to an examination ordered by the board and shall constitute an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence.

(E) An individual ordered by the board to an examination who refuses to authorize the evaluator or treatment provider to contact any person identified by the evaluator or treatment provider as being appropriate for the purpose of conducting a corroborating interview as part of the examination shall be deemed to have failed to submit to the examination due to circumstances within the individual's control, and a default and final order may be entered into without the taking of testimony or presentation of evidence.



**TO BE RESCINDED**

**7.28.23**

~~Ohio Administrative Code~~

~~Rule 4731-16-06 Consent agreements and orders for reinstatement of impaired practitioners.~~

~~(A) The written consent agreement required under division (F)(2) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (F)(2) of section 4760.13 of the Revised Code or division (F)(2) of section 4762.13 of the Revised Code and rule 4731-16-02 of the Administrative Code prior to reinstatement of a suspended license, or any board order entered in lieu of a consent agreement, shall require, at a minimum, the following probationary and limiting terms:~~

~~(1) Obedience of all federal, state, and local laws, and all rules governing practice in Ohio;~~

~~(2) Submission of quarterly declarations under penalty of perjury stating whether there has been compliance with all conditions of the consent agreement;~~

~~(3) Periodic appearances before the board or its representatives as requested;~~

~~(4) Notification to the board of departures or absences from Ohio. Periods of departure or absence shall not reduce the probationary term, unless otherwise determined by motion of the board for absences of three months or longer, or by the secretary or the supervising member of the board for absences of less than three months, in instances where the board can be assured that probationary monitoring is otherwise being performed;~~

~~(5) Maintenance of a log of all controlled substances, and other drugs as directed by the board, which the practitioner prescribes, orders, personally furnishes, or administers, where appropriate;~~

~~(6) Prohibition of authority to prescribe, administer, personally furnish, order, or possess controlled substances and, as directed by the board, other substances which may impair ability to practice, where appropriate;~~

~~(7) Abstinence from the use of alcohol;~~

~~(8) Abstinence from the use or personal possession of drugs, except those prescribed, administered, or dispensed by another person so authorized by law who has knowledge of the patient's history and of the disease of addiction;~~

~~(9) Submission of witnessed urine or blood samples upon request of the board, and without prior notice;~~

~~(10) Undertaking and maintaining participation in a self help support group acceptable to the board, such as alcoholics anonymous or narcotics anonymous, with evidence of compliance to be provided to the board in each quarterly report;~~

~~(11) Undertaking psychiatric evaluation, and, where appropriate, continuing treatment acceptable to the board, with evidence of compliance to be provided in each quarterly report;~~

~~(12) Monitoring of progress and status by a physician approved by the board, with reports to be provided to the board quarterly;~~

~~(13) Prior approval by the board of any practice arrangements or any health care field employment, where appropriate;~~

~~(14) Copies of the agreement to be provided by the individual to all of the following during the effective period of the agreement or board order:~~

~~(a) All employers or prospective employers, entities with which the individual contracts or seeks to contract to provide health services or receive training, the chief of staff at each hospital where the individual has or applies for privileges, and all persons and entities that provide the individual chemical dependency treatment or monitoring; and~~

~~(b) By certified mail, the proper licensing authority of any state or jurisdiction in which the individual holds or applies for any professional license.~~

~~(15) Contacting an appropriate impaired physicians committee, such as the physician health~~

program, to arrange for assistance in recovery or aftercare;

~~(16) Continuing compliance with the terms of the aftercare contract entered into with the treatment provider, provided, that where terms of the aftercare contract conflict with the terms of the consent agreement or board order, the terms of the consent agreement or board order shall control;~~

~~(17) Continuing authorization, through appropriate written consent forms, for disclosure by the treatment provider to the board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations;~~

~~(18) Minimum probationary term of at least five years, except that a practitioner who first applies for licensure or license restoration after receiving treatment for impairment may be given probation of less than five years if the practitioner demonstrates continuous current sobriety of more than one year but less than five years, and a practitioner who first applies for licensure or license restoration after receiving treatment for impairment may be licensed without probation if the practitioner demonstrates continuous current sobriety of at least five years;~~

~~(19) Periods during which the probationer is not in compliance with all probationary terms, or during which all probationary monitoring provisions have not yet been implemented, as determined by the secretary of the board, shall not reduce the term of probation;~~

~~(20) No requests by the probationer for modifications to probationary terms for at least one year; and~~

~~(21) Prohibition of consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.~~

~~(B) A violation of any term of the consent agreement or board order described in this rule shall constitute grounds to take disciplinary action in accordance with Chapter 119. of the Revised Code.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-06 Consent agreements and orders for reinstatement of impaired applicants and practitioners.

(A) The written consent agreement for impaired practitioners or applicants prior to reinstatement of a suspended license, or any board order entered in lieu of a consent agreement, shall require, at a minimum, the following probationary and limiting terms:

- (1) Obedience of all federal, state, and local laws, and all rules governing practice in Ohio;
- (2) Submission of quarterly declarations attesting whether there has been compliance with all conditions of the consent agreement;
- (3) Periodic appearances before the board, its representatives, or the monitoring organization as requested;
- (4) Notification to the board of departures or absences from Ohio. Periods of departure or absence shall not reduce the probationary term, unless otherwise determined by the secretary or the supervising member of the board, in instances where the board can be assured that probationary monitoring is otherwise being performed;
- (5) Maintenance of a log of all controlled substances, and other drugs as directed by the board, which the practitioner prescribes, orders, personally furnishes, or administers, where appropriate;
- (6) Prohibition of authority to prescribe, administer, personally furnish, order, or possess controlled substances and as directed by the board, other substances which may impair ability to practice, where appropriate;
- (7) Abstinence from the use of alcohol, where appropriate;
- (8) Abstinence from the use or personal possession of drugs, except those prescribed, administered, or dispensed by another person so authorized by law who has knowledge of the patient's history and of the disease of addiction, where appropriate;
- (9) Submission of urine, blood, or other toxicology samples upon request of the board or the monitoring organization, and without prior notice, where appropriate;
- (10) Undertaking and maintaining participation in a self-help support group acceptable to the board or the monitoring organization, such as alcoholics anonymous or narcotics anonymous, where appropriate, with evidence of compliance to be provided in each quarterly report;

(11) Undertaking psychiatric evaluation, and, where appropriate, continuing treatment acceptable to the board or the monitoring organization, with evidence of compliance to be provided in each quarterly report;

(12) Monitoring physical medical condition, where appropriate;

(13) Monitoring of progress and status by a physician or other licensed healthcare professional approved by the board or the monitoring organization, with reports to be provided in each quarterly report, where appropriate;

(14) Prior approval by the board of any practice arrangements or any health care field employment, where appropriate;

(15) Copies of the agreement to be provided by the individual to all of the following during the effective period of the agreement or board order:

(a) All employers or prospective employers, entities with which the individual contracts or seeks to contract to provide health services or receive training, the chief of staff at each hospital where the individual has or applies for privileges, and all persons and entities that provide the individual treatment or monitoring; and

(b) The proper licensing authority of any state or jurisdiction in which the individual holds or applies for any professional license.

(16) Contacting the monitoring organization to arrange for monitoring services, where appropriate;

(17) Continuing compliance with the terms of any aftercare or continuing care contract entered into with the treatment provider or healthcare provider, provided, that where terms of the aftercare or continuing care contract conflict with the terms of the consent agreement or board order, the terms of the consent agreement or board order shall control;

(18) Continuing authorization, through appropriate written consent forms, for disclosure by the evaluator or treatment provider to the board, to treating and monitoring physicians, the monitoring organization and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations;

(19) Appropriate minimum probationary term;

(20) Periods during which the probationer is not in compliance with all probationary terms, or during which all probationary monitoring provisions have not yet been implemented, as determined by the secretary of the board, may result in the extension of the term of probation;

(21) No requests by the probationer for modifications to probationary terms for at least one year; and

(22) Prohibition of consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen, where appropriate.

(B) A violation of any term of the consent agreement or board order described in this rule shall constitute grounds to take disciplinary action in accordance with Chapter 119. of the Revised Code.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-07 Treatment provider program obligations.

~~(A) In order to hold a certificate of good standing pursuant to this chapter of the Administrative Code, a treatment provider must:~~

~~(1) Report to the board the name of any practitioner suffering or showing evidence of suffering impairment as described in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code or division (B)(6) of section 4762.13 of the Revised Code who fails to comply within one week with a referral for examination;~~

~~(2) Report to the board the name of any impaired practitioner who fails to enter treatment within forty-eight hours following the program or provider's determination that the practitioner needs treatment;~~

~~(3) Require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare;~~

~~(4) Require a practitioner to suspend practice upon entry into any required inpatient treatment;~~

~~(5) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare contract during aftercare;~~

~~(6) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care;~~

~~(7) Require that each practitioner who has completed treatment signs an aftercare contract with an approved treatment provider within one week of completion of treatment;~~

~~(8) Report the identity of any practitioner practicing under the terms of an aftercare contract to hospital administrators, medical chiefs of staff, and chairpersons of impaired physicians committees of all health care institutions at which the practitioner holds clinical privileges. If the practitioner does not hold clinical privileges at any health care institution, the treatment provider shall report the practitioner's identity to the impaired physicians committee of the county medical society, osteopathic academy, or podiatric medical association in every county in which the practitioner practices. If there are no impaired physicians committees in the county, the treatment provider shall report the practitioner's identity to the president or other designated member of the county medical society, osteopathic academy, or podiatric medical association;~~

~~(9) Report to the board the identity of any practitioner who suffers a relapse;~~

~~(10) Fulfill all recordkeeping requirements applicable under state and federal laws, including the requirements set forth in paragraphs (C) and (D) of this rule; and~~

~~(11) In furtherance of paragraphs (A)(5), (A)(6), (A)(8), and (A)(9) of this rule, the treatment provider shall require every practitioner who submits for an evaluation or enters treatment to execute a release with respect to issuance of the reports enumerated therein.~~

~~(B) The treatment provider shall not report to the board the identity of a practitioner who has been referred for evaluation or treatment by a party other than the board, so long as the practitioner maintains participation in accordance with requirements of section 4731.25 of the Revised Code and the practitioner has not suffered a relapse as defined in rule 4731-16-01 of the Administrative Code.~~

~~(C) The treatment provider shall complete and maintain records, separate from all other records, containing the following information for each practitioner seen for evaluation or treatment:~~

~~(1) Date of referral and identity of referral source;~~

~~(2) Date of admission for evaluation;~~

~~(3) Date treatment recommendations are made;~~



~~(4) Date referral source is notified of treatment recommendations;~~

~~(5) Beginning and ending dates of each treatment phase (e.g., inpatient, intensive outpatient, extended residential treatment, and aftercare);~~

~~(6) Dates of all reports made under paragraph (A)(8) of this rule, and identities of individuals to whom made;~~

~~(7) Dates and sources of information received, if any, indicating there are grounds to believe the practitioner has relapsed during or following aftercare;~~

~~(8) In the event of the practitioner's refusal to execute appropriate releases under paragraph (B) of this rule, or in the event of revocation of such releases, the date that the referral source is notified that no further information can be given regarding that practitioner under federal law; and~~

~~(9) In the event the treatment provider is required to report to the board pursuant to one of the provisions of paragraph (A) of this rule, such report shall be made by telephone to the board's executive director or the executive director's designee as soon as practicable, and confirmed by letter mailed within seventy two hours after the reporting requirement arises.~~

~~(D) No later than two weeks following the end of each one year period during which the treatment provider has held a certificate of good standing under this chapter of the Administrative Code, the treatment provider shall file with the board a report containing all of the following information for that year:~~

~~(1) Number of practitioners referred for evaluation; (including self referrals);~~

~~(2) Number of practitioners evaluated;~~

~~(3) Number of referral sources by category (e.g., self referrals, board referrals, medical society referrals, referrals by colleagues);~~

- (4) Number of practitioner evaluations which resulted in treatment recommendations for chemical dependency;
- (5) Number of practitioners treated based on the treatment providers own recommendations;
- (6) Number of practitioners treated based on transfer or referral from other treatment providers;
- (7) Number of practitioners who entered each phase of treatment;
- (8) Number of practitioners engaged in each phase of treatment (including those who began treatment in prior years);
- (9) Number of practitioners who successfully completed each phase of treatment;
- (10) Number of practitioners discharged from each phase of treatment other than upon successful completion, and the rationale for each such discharge;
- (11) Number of practitioner relapses identified during aftercare and following aftercare;
- (12) Number and names of practitioners reported to the board under this chapter of the Administrative Code; and
- (13) Number and identities of referral sources notified of the treatment provider's inability to release information under federal law.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-08 Criteria for approval.

~~(A) Criteria for approval of treatment providers shall include all of the following:~~

~~(1) The philosophy and individualized treatment plan of the program is based on the disease concept.~~

~~(2) The chemical dependency model of treatment is based on a twelve step program such as alcoholics anonymous.~~

~~(3) The program provides specialized medical and nursing care during detoxification and appropriate health care professionals during treatment phase.~~

~~(4) The evaluation process is an objective, measurable program which uses tools and testing procedures to identify patterns, progression, and stages of recovery at appropriate times in the treatment program. The evaluation shall also emphasize patient self assessment.~~

~~(5) The treatment provider has a network of referral agencies or professionals which meets the needs of the practitioner and significant others in the event that the needs go beyond the program's expertise or available facilities.~~

~~(6) The treatment provider has a variety of treatment plan options including inpatient detoxification treatment, inpatient or residential treatment, and outpatient services.~~

~~(7) The involvement and treatment of family and significant others is provided.~~

~~(8) The provider gives each patient who has been diagnosed as in need of treatment a written list of approved treatment providers from whom indicated inpatient or residential treatment, outpatient treatment, or aftercare can be obtained.~~

~~(9) The provider holds certification as an alcoholism program or drug treatment program by the Ohio~~

~~department of alcohol and drug addiction services, or if located outside Ohio, holds appropriate certification or registration with an agency exercising a similar function in the state in which it is located.~~

~~(10) The provider provides advocacy services only at no cost to the patient, or provides such services only after obtaining the signature of the patient acknowledging that he or she has been notified:~~

~~(a) That advocacy is not treatment;~~

~~(b) That nothing in Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code or this chapter of the Administrative Code requires a practitioner to obtain aftercare, monitoring or advocacy from the provider of inpatient or extended residential treatment or intensive outpatient treatment, as applicable; and~~

~~(c) That the practitioner's refusal to obtain aftercare, monitoring, or advocacy services from the provider of inpatient treatment or intensive outpatient treatment, as applicable, shall not constitute grounds to report to the board so long as the practitioner demonstrates that the practitioner has contracted with another approved treatment provider to receive any further recommended treatment.~~

~~(11) The provider has the capability of making an initial examination to determine what type of treatment an impaired practitioner requires.~~

~~(12) The provider requires that each patient who is subject to the jurisdiction of the board, who is determined to be impaired, except as provided in paragraph (A)(13) of this rule, complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, during which the patient shall be prohibited by the terms of the treatment contract from conducting any practice or practice related activities, and after which the provider shall evaluate the patient and determine the necessity for further treatment based solely on clinical grounds. The exceptions in paragraph (C) of this rule notwithstanding, the provider must personally provide the required inpatient or residential treatment and the assessment or must confirm that another approved treatment provider has provided the inpatient or residential treatment and the assessment before providing any outpatient treatment or aftercare. The inpatient or residential treatment program must have a continuing inpatient or residential patient census sufficient to provide an appropriate treatment~~

~~milieu for patients receiving treatment in the inpatient or residential setting. This paragraph shall not apply to a patient who has previously completed an inpatient or residential treatment program of at least twenty-eight days if the patient was able to maintain sobriety for at least one year following completion of that inpatient or residential treatment.~~

~~(13) The provider requires that a massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor who is determined to be impaired and who does not meet the criteria set forth in paragraph (A)(14) of this rule, complete a minimum of twenty treatment sessions over no less than five consecutive weeks of intensive outpatient treatment, after which the provider shall evaluate the patient and determine the necessity for further treatment based solely on clinical grounds. The intensive outpatient treatment must include:~~

~~(a) Witnessed toxicology screens with legal chain of custody and forensic capability performed weekly at therapy sessions;~~

~~(b) At least three twelve-step meetings weekly;~~

~~(c) All treatment sessions lasting a minimum of three hours, not including time spent watching videos or participating in twelve-step meetings;~~

~~(d) Family education lasting at least two hours weekly.~~

~~(14) The provider requires that a massage therapist, dietitian, respiratory care professional, radiologist assistant, or genetic counselor who was investigated by the board for possible impairment as part of a previous application or while holding any certificate by the board other than a certificate to practice as a massage therapist, dietitian, respiratory care professional, radiologist assistant or genetic counselor, complete the inpatient or residential treatment required in paragraph (A)(12) of this rule.~~

~~(15) If the provider did not hold approval under this chapter prior to January 1, 2001, the provider is accredited by the joint commission on accreditation of health care organizations or by CARF (commission on accreditation of rehabilitation facilities.)~~

~~(B) A treatment provider which does not meet the criteria of paragraph (A)(1) or (A)(2) of this rule may nonetheless be considered for approval if it establishes by evidence acceptable to the board that its philosophy, individualized treatment plan, or model of treatment is based on current scientific advances in the field of chemical dependency, and that its success in treatment is comparable or superior to that obtained by treatment providers which meet all the criteria of paragraph (A) of this rule.~~

~~(C) A treatment provider that does not meet the criteria of paragraph (A)(3) or (A)(6) of this rule because it does not offer all phases of treatment may nonetheless be considered for approval if it meets both of the following requirements.~~

~~(1) If it does not offer detoxification treatment, its policies and procedures are structured to assure that all patients who enter treatment have completed detoxification where detoxification is medically indicated.~~

~~(2) If it does not offer one or more required treatment phases (e.g. inpatient treatment, intensive outpatient treatment, or extended residential treatment), it has affiliation agreements or working relationships with other treatment providers to which patients can be referred for any necessary treatment it does not offer.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-08 Criteria for approval for evaluators and treatment providers .

(A) In order to be approved as an evaluator or treatment provider for impaired applicants or practitioners, the evaluator or treatment provider must submit an application to the monitoring organization, which includes information regarding the areas of expertise and services provided, accreditation status, staffing composition, treatment approaches utilized, census and financial information, and other information as requested by the monitoring organization.

(B) The monitoring organization shall review individuals and entities providing evaluations and treatment to licensees and applicants who are impaired or potentially impaired.

(1) As part of the review the monitoring organization shall determine whether the individual or entity has the capability to evaluate impaired or potentially impaired practitioners or applicants for conditions which impair the ability to practice in accordance with acceptable and prevailing standards of care, including mental or physical illness, including substance use disorder.

(2) As part of the review, the monitoring organization shall determine whether the individual or entity has the capability to provide treatment to impaired practitioners or applicants, which may include withdrawal management, inpatient, residential, extended residential, partial hospitalization intensive outpatient, outpatient, continuing care, or other therapy or treatment.

(3) Evaluators or treatment providers which are facilities providing substance use disorder evaluation or treatment shall hold accreditation from one of the following:

(a) Commission on Accreditation of Rehabilitation Facilities;

(b) American Society of Addiction Medicine; or

(c) The Joint Commission.

(4) Evaluators or treatment providers which are facilities providing mental health disorder evaluation or treatment shall hold accreditation from one of the following:

(a) Commission on Accreditation of Rehabilitation Facilities; or

(b) The Joint Commission.

(5) Evaluators or treatment providers who are individual physicians or other licensed healthcare professionals shall provide evidence of education, training, and experience treating the relevant diseases or conditions.

(C) The monitoring organization shall prepare of list of approved evaluators and treatment providers and make that available to practitioners or applicants referred to the monitoring organization.

(D) The monitoring organization shall provide annual training to evaluators and treatment providers regarding the eligibility requirements for the confidential monitoring program, the board's statutes, rules, and policies regarding impairment, and evaluator and treatment provider reporting requirements.

(E) The monitoring organization shall periodically review the operations and outcomes of the evaluators and treatment providers to determine whether the standard of care is being met. If the monitoring organization determines that any evaluators or treatment providers no longer meet the standard of care, the monitoring organization may remove the evaluator or treatment provider from the list provided to impaired or potentially impaired licensees and applicants.

(F) The approved evaluator or treatment provider shall do the following:

(1) Develop an individualized treatment plan for every practitioner or applicant who enters treatment including any required supervision or restrictions of practice during treatment;

(2) Require a practitioner to suspend practice as required by the treatment provider or the monitoring organization medical director or designee;

(3) Report to the monitoring organization any instances of violations of this chapter, including any practitioner or applicant who due to impairment present an imminent danger to oneself or the public and any practitioner or applicant who is unwilling or unable to complete or comply with the terms of evaluation, treatment, or monitoring;

(4) Report to the monitoring organization the resumption of practice of any impaired practitioner before the treatment provider and medical director or designee of the monitoring organization has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care;

(5) Fulfill all recordkeeping requirements applicable under state and federal laws, including completing and maintaining records for each practitioner and applicant seen for evaluation and treatment; and

(6) Require every practitioner or applicant who submits for an evaluation or enters treatment to execute a release with respect to issuance of the required reports to the monitoring organization.

(G) Each quarter, the evaluator or treatment provider shall provide to the monitoring organization information regarding licensees or applicants seen for evaluation or treatment under the confidential monitoring program, as determined by the monitoring organization.



(H) The evaluator or treatment provider shall notify the monitoring organization of the following changes prior to the effective date:

- (1) Transfer of ownership of program;
- (2) Change in location of the program; or
- (3) Change in medical director.

(I) The evaluator or treatment provider shall not report to the board the identity of a practitioner or applicant who has been referred for evaluation or treatment by a party other than the board, so long as the practitioner or applicant maintains participation in accordance with requirements of the confidential monitoring program under section 4731.25 of the Revised Code.

(J) Nothing in this rule relieves licensees of the board of their duty to report violations of laws and rules to the board.

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-09 Procedures for approval.

~~(A) Following receipt of a completed application for program approval, an investigation shall be conducted by the board with respect to whether the requirements of this chapter of the Administrative Code have been met. An on-site inspection of the program may be conducted.~~

~~(B) If the board determines that the treatment provider applying meets the requirements set forth in this chapter of the Administrative Code, it shall issue its certificate of good standing.~~

~~A certificate of good standing is valid for three years unless suspended or revoked by the board for cause and is valid only for the program approved. It does not cover other programs operated by the owner. Prior to the end of the three-year period, the board will send a renewal application to the treatment provider to be completed and sent back to the board. An on-site visit may be conducted prior to renewal of the certificate.~~

~~(C) A certificate of good standing is not transferable.~~

~~(D) The treatment provider shall notify the board of any of the following changes prior to their becoming effective and these changes shall result in reevaluation of any certificate of good standing held by the treatment provider:~~

~~(1) Transfer of ownership of the program; or~~

~~(2) Change in location or locations of the program; or~~

~~(3) Change of directorship.~~

~~(E) Upon receipt of notice as provided in paragraph (D) of this rule, the board shall forward the appropriate forms in order to initiate review and investigation to determine whether a new certificate of good standing should be issued. An on-site inspection, maintaining program participant~~

~~confidentiality, may be conducted in the event of a change of program location.~~

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**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code  
Rule 4731-16-10 Aftercare contracts.

~~(A) Within one week of completing treatment, the practitioner shall enter into an aftercare contract with an approved treatment provider.~~

~~(B) The aftercare contract shall include all of the following requirements:~~

~~(1) Group therapy, support groups, or, when appropriate, an individual counseling, or a combination of the above;~~

~~(2) Periodic, random, unannounced blood or urine screens, or both;~~

~~(3) Mandatory participation in alcoholics anonymous, narcotics anonymous, or a similar twelve-step program, or its equivalent;~~

~~(4) Abstinence from use of alcohol;~~

~~(5) Abstinence from use of drugs, except those prescribed, administered or personally furnished by another person so authorized by law who has knowledge of the patient's history and of the disease of addiction, or those administered by another person so authorized by law during a medical emergency;~~

~~(6) Regular contact with a certified alcoholism counselor, or with a physician qualified by training or experience, or both, to treat chemically dependent persons, who assumes responsibility for monitoring defined aspects of aftercare contract compliance, and who agrees to:~~

~~(a) Report any noncompliance to the treatment provider; and~~

~~(b) Report any relapse to the treatment provider and the board;~~

~~(7) A length of contract specified with a minimum of at least two years and at least one hundred and four weekly aftercare sessions, with missed sessions to be made up;~~

~~(8) Professional therapy, where indicated, to resolve family and work-related problems;~~

~~(9) Treatment of any ongoing medical problems to be managed by a physician qualified by training or experience, or both, to provide medical care to chemically dependent persons, provided that where such a physician is unavailable due to geographic or other reasonable constraints, treatment shall be managed by a physician in consultation with one so qualified;~~

~~(10) Referral to other forms of extended care, when indicated; and~~

~~(11) Any required supervision or restrictions of practice during aftercare.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-11 Revocation, suspension, or denial of certificate of good standing.

~~(A) The board may refuse to issue or renew, suspend, or revoke a certificate of good standing based upon non-compliance with the provisions of this chapter of the Administrative Code or applicable provisions of Chapter 4731. of the Revised Code.~~

~~(B) If the board proposes to refuse to issue or renew, suspend, or revoke a certificate of good standing, the applicant or the certificate holder shall be entitled to a hearing on the issue of such proposed denial or such proposed revocation or suspension. Notice and hearing requirements will comply with the provisions of Chapter 119. of the Revised Code and any rules adopted by the board.~~

~~(C) In determining the effective date of any suspension or revocation of a certificate, the board shall take into consideration those practitioners currently receiving treatment in the treatment program or by the treatment provider subject to the revocation or suspension.~~

~~(D) If the board refuses to renew, suspends or revokes a certificate of good standing, the treatment provider shall be required to notify those practitioners currently receiving treatment in the treatment program that the certificate of good standing has been suspended or revoked.~~

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**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code  
Rule 4731-16-12 Out-of-state impairment cases.

~~(A) If the board orders a certificate holder who neither resides nor physically practices in Ohio to submit to an evaluation under division (B)(26) of section 4731.22 of the Revised Code, division (F)(2) of section 4730.25 of the Revised Code, division (F)(2) of section 4760.13 of the Revised Code or division (F)(2) of section 4762.13 of the Revised Code, or commences disciplinary proceedings against such a certificate holder based on an alleged violation of any of those divisions, the board may waive any or all applicable provisions of this chapter of the Administrative Code, if it finds that alternative means exist to protect the public. Factors the board may consider in determining whether the public will be adequately protected include, but are not limited to, the following:~~

~~(1) Whether the certificate holder is being monitored by the proper licensing authority in the jurisdiction where the certificate holder resides;~~

~~(2) Whether the certificate holder has received or is receiving evaluation and treatment from a treatment provider acceptable to the proper licensing authority in the jurisdictions where the certificate holder resides, and whether the treatment provider has agreed to report to the board on the certificate holder's diagnosis and progress in treatment, and to provide the board copies of all reports required to be submitted to the licensing authority in the jurisdiction where the certificate holder resides, if requested by the board;~~

~~(3) Whether the certificate holder is being monitored by a monitoring or advocacy group acceptable to the proper licensing authority in the jurisdiction where the certificate holder resides;~~

~~(4) Whether the certificate holder's employer or professional associates are aware of the certificate holder's impairment or alleged impairment.~~

~~(B) Grant of a waiver or waivers pursuant to this rule shall be conditioned on the certificate holder agreeing by a signed notarized statement to notify the board in writing of any intent to practice~~

~~medicine or reside in Ohio, to submit to an evaluation by an approved treatment provider at the certificate holder's expense at that time if requested by the board, and to refrain from commencing practice in Ohio without prior board approval.~~

~~(C) A certificate holder who neither resides nor practices in Ohio who is diagnosed or treated for chemical abuse or chemical dependency outside Ohio must report that diagnosis or treatment in renewing his or her certificate. A certificate holder who neither resides nor practices in Ohio who relapses must report that relapse immediately, as required by rule 4731-15-01 of the Administrative Code.~~

~~(D) If a certificate holder self-reports diagnosis or treatment as required by paragraph (C) of this rule, the board may forgo disciplinary action if it determines that the certificate holder:~~

~~(1) Has not been subject to discipline in any other jurisdiction;~~

~~(2) Is receiving or has completed treatment with a treatment provider acceptable to the medical licensing authority of the jurisdiction in which he or she resides;~~

~~(3) Has not relapsed;~~

~~(4) Is participating in or has successfully completed participation in a monitoring program or diversion program acceptable to the medical licensing authority of the jurisdiction in which he or she resides.~~

~~(E) A certificate holder who neither resides nor practices in Ohio who relocates to Ohio after being diagnosed or treated for chemical abuse or chemical dependency must submit to an evaluation by a treatment provider approved under section 4731.25 of the Revised Code and this chapter of the Administrative Code.~~

~~(1) If the certificate holder has less than one year documented sobriety at the time of relocation to Ohio, he or she must submit to an evaluation that meets all the requirements of rule 4731-16-05 of the Administrative Code, and must complete two years of aftercare and the applicable treatment as required by paragraph (B)(3) of rule 4731-16-02 of the Administrative Code.~~



~~(2) If the certificate holder has more than one year but less than five years documented sobriety at the time of relocation to Ohio, he or she must submit to an evaluation that the treatment provider determines to be clinically appropriate, and must obtain the treatment recommended by the treatment provider.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-13 Patient consent; revocation of consent.

~~(A) Licensees, associations, and societies shall report to the board a belief that a licensee suffers from impairment according to rule 4731-15-01 of the Administrative Code. Where the duty to report is relieved pursuant to paragraph (B) of that rule, the following requirements apply:~~

~~(1) In order to ascertain the status of the practitioner's progress, the licensee, member, representative, or agent shall contact the approved treatment provider to ascertain the licensee's progress at least once weekly during the first four weeks following referral, and at least once monthly thereafter, and~~

~~(2) If at any time the approved treatment provider indicates that the licensee has not continued to participate in accordance with section 4731.25 of the Revised Code, or if the approved treatment provider refuses to release information, the member, representative, or agent shall report to the board all information that led to the belief that the licensee suffers from impairment.~~

~~(B) A licensee who has been referred to an approved treatment provider shall execute, and shall not revoke, appropriate release forms to allow the referring party to monitor his progress in treatment.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-14 Caffeine, nicotine, and over-the-counter drugs.

~~The provisions of this chapter of the Administrative Code that prohibit use of drugs or substances do not apply to use of caffeinated foods or beverages, to tobacco products containing nicotine, or to the occasional therapeutic use of drugs available over the counter which lack the ability to alter mood or level of consciousness.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code  
Rule 4731-16-15 Patient rights.

~~(A) An approved treatment provider shall deal honestly with its patients and afford them the dignity and respect to which they are entitled as human beings.~~

~~(B) While it is recognized that the high levels of denial and other defenses often displayed by patients in early recovery may necessitate the use of practices which might otherwise be viewed as coercive or heavy handed, an approved treatment provider shall employ such practices solely in the best interest of the patient. Under no circumstances shall such practices be employed to influence a patient to obtain aftercare or other forms of extended care from any particular treatment provider. Such practice may be employed in appropriate cases to influence a patient to obtain needed extended care from any approved treatment provider which has the capability to provide the care indicated.~~

~~(C) An approved treatment provider shall maintain complete and accurate records for the benefit of the patient and the provider of any necessary extended residential treatment, aftercare, or counseling.~~

~~(D) An approved treatment provider shall disclose to the patient in writing all known or reasonably anticipated costs of extended care which it proposes to render, and afford the patient the opportunity to obtain cost comparisons from other approved treatment providers.~~

~~(E) Each patient who falls under the regulatory authority of the state medical board shall be given a written explanation, approved by the board, of the mandatory reporting requirements contained in Chapter 4730., 4731., 4760., or 4762. of the Revised Code.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-17 Requirements for one-bite program.

~~(A) One bite program is a confidential program for treatment of impaired practitioners of the medical board established pursuant to section 4731.251 of the Revised Code.~~

~~(B) Monitoring organization is an entity which conducts the one bite program and performs monitoring services for impaired practitioners under a contract with the medical board.~~

~~(C) One bite treatment provider is an entity approved by the board to provide evaluation and treatment to impaired practitioners participating in the one bite program.~~

~~(D) Continuing care provider is an entity approved by the board to provide continuing care to impaired practitioners participating in the one bite program pursuant to rule 4731-16-21 of the Administrative Code.~~

~~(E) Licensees of the board who may be impaired in the ability to practice in accordance with acceptable and prevailing standards of care and who want to participate in the one bite program shall complete the following requirements:~~

~~(1) The licensee shall register with the monitoring organization under contract with the board and obtain a list of the one bite program treatment providers approved by the board.~~

~~(2) If the licensee reports directly to an approved treatment provider, the licensee shall register with the monitoring organization upon referral from the approved treatment provider.~~

~~(3) The treatment provider shall conduct an evaluation in accordance with rule 4731-16-05 of the Administrative Code.~~

~~(4) The treatment provider shall provide the information regarding the diagnosis and eligibility determination to the monitoring organization for confirmation of eligibility.~~

~~(5) If the licensee is determined to be impaired and not to be eligible for the one bite program, the licensee, the monitoring organization and the treatment provider shall report this information to the board.~~

~~(F) Once a licensee is determined to be impaired and eligible for the one bite program, the licensee shall, within three days, report to an approved treatment provider for treatment. The treatment provider shall develop an individualized treatment plan that may include a combination of inpatient, residential, partial hospitalization and/or intensive outpatient treatment.~~

~~(1) The licensee shall be required to immediately suspend practice for a minimum of thirty days. The licensee shall suspend practice until the licensee is determined to be able to practice according to acceptable and prevailing standards by the treatment provider and the medical director of the monitoring organization.~~

~~(2) The treatment provider shall notify the board and monitoring organization of any licensee who returns to work prior to obtaining the release from the treatment provider and the monitoring organization medical director.~~

~~(3) The treatment provider shall notify the board and monitoring organization of any licensee who does not successfully complete the prescribed treatment.~~

~~(G) Within one week after successful completion of treatment, the monitoring organization shall ensure that the licensee has entered into an agreement with a board approved continuing care provider.~~

~~(1) The monitoring organization shall confirm that the licensee completes continuing care sessions at least one time per week for at least six months following the release from treatment.~~

~~(2) The licensee must continue the weekly continuing care meetings until released by the continuing care provider and the medical director of the monitoring organization.~~

~~(H) In order to continue participation in the one bite program, after successful completion of~~

~~treatment, the licensee shall enter into an agreement with the monitoring organization for monitoring for at least five years. An individual who chooses not to continue in the one bite program will be subject to the procedures in rule 4731-16-02 of the Administrative Code.~~

~~(1) The licensee shall be required to provide random, observed toxicology screenings of biological materials, including but not limited to, blood, urine, hair, saliva, breath, or fingernail samples for drugs and alcohol as directed by the monitoring organization with a minimum of two random, observed toxicology screenings per month.~~

~~(2) The licensee shall attend drug and alcohol support group meetings (e.g. alcoholics anonymous or narcotics anonymous) as directed by the monitoring organization with a minimum of attendance at ten meetings per month.~~

~~(3) The licensee shall be released from monitoring by the medical director of the monitoring organization upon successful completion of monitoring.~~

~~(I) Any relapse as defined in paragraph (B) of rule 4731-16-01 of the Administrative Code shall be reported to the board by the medical director of the monitoring organization and the licensee.~~

~~(J) The board shall develop guidelines in collaboration with the monitoring organization for the reporting of non-compliance with conditions of the one bite program. Non-compliance shall be reported to the board by the licensee and the medical director of the monitoring organization.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-17 Requirements for confidential monitoring program.

(A) Practitioners and applicants of the board who may be impaired in the ability to practice in accordance with acceptable and prevailing standards of care and who want to participate in the confidential monitoring program shall complete the following requirements:

- (1) The practitioner or applicant shall contact the monitoring organization under contract with the board and obtain a list of the approved evaluators and treatment providers;
- (2) If the practitioner or applicant reports directly to an approved treatment provider, the practitioner or applicant licensee shall contact the monitoring organization upon referral from the approved evaluator or treatment provider; and
- (3) The practitioner or applicant shall participate in an evaluation conducted by an evaluator or treatment provider in accordance with the recommendation of the monitoring organization.

(B) The evaluator or treatment provider shall provide the information regarding the diagnosis and eligibility determination to the monitoring organization for confirmation of eligibility.

(C) If the practitioner or applicant is determined to be impaired and not to be eligible for the confidential monitoring program, the practitioner or applicant and the monitoring organization shall report this information to the board.

(D) Once a practitioner or applicant is determined to be eligible for the confidential monitoring program, the practitioner or applicant shall report to an approved treatment provider for treatment within the timeframe recommended by the monitoring organization. The treatment provider shall develop an individualized treatment plan that may include a combination of inpatient, residential, partial hospitalization, outpatient and/or intensive outpatient treatment.

(1) The practitioner or applicant shall be required to immediately suspend practice if it is recommended by the evaluator or treatment provider or the medical director or designee of the monitoring organization. The practitioner or applicant shall suspend practice until determined to be able to practice according to acceptable and prevailing standards by the evaluator or treatment provider and the medical director or designee of the monitoring organization.

(2) The monitoring organization shall notify the board of any practitioner who returns to work prior to obtaining the release from the treatment provider and the monitoring organization medical director or designee. The board shall proceed in accordance with rule 4731-16-02 of the Administrative Code.



(3) The monitoring organization shall notify the board of any practitioner or applicant who does not successfully complete the prescribed treatment. The board shall proceed in accordance with rule 4731-16-02 of the Administrative Code.

(4) The monitoring organization shall ensure that the practitioner or applicant has entered into an agreement with an approved continuing care provider if continuing care is recommended by the treatment provider. If continuing care is recommended, the monitoring organization shall confirm that the practitioner or applicant completes continuing care sessions in accordance with the recommendation until released by the continuing care provider and the medical director or designee of the monitoring organization.

(E) In order to continue participation in the confidential monitoring program, after successful completion of any recommended treatment, the practitioner or applicant shall enter into an agreement with the monitoring organization. The agreement may include the following provisions:

(1) Random toxicology testing, if applicable;

(2) Attendance at drug and alcohol support group meetings (e.g., alcoholics anonymous or narcotics anonymous) or other support group, as directed by the monitoring organization, if applicable;

(3) Treatment and therapy plan;

(4) Continuing care participation, if applicable;

(5) Case management;

(6) Duration of monitoring. Relapses and other failure to comply with terms of the agreement may result in a longer period of monitoring;

(7) Releases for information or records related to the practitioner's impairment, including but not limited to family, peers, health care personnel, employers, and treatment providers;

(8) Grounds for dismissal from participation in the confidential monitoring program for failure to comply with program requirements. An individual who chooses not to continue in the confidential monitoring program shall be referred to the board for further investigation or disciplinary action; and

(9) Any required fees associated with participation in the confidential monitoring program, including but not limited to fees for toxicology testing.

(F) The practitioner or applicant shall be released from monitoring by the medical director or designee of the monitoring organization upon successful completion of monitoring.

(G) The board shall develop guidelines in collaboration with the monitoring organization for the reporting of non-compliance with conditions of the confidential monitoring program. Non-

compliance shall be reported to the board by the practitioner or applicant and the medical director of the monitoring organization.

Ohio Administrative Code

Rule 4731-16-18 Eligibility for one-bite program.

~~(A) An individual who holds a license issued by the board to practice as a physician, massage therapist, cosmetic therapist, physician assistant, anesthesiologist assistant, radiology assistant, acupuncturist, oriental medicine practitioner, genetic counselor, dietitian, or respiratory care therapist shall be eligible for the one bite program if all the following requirements are met:~~

~~(1) The licensee has been diagnosed with substance use disorder and is impaired in ability to practice in accordance with acceptable and prevailing standards of care.~~

~~(2) The licensee has not previously participated in the one bite program or the reporting exemption under Chapter 4731-15 of the Administrative Code;~~

~~(3) The licensee has not had any prior disciplinary action for substance use disorder or impairment by a licensing board in Ohio.~~

~~(B) A licensee who fails to complete the program requirements of the one bite program shall not be eligible for continued participation.~~

~~(C) A licensee who relapses, as that term is defined in rule 4731-16-01 of the Administrative Code, shall not be eligible for continued participation in the one bite program.~~

~~(D) Participation in the one bite program does not exempt a licensee from being reported for or subject to discipline under any other violation of the boards statutes and rules.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-19 Monitoring organization for one-bite program.

~~(A) The board shall enter into a contract with a monitoring organization to monitor licensees participating in the one bite program. The monitoring organization shall meet the following criteria:~~

~~(1) The monitoring organization shall meet the requirements of section 4731.251 of the Revised Code.~~

~~(2) The monitoring organization shall provide licensees with a list of treatment providers approved for the one bite program for the evaluation pursuant to rule 4731-16-05 of the Administrative Code.~~

~~(3) The medical director of the monitoring organization shall, along with the medical director of the treatment provider, review and determine whether a licensee is able to practice according to acceptable and prevailing standards of care.~~

~~(4) The medical director of the monitoring organization shall, along with the continuing care provider, review and determine whether a licensee is eligible for release from continuing care.~~

~~(5) The monitoring organization shall enter into monitoring agreements with licensees participating in the one bite program.~~

~~(6) At the request of the board, the medical director of the monitoring organization, or his or her designee, shall provide testimony in any disciplinary proceeding involving a licensee reported to the board by the monitoring organization~~

~~(B) The agreements between the monitoring organization and licensee shall establish the monitoring terms for at least five years.~~

~~(1) The agreement shall provide that the licensee is required to participate in random observed toxicology screenings of biological materials, including but not limited to blood, urine, hair, saliva,~~

~~breath, or fingernail samples for drugs or alcohol no less than two times per month.~~

~~(2) The agreement shall provide that the licensee shall attend drug and alcohol support group meetings — (e.g. alcoholics anonymous or narcotics anonymous) as directed by the monitoring organization with a minimum of ten meetings per month.~~

~~(C) The medical director of the monitoring organization shall review each licensee and make a determination as to whether the licensee is released from monitoring.~~

~~(D) The monitoring organization shall, within seventy two hours, report to the board any licensee who fails to comply with the monitoring agreement in accordance with the non-compliance guidelines established by the board and the monitoring organization.~~

~~(E) The monitoring organization shall, within seventy two hours, report any relapse as defined in paragraph (B) of rule 4731-16-01 of the Administrative Code to the board.~~

~~(F) The monitoring organization shall provide the following reports to the board on a quarterly basis:~~

~~(1) The number and type of licensees referred to the monitoring organization;~~

~~(2) The number and type of licensees under agreement with the monitoring organization;~~

~~(3) The number and type of licensees referred to the board;~~

~~(4) The number and type of licensees who successfully complete the monitoring agreement.~~

~~(5) Information regarding the treatment providers, the type of treatment and length of treatment for licensees in the one bite program;~~

~~(6) Information regarding source of referrals;~~

~~(7) Other reports as agreed between the board and the monitoring organization.~~

~~(G) The monitoring organization, in consultation with the board, shall provide education to the licensees, treatment providers and continuing care providers regarding eligibility criteria for the one bite program and the boards statutes, rules and policies regarding impairment.~~

~~(H) The monitoring organization shall, within seventy two hours, report to the board any failure to complete treatment or continuing care.~~

## **PROPOSED NEW RULE 7.28.23**

Ohio Administrative Code

### Rule 4731-16-19 Monitoring organization for confidential monitoring program.

(A) The board shall enter into a contract with a monitoring organization to monitor applicants and practitioners participating in the confidential monitoring program.

(1) The monitoring organization shall provide practitioners and applicants with a list of treatment providers approved to provide evaluations and treatment for the confidential monitoring program.

(2) The medical director or designee of the monitoring organization shall, along with the medical director of the treatment provider, review and determine whether an individual is able to practice according to acceptable and prevailing standards of care.

(3) The medical director or designee of the monitoring organization shall, along with the continuing care provider, review and determine whether an individual is eligible for release from continuing care, if applicable.

(4) At the request of the board, the medical director of the monitoring organization, or designee, shall provide testimony in any disciplinary proceeding involving a practitioner or applicant reported to the board by the monitoring organization

(B) The agreements between the monitoring organization and practitioner or applicant shall establish the monitoring terms, including the minimum duration and the events which could lead to a longer duration.

(C) The medical director or designee of the monitoring organization shall review each individual and make a determination as to whether the individual is released from monitoring.

(D) The monitoring organization shall, within seventy-two hours, report to the board any of the following:

(1) Any practitioner or applicant referred to the confidential monitoring program who was found to be impaired and ineligible to participate in the program;

(2) Any practitioner or applicant who fails to attend an evaluation recommended by the monitoring organization;

(3) Any practitioner or applicant found to be impaired who fails to enter or complete treatment as recommended by the treatment provider and the monitoring organization;

(4) Any practitioner or applicant found to be impaired who fails to enter or complete continuing care as recommended by the treatment provider and the monitoring organization;

(5) Any practitioner or applicant found to be impaired who fails to enter into a monitoring agreement as recommended by the monitoring organization;

(6) Any practitioner or applicant who fails to comply with a monitoring agreement and that failure results in an imminent risk of harm to the public or the practitioner;

(7) Any practitioner or applicant who presents an imminent danger to the public or the practitioner, as a result of the practitioner's or applicant's impairment; and

(8) Any practitioner or applicant whose impairment has not been substantially alleviated by participation in the program.

(E) The monitoring organization shall provide annual and quarterly reports to the board regarding the confidential monitoring program.

(F) The monitoring organization, in consultation with the board, shall provide education to the practitioners, applicants, evaluators, treatment providers and continuing care providers regarding eligibility criteria for the confidential monitoring program and the boards statutes, rules and policies regarding impairment.

(G) The monitoring organization shall notify the board of any individual who returns to work prior to obtaining the release from the treatment provider and the monitoring organization medical director or designee.

(H) The monitoring organization shall notify the board of any individual who does not successfully complete the prescribed treatment.



**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-20 Treatment providers in the one-bite program.

~~(A) Criteria for approval of treatment providers for individuals qualifying for the one-bite program shall include all of the following:~~

~~(1) Meet all requirements for treatment providers in rule 4731-16-08 of the Administrative Code.~~

~~(2) Medical director is a board-certified addictionologist or board-certified addiction psychiatrist and is experienced in diagnosing and treating physicians and other health care practitioners with substance use disorders;~~

~~(a) The medical director shall oversee the initial assessment and diagnosis, ongoing treatment processes, including medications, treatment planning and discharge planning.~~

~~(b) The medical director shall have knowledge and experience with prescribing medications specifically indicated for use in patients with substance use disorders and with medications to be avoided for patients with substance use disorders.~~

~~(c) The medical director shall have specific training and knowledge regarding the interpretation of the results of toxicology screening for drugs and alcohol.~~

~~(3) A board-certified psychiatrist is available to evaluate and provide treatment for co-occurring mental health conditions.~~

~~(4) Group therapy is supervised by one of the following masters level or higher qualified behavioral healthcare providers:~~

~~(a) Board certified addictionologist, board certified addiction psychiatrist, or psychiatrist licensed under Chapter 4731. of the Revised Code;~~

~~(b) Licensed independent chemical dependency counselor-clinical supervisor, licensed independent chemical dependency counselor, licensed chemical dependency counselor III, or licensed chemical dependency counselor II licensed under Chapter 4758. of the Revised Code;~~

~~(c) Professional clinical counselor, licensed professional counselor, licensed independent social worker, licensed social worker, or marriage and family therapist licensed under Chapter 4757. of the Revised Code;~~

~~(d) Advanced practice registered nurse, licensed as a clinical nurse specialist under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health clinical nurse specialist issued by the American nurses credentialing center;~~

~~(e) Advanced practice registered nurse, licensed as a nurse practitioner under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health nurse practitioner issued by the American nurses credentialing center;~~

~~(f) Psychologist, as defined in division (A) of section 4732.01 of the Revised Code, licensed under Chapter 4732. of the Revised Code; or~~

~~(g) Advanced practice registered nurse licensed under Chapter 4723. of the Revised Code, who holds subspecialty certification as a certified addiction registered nurse advanced practice issued by the addictions nursing certification board.~~

~~(5) Training regarding the eligibility for the one bite program shall be provided to all staff on a quarterly basis.~~

~~(6) Training regarding the boards statutes, rules and policies regarding impairment and reporting violations shall be provided to all staff on a quarterly basis.~~

~~(7) The treatment provider shall be capable of completing evaluations pursuant to rule 4731-16-05 of the Administrative Code.~~

~~(8) The treatment provider provides abstinence based education and treatment for all types of~~

~~substance use disorders.~~

~~(9) The treatment provider provides one or more of the following levels of patient care: medical detoxification; inpatient or residential treatment; extended residential treatment; partial hospitalization, intensive outpatient treatment, continuing care or others as necessary.~~

~~(10) The treatment provider has the ability to provide extended residential care for patients who require continued treatment of substance use disorders.~~

~~(B) The medical director of the treatment provider shall perform an evaluation pursuant to rule 4731-16-05 of the Administrative Code to determine the degree of impairment of the licensee and shall develop an individualized treatment plan. The individualized treatment plan may include a combination of in-patient, residential, partial hospitalization and intensive outpatient treatment.~~

~~(1) The treatment provider shall require the licensee to immediately suspend practice upon entering into treatment (upon determination of impairment) and not return to practice for at least thirty days. Clearance from the treatment provider medical director and monitoring organization medical director are required for return to practice.~~

~~(2) The treatment provider shall notify the monitoring organization of the determination of impairment and the treatment plan.~~

~~(3) The treatment plan shall include, at least once per week, group therapy with other patients who work in similar disciplines as the licensee or other professionals.~~

~~(4) The treatment plan shall include education regarding the medical boards statutes, rules and policies with respect to impairment.~~

~~(5) The treatment plan shall include education and group therapy to assist the patient to transition back to work.~~

~~(C) The treatment provider shall report instances of violations of this chapter to the monitoring organization and the board.~~

~~(D) The treatment provider shall complete and maintain records for each licensee seen for evaluation or treatment under the one bite program in accordance with paragraph (C) of rule 4731-16-07 of the Administrative Code.~~

~~(E) Each quarter, the treatment provider shall provide to the monitoring organization and the board the following records regarding licensees seen for evaluation or treatment under the one bite program:~~

~~(1) Number of licensees referred for evaluation (including self referrals);~~

~~(2) Number of licensees evaluated;~~

~~(3) Number of licensees determined to be eligible for one bite program;~~

~~(4) Number of referral sources by category (e.g., self referrals, board referrals, medical society referrals, referrals by colleagues);~~

~~(5) Number of licensee evaluations which resulted in treatment recommendations for substance use disorder;~~

~~(6) Number of licensees treated based on the treatment providers own recommendations;~~

~~(7) Number of licensees treated based on transfer or referral from other treatment providers;~~

~~(8) Number of licensees who entered each phase of treatment;~~

~~(9) Number of licensees engaged in each phase of treatment;~~

~~(10) Number of licensees who successfully completed each phase of treatment;~~

~~(11) Number of licensees discharged from each phase of treatment other than upon successful completion, and the rationale for each such discharge;~~

~~(12) Number of licensee relapses identified during continuing care and following continuing care;~~

~~(13) Number and names of licensees reported to the board under this chapter of the Administrative Code.~~

~~(14) Number and identities of referral sources notified of the treatment providers inability to release information under federal law.~~

~~(F) The reports provided to the board shall not contain identifying information for the licensee participating in the one bite program.~~

**PROPOSED NEW RULE**

**7.28.23**

Ohio Administrative Code

Rule 4731-16-20 Evaluators and treatment providers in the confidential monitoring program.

(A) The evaluator or treatment provider shall perform an evaluation appropriate to the practitioner or applicant's condition to determine the degree of impairment of the practitioner or applicant and shall develop an individualized treatment plan. The individualized treatment plan may include a combination of in-patient, residential, partial hospitalization, intensive outpatient treatment, outpatient treatment, or other appropriate therapy or treatment appropriate to the practitioner or applicant's condition.

(B) The evaluator or treatment provider may recommend that the practitioner immediately suspend practice upon determination of impairment. Clearance from the treatment provider and monitoring organization medical director or designee are required for return to practice. Failure of the practitioner or applicant to follow the recommendation shall be reported to the board by the treatment provider and the monitoring organization.

(C) The evaluator or treatment provider shall notify the monitoring organization of the determination of impairment and the treatment plan.

(D) The treatment plan shall include group therapy with other patients who work in similar disciplines as the licensee or other professionals, as appropriate.

(E) The treatment plan shall include education regarding the medical boards statutes, rules, and policies with respect to impairment.

(F) The treatment plan may include education to assist the patient to transition back to work, if applicable.

## TO BE RESCINDED

Ohio Administrative Code

Rule 4731-16-21 Continuing care for one-bite program.

~~(A) In order to provide continuing care to a licensee in the one-bite program, a continuing care provider shall enter into a continuing care agreement with the licensee. The agreement term shall be established by the continuing care provider but may not be for less than six months.~~

~~(B) The continuing care provider shall be approved by the board.~~

~~(C) A continuing care provider shall provide therapy led by one of the following master's level or higher qualified behavioral healthcare providers:~~

~~(1) Board certified addictionologist, board certified addiction psychiatrist, or psychiatrist licensed under Chapter 4731. of the Revised Code;~~

~~(2) Licensed independent chemical dependency counselor clinical supervisor, licensed independent chemical dependency counselor, licensed chemical dependency counselor III, or licensed chemical dependency counselor II licensed under Chapter 4758. of the Revised Code;~~

~~(3) Professional clinical counselor, licensed professional counselor, licensed independent social worker, licensed social worker, or marriage and family therapist licensed under Chapter 4757. of the Revised Code;~~

~~(4) Advanced practice registered nurse, licensed as a clinical nurse specialist under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health clinical nurse specialist issued by the American nurses credentialing center;~~

~~(5) Advanced practice registered nurse, licensed as a nurse practitioner under Chapter 4723. of the Revised Code, who holds certification as a psychiatric mental health nurse practitioner issued by the American nurses credentialing center;~~

~~(6) Psychologist, as defined in division (A) of section 4732.01 of the Revised Code, licensed under Chapter 4732. of the Revised Code; or~~

~~(7) Advanced practice registered nurse licensed under Chapter 4723. of the Revised Code, who holds subspecialty certification as a certified addiction registered nurse advanced practice issued by the addictions nursing certification board.~~

~~(D) Continuing care meetings shall be held at least one time per week, with missed meetings made up.~~

~~(1) Continuing care meetings shall be at least one hour in duration.~~

~~(2) The continuing care provider shall provide status reports for each participating licensee to the monitoring organization no less than quarterly.~~

~~(E) The continuing care provider shall report to the monitoring organization no less than quarterly and shall provide the following documentation to the monitoring organization on a quarterly basis:~~

~~(1) The number and type of licensees entering into continuing care agreements;~~

~~(2) The number and type of licensees released by the continuing care program;~~

~~(3) The average length of the continuing care agreements; and~~

~~(4) The number and type of licensees who relapse.~~

~~(F) The continuing care provider shall report a licensee who relapsed to the board and the monitoring organization. The continuing care provider shall report to the board and the monitoring organization if the licensee fails to comply with the terms of the continuing care agreement.~~

~~(G) Release from continuing care must be reviewed and agreed upon by the medical director of the monitoring organization.~~



**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-28-01 Mental or physical impairment.

~~For the purposes of division (B)(4) of section 4730.25 of the Revised Code, division (B)(19) of section 4731.22 of the Revised Code, division (B)(5) of section 4760.13 of the Revised Code, division (B)(5) of section 4762.13 of the Revised Code, division (B)(5) of section 4774.13 of the Revised Code, and division (B)(5) of section 4778.14 of the Revised Code, the following definitions apply:~~

~~(A) "Mental illness" includes, but is not limited to, mental disorder; and~~

~~(B) "Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills", includes inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-28-02 Eligibility for confidential monitoring program.

~~There is hereby created a confidential monitoring program applicable to all individuals licensed under Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code who are determined to be eligible for the program pursuant to this rule. For purposes of the confidential monitoring program, the term "confidentiality statute" refers to division (F) of section 4730.26 of the Revised Code, division (F)(5) of section 4731.22 of the Revised Code, division (B)(5) of section 4759.05 of the Revised Code, division (E) of section 4760.14 of the Revised Code, division (E) of section 4761.03 of the Revised Code, division (E) of section 4762.14 of the Revised Code, division (E) of section 4774.14 of the Revised Code, or division (E) of section 4778.18 of the Revised Code, as applicable to the individual.~~

~~(A) Under the board's investigative duties pursuant to section 4730.26, 4731.22, 4759.05, 4760.14, 4761.03, 4762.14, 4774. 14, or 4778.18 of the Revised Code, as applicable to the individual, and subject to the applicable confidentiality statute, the secretary and supervising member of the board may determine that an individual who is the subject of an investigation by the board concerning a mental or physical illness, other than a substance use disorder or chemical abuse/dependency, is appropriate for ongoing investigative observation and monitoring rather than formal disciplinary action. Upon such determination, the board may conduct such observation and monitoring through the individual's participation in a confidential monitoring program overseen by the secretary and supervising member of the board under the board's investigative duties and subject to the applicable confidentiality statute.~~

~~(B) In making their determination of an individual's eligibility for participation in the confidential monitoring program, the secretary and supervising member of the board shall use the following criteria:~~

~~(1) The board may conduct any investigation necessary to evaluate the totality of circumstances, including requiring the individual to submit to a physical or mental examination under the applicable chapter of the Revised Code;~~

~~(2) The individual must provide continuing authorization, through appropriate written consent forms, for the disclosure and release of information between the board, the individual, and any other persons or entities involved in the evaluation, treatment, or monitoring of the individual that is necessary for them to fulfill their respective duties and obligations. This includes, but is not limited to, the exchange of information to and from employers, probation officers, law enforcement agencies, peer assistance programs, health care practitioners, mental health counsellors, social workers, or any other individuals or entities the board determines may have relevant information.~~

~~(3) If the individual has not yet undertaken appropriate treatment, monitoring, or supervision related to the mental or physical condition, the information received must demonstrate that the individual is willing to commence such appropriate treatment, monitoring, or supervision;~~

~~(4) If the individual has commenced treatment for the mental or physical illness, the information received must demonstrate that the individual has been significantly compliant with the treatment plan established, including taking all medications as prescribed;~~

~~(5) If the individual was previously a participant in the monitoring program, the individual must have demonstrated full compliance with all program requirements. Any individual who was previously disqualified from participation in the monitoring program shall be ineligible for future participation in the program;~~

~~(6) If the individual was previously the subject of formal public disciplinary action by this board, such action must have been based solely on a violation of division (B)(4) of section 4730.25 of the Revised Code, division (B)(19) of section 4731.22 of the Revised Code, division (A)(14) of section 4759.07 of the Revised Code, division (B)(5) of section 4760.13 of the Revised Code, division (A)(14) of section 4761.09 of the Revised Code, division (B)(5) of section 4762.13 of the Revised Code, division (B)(5) of section 4774.13 of the Revised Code, or division (B)(5) of section 4778.14 of the Revised Code, as applicable to the individual, for which the individual subsequently was released from probation without restriction. Any individual who has been issued a notice of opportunity for hearing that remains pending for final adjudication by the board is not eligible for participation in the monitoring program regardless of the basis of the violation alleged in the notice;~~

~~(7) If the individual was previously the subject of confidential monitoring, public monitoring, non-disciplinary monitoring, or formal disciplinary action by or in association with an agency responsible for authorizing, certifying, or regulating the individual to practice a health care occupation in this state or any other jurisdiction, such action must have been based solely on the individual's mental or physical illness;~~

~~(8) No information available to the board about the individual, either concerning past or current allegations or conduct, implicates a possible sexual boundary issue regardless of whether such issue involved patients or non-patients and regardless of whether such issue was caused by or related to the individual's mental or physical illness;~~

~~(9) No information available to the board about the individual, either concerning past or current allegations or conduct, implicates an act of violence against property or persons or threat of violence against property or persons, even if the board is unable to conclusively confirm the credibility of such allegations;~~

~~(10) No information available to the board about the individual, either concerning past or current allegations or conduct, and regardless of whether caused by or related to the individual's mental or physical illness:~~

~~(a) Demonstrates that the individual has been convicted of a felony or misdemeanor, including but not limited to operating a vehicle under the influence or reckless operation, at any time;~~

~~(b) Indicates that the individual has felony or misdemeanor charges, including but not limited to operating a vehicle under the influence or reckless operation, currently pending; and/or~~

~~(c) Implicates a possible criminal issue, regardless of whether formal misdemeanor or felony charges were pursued or are anticipated in the future;~~

~~(11) There is no information indicating that the individual is in violation of any provision of the chapter of the Revised Code under which the individual was licensed other than division (B)(4) of section 4730.25 of the Revised Code, division (B)(19) of section 4731.22 of the Revised Code, division (A)(14) of section 4759.07 of the Revised Code, division (B)(5) of section 4760.13 of the~~

~~Revised Code, division (A)(14) of section 4761.09 of the Revised Code, division (B)(5) of section 4762.13 of the Revised Code, division (B)(5) of section 4774.13 of the Revised Code, or division (B)(5) of section 4778.14 of the Revised Code, as applicable to the individual; and~~

~~(12) There is no information indicating that allowing the individual to participate in confidential monitoring will create a significant risk of potential harm to patients.~~

**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-28-03 Participation in the confidential monitoring program.

~~(A) Individuals determined to be eligible for participation in the confidential monitoring program established under rule 4731-28-02 of the Administrative Code shall enter into a written participation agreement with the board.~~

~~(1) The participation agreement is a non-disciplinary, voluntary, written contract between the individual and the board. The participation agreement shall remain confidential pursuant to the applicable confidentiality statute, as that term is defined in rule 4731-28-02 of the Administrative Code, provided that the individual remains in compliance with the participation agreement and that the board does not otherwise subsequently pursue formal disciplinary proceedings against the individual pursuant to any alleged violation of Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code, as applicable to the individual.~~

~~(2) The participation agreement shall be negotiated under the direction of the secretary and supervising member of the board by an appropriate board staff attorney. The participation agreement shall be signed by the individual; the individual's attorney, if any; the secretary of the board; the supervising member of the board; and the appropriate board staff attorney.~~

~~(3) The individual's ongoing compliance with the participation agreement shall be monitored by appropriate board staff under the direction of the secretary and supervising member of the board.~~

~~(B) The participation agreement shall require, at a minimum, the following terms and conditions:~~

~~(1) Stipulation of the individual's mental or physical illness;~~

~~(2) The individual must provide continuing authorization, through appropriate written consent forms, for the disclosure and release of information between the board, the individual, and any other persons or entities involved in the evaluation, treatment, or monitoring of the individual that is necessary for them to fulfill their respective duties and obligations. This includes, but is not limited to, the~~

~~exchange of information to and from employers, probation officers, law enforcement agencies, peer assistance programs, health care practitioners, mental health counsellors, social workers, or any other individuals or entities the board determines may have relevant information;~~

~~(3) A requirement that the individual will undertake and/or maintain continued treatment acceptable to the secretary and supervising member of the board pertaining to the individual's mental or physical illness;~~

~~(4) Agreement that if the secretary and supervising member of the board, based on information received by the board, determine that the individual has a current inability to practice in accordance with acceptable and prevailing standards of care, the individual will voluntarily cease practicing until approved to resume practice by the secretary and supervising member of the board;~~

~~(5) A requirement that the individual is responsible for all costs associated with participation in the confidential monitoring plan;~~

~~(6) Obedience of all federal, state, and local laws, and all rules governing practice in Ohio;~~

~~(7) Submission of quarterly declarations under penalty of perjury stating whether there has been compliance with all conditions of the participation agreement;~~

~~(8) Periodic appearances, as requested, before the secretary or supervising member of the board or their designated board staff representative;~~

~~(9) Submission of witnessed blood, urine, breath, saliva and/or hair specimens for screening for analysis of therapeutic levels of medications that may be prescribed to the individual, drugs and alcohol, or for any other purpose, at the individual's expense upon the board's request and without prior notice;~~

~~(10) Acknowledgement and consent of the individual that the confidentiality of the agreement is waived in the event the board subsequently pursues formal disciplinary proceedings against the individual pursuant to any alleged violation of Chapter 4730., 4731., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code, as applicable to the individual;~~

~~(11) A requirement that the individual agree to ongoing monitoring for a minimum period of time appropriate for the individual's particular mental or physical illness, as follows:~~

~~(a) For any mental or physical illness associated with a significant degenerative/progressive condition, including but not limited to Parkinsons disease, multiple sclerosis, primary dementia, schizophrenia, or mild cognitive impairment, ongoing monitoring shall be required for as long as the individual retains any current or possible future right to practice.~~

~~(b) For all other mental or physical illnesses, the appropriate length of monitoring shall be determined by the secretary and supervising member of the board but shall be for a period of not less than two years.~~

~~(c) Agreement of the individual that the participation agreement shall remain in full force and effect until such time that the secretary and supervising member of the board determine that termination of the participation agreement is appropriate.~~

~~(d) Acknowledgement pertaining to the applicable disclosure requirements.~~

~~(C) This rule shall neither apply to nor limit the authority granted the board under division (M) of section 4730.25 of the Revised Code, division (M) of section 4731.22 of the Revised Code, division (M) of section 4759.07 of the Revised Code, division (M) of section 4760.13 of the Revised Code, division (L) of section 4761.09 of the Revised Code, division (M) of section 4762.13 of the Revised Code, division (M) of section 4774.13 of the Revised Code, or division (M) of section 4778.14 of the Revised Code with regard to the surrender of a license or certificate or the withdrawal of an application for a license or certificate.~~



**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-28-04 Disqualification from continued participation in the confidential monitoring program.

~~Disqualification from continued participation in the confidential monitoring program established under rule 4731-28-02 of the Administrative Code shall be determined as follows:~~

~~(A) Any alleged violation of the participation agreement, as determined in the sole discretion of the secretary and supervising member of the board, shall constitute grounds for the board to pursue formal disciplinary action against the individual pursuant to section 4730.25, 4731.22, 4759.07, 4760.13, 4761.09, 4762.13, 4774.13, or 4778.14 of the Revised Code, as applicable to the individual. The disciplinary action shall be in accordance with Chapter 119. of the Revised Code.~~

~~(B) If for any reason the secretary and supervising member of the board, in their sole discretion, determine that an individuals participation in the confidential monitoring program is no longer appropriate, they may terminate the participation agreement by notifying the individual in writing. Such termination shall not limit the authority granted the board to take any other action with regard to the individual or the individuals certificate to practice.~~

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**TO BE RESCINDED**

**7.28.23**

Ohio Administrative Code

Rule 4731-28-05 Termination of the participation agreement for the confidential monitoring program.

~~(A) Upon completion of at least the minimum monitoring term specified in the participation agreement for the confidential monitoring program established in rule 4731-28-02 of the Administrative Code, the individual may submit a written request to the secretary and supervising member of the board requesting termination of the participation agreement. Such request must be accompanied by written documentation from the treating physician overseeing coordination of care for the individual's mental or physical illness indicating whether all of the following criteria are met:~~

~~(1) The individual's condition is currently stable;~~

~~(2) The individual's condition is reasonably expected to remain stable contingent upon the individual maintaining compliance with the treatment plan; and~~

~~(3) The treating physician supports the individual's request for termination of the participation agreement.~~

~~(B) The secretary and supervising member of the board shall review the individual's request for termination of the participation agreement and reach a determination as to whether such termination is appropriate. In making such determination, they shall consider all of the following criteria:~~

~~(1) Whether the individual has demonstrated substantial compliance with the participation agreement during the monitoring period;~~

~~(2) The documentation provided by the individual's treating physician related to the termination request;~~

~~(3) Whether additional investigation is necessary, including but not limited to requiring the individual to submit to a board-ordered physical examination and/or mental examination; and~~

~~(4) Any other relevant investigative information concerning the individual.~~

~~(C) The determination of the secretary and supervising member of the board shall be implemented as follows:~~

~~(1) If the secretary and supervising member of the board determine that termination of the participation agreement is appropriate, they shall direct appropriate staff to notify the individual in writing that the request for termination of the participation agreement has been granted. Such termination shall constitute successful completion of the monitoring program by the individual.~~

~~(2) If the secretary and supervising member determine that termination of the participation agreement is not appropriate, they shall direct appropriate staff to notify the individual in writing that the request for termination of the participation agreement has been declined. An individual whose request for termination is declined shall continue to be monitored by the board pursuant to the participation agreement for at least an additional six months before being eligible to submit a subsequent request for termination.~~



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**SMBO Legislative Update:  
August 2023**

**Recent activity:**

## Actively Monitoring

### SB 28 – Physician Assistant (Sen. Kristina Roegner)

To enter into the Physician Assistant Licensure Compact

#### Of note:

- Allows participating states to grant compact privileges to a holder of a qualifying license
- Allows a participating state to charge a fee for granting compact privilege
- Licensee must be 2 years removed from any limitation or restriction on a license or compact privilege due to an adverse action
- Compact goes into effect after 7 states join

**Status:** Introduced 1/23/2023. Referred to Senate Health Committee 2/8/2023. 1<sup>st</sup> Hearing Senate Health Committee 3/1/2023. 2<sup>nd</sup> Hearing Senate Health Committee 3/8/2023. 3<sup>rd</sup> Hearing Senate Health Committee 3/15/2023. 4<sup>th</sup> Hearing Senate Health Committee 5/24/2023. 5<sup>th</sup> Hearing Senate Health Committee 6/14/2023. REPORTED OUT Senate Health Committee 6/14/2023. PASSED Senate Floor 6/21/2023. Referred to House Health Provider Services Committee 6/26/2023.

### SB 56 – Interstate Massage Compact (Sen. Kristina Roegner)

To enter into the Interstate Massage Compact (Impact).

#### Of note:

- “Driver’s License” Model: After verifying eligibility, the massage therapist is granted a multistate license which authorizes practice in all other compact member states. The massage therapist must maintain their “home state” license in good standing
- Member States must require continued competency as a condition of license renewal
- Applicant must have completed 625 hours clock hours of Massage Therapy education to qualify for a multistate license under the compact

**Status:** Introduced 2/14/2023. Referred to Senate Health Committee 2/22/2023. 1<sup>st</sup> Hearing Senate Health Committee 3/22/2023. 2<sup>nd</sup> Hearing Senate Health Committee 3/29/2023. 3<sup>rd</sup> Hearing Senate Health Committee 4/19/2023. 4<sup>th</sup> Hearing Senate Health Committee 5/24/2023.

### SB 60 – Mental Health Assistants (Sen. Gavarone) (Companion HB 97)

To license certified mental health assistants

#### Of note:

- Defines “Certified Mental Health Assistant” as an individual who, under physician supervision, provides mental health care by engaging in any of the activities authorized in the bill
- Only practice under a supervision agreement with a supervising physician. Diagnose and provide treatment based on patient’s diagnosis. Order, prescribe, personally furnish drugs. Refer patient for voluntary or involuntary admission for substance abuse disorder treatment or inpatient psychiatric care.

- CMHA may only prescribe the following controlled substances: Buprenorphine only for a patient actively engaged in opioid use disorder treatment. Benzodiazepine in the following circumstances – a patient diagnosed as having a chronic anxiety disorder or a patient with acute anxiety or agitation but only in an amount for 7 days. Stimulant approved by the FDA for treatment of ADHD
- SMBO rule making authority for: Standards and procedures for issuing and renewing licenses to practice, Application fees for initial license and renewed license, Application process, fees, requirements for approval, reapproval, and curriculum standards for education programs

**Status:** Introduced 2/16/2023. Referred to Senate Workforce & Higher Education Committee 2/22/2023. 1<sup>st</sup> Hearing in Senate Workforce & Higher Education Committee 3/1/2023. 2<sup>nd</sup> Hearing Senate Workforce & Higher Education 3/15/2023. 3<sup>rd</sup> Hearing Senate Workforce & Higher Education 5/31/2023.

### **HB 97 – Mental Health Assistants (Rep. Pavliga) (Companion SB 60)**

To license certified mental health assistants

#### **Of note:**

- Defines “Certified Mental Health Assistant” as an individual who, under physician supervision, provides mental health care by engaging in any of the activities authorized in the bill
- Only practice under a supervision agreement with a supervising physician. Diagnose and provide treatment based on patient’s diagnosis. Order, prescribe, personally furnish drugs. Refer patient for voluntary or involuntary admission for substance abuse disorder treatment or inpatient psychiatric care.
- CMHA may only prescribe the following controlled substances: Buprenorphine only for a patient actively engaged in opioid use disorder treatment. Benzodiazepine in the following circumstances – a patient diagnosed as having a chronic anxiety disorder or a patient with acute anxiety or agitation but only in an amount for 7 days. Stimulant approved by the FDA for treatment of ADHD
- SMBO rule making authority for: Standards and procedures for issuing and renewing licenses to practice, Application fees for initial license and renewed license, Application process, fees, requirements for approval, reapproval, and curriculum standards for education programs

**Status:** Introduced 3/7/2023. Referred to House Health Provider Services 3/14/2023. 1<sup>st</sup> Hearing House Health Provider Services 5/23/2023. 2<sup>nd</sup> Hearing House Health Provider Services 6/20/2023.

### **SB 9- Medical Marijuana (Sen. S. Huffman & Sen. Kirk Schuring)**

To amend the law related to medical marijuana

#### **Of Note:**

- Creates the Division of Marijuana Control with the Department of Commerce for the purpose of overseeing Ohio’s Medical Marijuana Program
- Expands the qualifying medical conditions to include – Arthritis, Migraines, Autism spectrum disorder, Spasticity or chronic muscle spasms, Hospice care or terminal illness, Opioid use disorder and any condition not specified that a recommending

physician is qualified to treat and considers as debilitating to the patient as the conditions listed

- Allows the medical director of a dispensary to hold a CTR
- Allows SMBO to approve a course of education for employees of a medical marijuana dispensary

**Status:** Introduced 1/11/2023. 1<sup>st</sup> Hearing Senate General Government 1/17/2023. 2<sup>nd</sup> Hearing Senate General Government 2/7/2023. 3<sup>rd</sup> Hearing Senate General Government 3/7/2023. 4<sup>th</sup> Hearing Senate General Government 3/14/2023. 5<sup>th</sup> Hearing Senate General Government 4/18/2023. 6<sup>th</sup> Hearing Senate General Government 5/10/2023. 7<sup>th</sup> Hearing Senate General Government 5/16/2023.

### **HB 73 – Prescriptions (Rep. J. Gross and Rep. M. Loychik)**

To authorize the prescribing of off-label drugs

#### **Of note:**

- Allows a prescriber to issue a prescription for any drug, including an off-label drug, with informed consent of the patient
- Does not require the prescriber to obtain a test result, positive screen for a particular disease, or for the patient to have been exposed to an illness before issuing the prescription
- Does not allow a health-related licensing board to discipline a prescriber for any action taken under this bill

**Status:** Introduced 2/27/2023. Referred to House Health Provider Services Committee 2/28/2023. 1<sup>st</sup> Hearing Health Provider Services 3/28/2023. 2<sup>nd</sup> Hearing House Health Provider Services 4/25/2023. 3<sup>rd</sup> Hearing House Health Provider Services 5/2/2023. 4<sup>th</sup> Hearing House Health Provider Services 6/13/2023. REPORTED OUT of House Health Providers Services 6/20/2023. PASSED House Floor 6/21/2023.

### **HB 89 - Health Examinations (Rep. B. Hillyer and Rep. M. Abdullahi)**

Regards intimate examinations and anesthetized or unconscious patients

#### **Of note:**

- Prohibits an APRN, PA, physician or student from performing or authorizing another individual to perform, a pelvic, prostate or rectal examination on an anesthetized or unconscious patient.
- Exemptions include – The performance of the intimate examination is within the scope of care for the surgical procedure or diagnostic exam to be performed
- The patient or patients representation gives specific, informed consent for the intimate exam
- An intimate exam is required for diagnostic purposes or treatment of the patient's medical condition
- A court orders the intimate exam for the purpose of collecting evidence

**Status:** Introduced 3/7/2023. Referred to House Public Health Policy Committee 3/14/2023. 1<sup>st</sup> House Public Health Policy Hearing 4/19/2023. 2<sup>nd</sup> House Public Health Policy Hearing 5/3/2023.

### **HB 102 – Respiratory Therapists (Rep. T. Young and Rep. M. John)**

To license advanced practice respiratory therapists and to amend the version of section 4761.01 of the Revised Code that is scheduled to take effect September 30, 2024, to continue the change on and after that date

#### **Of note:**

- Allows for an APRT licensed under 4761.31 to exercise physician-delegated prescriptive authority. Prohibits a prescription for a controlled substance to be used outside of the healthcare facility the APRT is practicing
- Defines “Health Care Facility” as a hospital, A site where a medical practice is operated and provides direct patient care, an entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals, and any other facility designated in rule by the state medical board
- Requires supervising physician to be physically present at the location where the APRT is practicing or be readily available to the APRT through telecommunication in a location reasonably close to where the APRT is practicing

**Status:** Introduced 3/14/2023. Referred to House Health Provider Services Committee 3/22/2023. 1<sup>st</sup> Hearing House Health Provider Services 5/2/2023. 2<sup>nd</sup> Hearing House Health Provider Services 6/6/2023.

### **SB 109 – Sex Offenses (Sen. Hackett)**

Regards sex offenses and individuals regulated by the State Medical Board

#### **Of note:**

- Increasing reporting requirements of suspected sexual activity by medical professionals; Allowing the board to suspend a license upon an indictment, as well as permitting an automatic 90 day suspension of a license of an individual whose license was suspended, revoked or surrendered in another jurisdiction; Requiring licensees to provide notification of their probationary status to their patients; Allowing the board to share the confidential investigation status of a licensee with the complainant; Adding a public member of the board to the internal investigatory process, to allow additional board insight into the handling of sexual misconduct

**Status:** Introduced 4/18/2023. Referred to Senate Judiciary Committee 4/19/2023. 1<sup>st</sup> Hearing Senate Judiciary 4/26/2023



## Closely Monitoring

### HB 80 – Pharmacist Care (Rep. S. Lipps)

Regards pharmacist care

#### Of note:

- Allows a pharmacist to conduct screenings and order lab tests and diagnostic tests and evaluate the results of the screenings, in order to treat: Influenza, COVID-19 and Group A streptococcus
- Allows a pharmacist to initiate drug therapy when treating one of the above health conditions

**Status:** Introduced 2/27/2023. Referred House Health Provider Services Committee 2/28/2023.

### HB 169 – Sun Lamp Tanning (Rep. B. Hillyer)

To prohibit the provision of sun lamp tanning services to individuals under age 18 and to make changes regarding the titles that may be used by physicians

#### Of note:

- Includes “Doctor of Medicine”, “Doctor of Osteopathy”, “surgeon”, and “dermatologist” to the titles that may be used by physicians.

**Status:** Introduced 5/9/2023. Referred to House Health Provider Services Committee 5/23/2023. 1<sup>st</sup> Hearing House Health Provider Services 6/6/2023. 2<sup>nd</sup> Hearing House Health Provider Services 6/27/2023.

## Operationalizing

### HB 33 – Operating Budget (Rep. Jay Edwards)

To make operating appropriations for the biennium beginning July 1, 2023, and ending June 30, 2025, to levy taxes, and to provide authorization and conditions for operation of state programs.

#### Of note:

- **Intravenous administration of ultrasound enhancing agents – sonographers**
  - Allows a sonographer to administer intravenously ultrasound enhancing agents if the sonographer meets certain requirements.
- **Legacy pain management study committee**
  - Establishes the Legacy Pain Management Study Committee to study and evaluate the care and treatment of patients suffering from chronic pain, in particular those who have been prescribed opioids for lengthy periods of time. The committee is to be made up of 4 members of the General Assembly, one representative of OMHAS, one representative of SMBO, one representative of PRX, one member representing patients, and one member representing prescribers.
  - Requires the committee to consider availability of and access to pain management specialists in Ohio and the challenges associated with tapering opioid doses.
  - Requires the committee to prepare and submit a report of the recommendations for legislation to address the care and treatment of legacy patients to the General Assembly by December 1, 2024.
- **Practice of acupuncture and herbal therapy**
  - Authorizes a licensed acupuncturist with a national certification in Chinese herbology or oriental medicine to practice herbal therapy; Eliminates supervisory requirements for newly licensed acupuncturists, including duties and reimbursement allowances for supervising physicians and chiropractors. This language is in regards to 2021 removal of the oriental medicine practitioners.
- **Practitioner impairment monitoring**
- Revises the law governing SMBO's confidential program for treating and monitoring impaired practitioners in the following ways:
  - Renames the program as the Confidential Monitoring Program, instead of One-Bite
  - Extends the program's treatment and monitoring services to practitioners who are or may be impaired and practitioners unable to practice because of mental or physician illness and specifies that impairment includes substance use disorder
  - Requires SMBO to notify the monitoring organization that is under contract to conduct the program of practitioner's potential impairment
  - Transfers to the monitoring organization SMBO's the authority to approve treatment providers
  - Requires the monitoring organization, as a condition of eligibility to conduct the program, to be a professional health program

- Requires the program to employ any licensed health care practitioners necessary for its operation, in place of the One-Bite Program's requirements to employ specified types of practitioners
- Modifies a condition of practitioner eligibility related to prior professional discipline, by instead prohibiting a practitioner from participating if still under terms of a consent agreement or SMBO order
- Eliminates the requirement that a practitioner suspend practice while participating in the program, instead requiring suspension only if the monitoring organization, evaluator, or treatment provider recommends it
- Authorizes SMBO to contract with the monitoring organization to assist SMBO in monitoring practitioners subject to formal disciplinary action.
- **Medical Board license holders-retired status**
  - Establishes a process by which practitioners licensed by SMBO may have their licenses placed on retired status. Requires SMBO to place a license on retired status if certain eligibility conditions are met. Prohibits the holder of a license placed on retired status from practicing under the license, but does allow the holder to continue to use any title authorized for the license. This language allows for a path of dignified retirement for a physician. The language also have built in safeguards to reactivate the license if the physician complies with the fitness to practice requirements in current law.
- **Criminal background checks under Interstate Medical Licensure Compact**
  - Clarifies that applicants under the existing Interstate Medical Licensure Compact are required to comply with Ohio's existing procedure for criminal records checks for licensees.
- **Subpoenas for patient record information**
  - Eliminates requirements that the supervising member of SMBO approve the issuance of subpoenas for patient record information and be involved in probable cause determinations related to such subpoenas, making the secretary of SMBO solely responsible for those requirements.
- **Time limit to issue adjudicative order**
  - Increases the time SMBO has to issue a final adjudicative order related to the summary suspension of a physician assistant's license to 75 days (from 60). This amendment will bring it into line with analogous language that concerns other license types.
- **Public address information for SMBO licensees**
  - Clarifies the public facing directory of licensees published by the medical board containing only the name and business address of the licensee. Also, specifies the address on file with the state medical board during a medical malpractice claim is the business address.
- **Prescribing for outpatient behavioral health – physician assistants**
  - Authorizes a physician assistant to prescribe schedule II controlled substances if the prescription is issued at the site of a behavioral health practice that does not otherwise qualify under current law as a site where physician assistants may prescribe those drugs. An earlier version of the budget included this language for APRN's, this is to align PA's with the APRN's.
- **Administrative Procedure Act adjudications**
- Does the following regarding agencies conducting an adjudication under the Administrative Procedure Act (APA), unless another law applies:

- (1) Authorizes additional document service methods through email, facsimile, or domestic commercial delivery service, and
- (2) allows for alternative methods to complete service if initial attempts fail, including using alternative addresses, before publishing notice in a newspaper of general circulation.
- Increases, from 15 to 60, the maximum number of days within which an agency generally must hold an administrative hearing after a party to an adjudication requests one.
- Requires certain notices and orders that must be served on a party in an APA adjudication to be provided to the party's attorney or other representative rather than requiring the notices be mailed as under current law.
- Specifies that an agency's rejection of an application for registration or renewal of a license is not effective until the 15th day after notice of the rejection is mailed to the licensee instead of prohibiting such an action from becoming effective 15 days before the notification mailing date as under current law

**Status:** Introduced 2/15/2023. PASSED House Floor 4/26/2023. Referred to Senate Finance Committee 5/3/2023. PASSED Senate Floor 6/15/2023. House refuses to Concur in Senate Amendments 6/21/2023. House and Senate Adopt Conference Report 6/30/2023. Signed by the Governor 7/3/2023. Effective Date: 10/1/2023.

### **SB 21 – Court Jurisdictions (Sen. Rob McColley & Sen. Michelle Reynolds)**

To generally change the venue in which appeal from an agency order is proper to the local court of common pleas.

#### **Of note:**

- Requires an appeal from an order issued by an administrative agency be made to the Franklin County Court of Common Pleas or the court of common pleas in the county in which the place of business of the licensee is located or the county in which the licensee is a resident
- Requires appeals from an administrative order by any party who is not a resident of Ohio must be to the Franklin County Court of Common Pleas.

**Status:** Introduced 1/11/2023. 1<sup>st</sup> Hearing Senate Judiciary 1/17/2023. 2<sup>nd</sup> Hearing Senate Judiciary 2/7/2023. 3<sup>rd</sup> Hearing Senate Judiciary 2/8/2023. 4<sup>th</sup> Hearing Senate Judiciary 2/15/2023. REPORTED OUT Senate Judiciary 2/15/2023. PASSED Senate Floor 2/22/2023 24-7. Referred in House Civil Justice Committee 2/28/2023. 1<sup>st</sup> Hearing House Civil Justice 3/7/2023. 2<sup>nd</sup> Hearing House Civil Justice 3/14/2023. 3<sup>rd</sup> Hearing House Civil Justice 3/21/2023. 4<sup>th</sup> Hearing House Civil Justice 5/16/2023. 5<sup>th</sup> Hearing House Civil Justice 5/23/2023. Passed House Civil Justice 5/23/2023 9-5. PASSED House Floor 6/14/2023 67-26. Senate Concurs in House Amendments 6/15/2023 24-7. Signed by the Governor 6/30/2023. Effective 9/28/2023.

### **SB 131 – Occupational Licensing (Reciprocity) (Sen. Roegner and Sen. McColley)**

To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

#### **Of note:**

- Requires automatic licensure of out of state applicants that meet certain criteria.
- Allows for the licensing authority to take disciplinary action against an applicant, deny an application and determine fitness to practice of an applicant.
- Amended – A person who holds a license issued through an interstate licensure compact to which Ohio is a party is not required to obtain a license through reciprocity
- Amended – Delays the bill's effective date to 270 days after the bill's effective date

**Status:** Introduced in the Senate 3/16/2021. 1<sup>st</sup> Senate Workforce & Higher Education hearing 5/19/2021. 2<sup>nd</sup> Senate Workforce & Higher Education hearing 5/26/2021. 3<sup>rd</sup> Senate Workforce & Higher Education hearing 3/22/2022. 4<sup>th</sup> Senate Workforce & Higher Education hearing 5/18/2022. 5<sup>th</sup> Senate Workforce & Higher Education hearing 5/25/2022. Reported out of Senate Workforce & Higher Education 5/25/2022. Passed the Senate 6/1/2022. Referred to House State & Local Government Committee. 1<sup>st</sup> House State & Local Government Committee Hearing 11/30/2022. 2<sup>nd</sup> House State & Local Government Committee Hearing 12/13/2022. Passed House State & Local Government Committee 12/14/2022. Passed House 12/14/2022. Senate Concurs in House Amendments 12/14/2022. Signed by Governor 1/2/2023.

### **HB 509 – Revise and streamline occupational regulations (Rep. John and Rep. Fowler Arthur)**

**Of Note:**

- Amended to include language changing massage therapy curriculum from 600 hours of specified course hours to 600 hours of instruction in massage therapy

**Status:** Passed out of the House 3/23/2022. Referred to Senate Workforce & Higher Education 3/29/2022. 1<sup>st</sup> Senate Workforce & Higher Education hearing 5/25/2022. 2<sup>nd</sup> Senate Workforce & Higher Education hearing 11/16/2022. 3<sup>rd</sup> Senate Workforce & Higher Education hearing 11/30/2022. 4<sup>th</sup> Senate Workforce & Higher Education hearing 12/7/2022. Passed Senate Workforce & Higher Education 12/7/2022. Passed Senate Floor 12/7/2022 29-0. House Concurs in Senate Amendments 12/14/2022. Signed by Governor 1/5/2023.

**Enacted but no operational changes needed**