

4723-2-01

**Definitions.**

(A) For purposes of Chapters 4723-1 to 4723-27 of the Administrative Code, and except as otherwise provided, the following definitions shall apply:

- (1) "Active duty service member" means any member of the armed forces of the United States performing active duty under title 10 of the United States Code.
- (2) "Armed forces" means the armed forces of the United States, including the army, navy, air force, marine corps, coast guard, or any reserve components of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; or the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.
- (3) "Applicant" means an individual who applies to the board for a license, temporary permit, or certificate, or renewal, reinstatement or reactivation of a license or certificate, to practice as:
  - (a) A registered nurse or licensed practical nurse;
  - ~~(b) A dialysis technician intern;~~
  - ~~(c)~~(b) A certified dialysis technician;
  - ~~(d)~~(c) A medication aide;
  - ~~(e)~~(d) A community health worker; ~~or~~
  - ~~(f)~~(e) An advanced practice registered nurse; or
  - (f) A doula.
- (4) "Service member" means any person who is serving in the armed forces.
- (5) "Merchant marine" includes the United States army transport service and the United States naval transport service.
- (6) "Veteran" means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been discharged under honorable conditions from the armed forces or who has been transferred to the reserve with evidence of satisfactory

service.

4723-2-02

**Processing applications from service members, veterans, or spouses of service members or veterans.**

- (A) The board shall include questions on all applications for licensure, certification, or biennial renewal of licensure or certification, that inquire as to whether the applicant is:
- (1) A service member;
  - (2) A veteran; or
  - (3) The spouse or surviving spouse of a service member or veteran.
- (B) If the applicant responds affirmatively to any of the questions discussed in paragraph (A) of this rule, the board shall:
- (1) Route the application to a board staff member who is responsible for monitoring the application and communicating with the applicant regarding the status of the application, including informing the applicant of any documentation needed for the board to process the application;
  - (2) Expedite the processing of the application, even if the application was received later in time than other applications that are pending processing;
  - (3) Provide information to applicants if the applicant or their spouse will be imminently deployed, regarding available fee and continuing education waivers, as discussed in rule 4723-2-03 of the Administrative Code;
  - (4) Request that the applicant submit documentation to the board demonstrating that the applicant is a service member, veteran, or spouse or surviving spouse of a service member or veteran; and
  - (5) Track, on an annual basis, the total number of applications submitted by service members, veterans, or spouses or surviving spouses of service members or veterans, and the average number of business days expended by the board to process those applications.
- (C) For purposes of paragraph (B)(4) of this rule, acceptable forms of documentation include:
- (1) A copy of a document issued by the armed forces showing the applicant is a service member or veteran, or that the applicant's spouse was a service

member or veteran; and

- (2) If the applicant is a spouse or surviving spouse of a service member or veteran, a copy of a document showing that the applicant and the service member or veteran are spouses according to the law of any state or country.

4723-2-03

**Fee waivers available to service members, veterans, or spouses of service members or veterans.**

- (A) A licensed practical nurse or registered nurse, who submits a renewal application after September fifteenth or later, or whose license lapsed, due to the licensee's service in the armed forces, shall be eligible for renewal and reinstatement without payment of the late application fee required by division (A)~~(10)~~(9) of section 4723.08 of the Revised Code, and the reinstatement fee required by division (A)~~(15)~~(14) of section 4723.08 of the Revised Code, if the following are met:
- (1) The licensee presents the board with satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the licensee or certificate holder was honorably discharged or separated under honorable conditions;
  - (2) The licensee is not suffering a mental or physical impairment that may affect the individual's ability to provide safe care; and
  - (3) The licensee meets the requirements for license or certificate renewal required by section 4723.24 of the Revised Code.
- (B) A licensed practical nurse or registered nurse, who submits a renewal application after September fifteenth or later, or whose license lapsed, due to the licensee's spouse's service in the armed forces, shall be eligible for renewal and reinstatement without payment of the late application fee required by division (A)(10) of section 4723.08 of the Revised Code, and the reinstatement fee required by division (A)(15) of section 4723.08 of the Revised Code, if the following are met:
- (1) The licensee presents the board with satisfactory evidence that the licensee did not renew their license because their spouse's military service caused them to be absent from the state of Ohio;
  - (2) The licensee presents the board satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the licensee's spouse was honorably discharged or separated under honorable conditions; and
  - (3) The licensee meets the requirements for license renewal required by section 4723.24 of the Revised Code.
- (C) An advanced practice registered nurse who submits a renewal application after September fifteenth or later, or whose license lapsed, due to the licensee's service in the armed forces, shall be eligible for renewal and reinstatement without payment

of the late application fee required by division (A)~~(10)~~(9) of section 4723.08 of the Revised Code, and the reinstatement fee required by division (A)~~(15)~~(14) of section 4723.08 of the Revised Code, if the following are met:

- (1) The licensee presents the board with satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the licensee was honorably discharged or separated under honorable conditions;
  - (2) The licensee is not suffering a mental or physical impairment that may affect the individual's ability to provide safe care; and
  - (3) The licensee meets the requirements for license renewal required by section 4723.42 of the Revised Code.
- (D) An advanced practice registered nurse, who submits a renewal application after September fifteenth or later, or whose license lapsed, due to the licensee's spouse's service in the armed forces, shall be eligible for renewal and reinstatement without payment of the late application fee required by division (A)~~(10)~~(9) of section 4723.08 of the Revised Code, and the reinstatement fee required by division (A)~~(15)~~(14) of section 4723.08 of the Revised Code, if the following are met:
- (1) The licensee presents the board with satisfactory evidence that the licensee did not renew their certificate because their spouse's military service caused them to be absent from the state of Ohio;
  - (2) The licensee presents the board satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the licensee's spouse was honorably discharged or separated under honorable conditions; and
  - (3) The licensee meets the requirements for license renewal required by section 4723.42 of the Revised Code.
- (E) A dialysis technician certificate holder, who submits a renewal application on March first or later, or whose certificate lapsed, due to the holder's service in the armed forces, shall be eligible for renewal and reinstatement without payment of the late application fee required by division (A)(10) of section 4723.08 of the Revised Code, and the reinstatement fee required by division (A)(15) of section 4723.08 of the Revised Code, if the following are met:
- (1) The certificate holder presents the board with satisfactory evidence that, not

more than six months prior to the date the evidence is submitted to the board, the certificate holder was honorably discharged or separated under honorable conditions;

- (2) The certificate holder is not suffering a mental or physical impairment that may affect the individual's ability to provide safe care; and
  - (3) The certificate holder meets the requirements for certificate renewal required by section 4723.77 of the Revised Code and rule 4723-23-05 of the Administrative Code.
- (F) A dialysis technician certificate holder, who submits a renewal application on March first or later, or whose certificate lapsed, due to the holder's spouse's service in the armed forces, shall be eligible for renewal and reinstatement without payment of the late application fee required by division (A)~~(10)~~(9) of section 4723.08 of the Revised Code, and the reinstatement fee required by division (A)~~(15)~~(14) of section 4723.08 of the Revised Code, if the following are met:
- (1) The certificate holder presents the board with satisfactory evidence that the certificate holder did not renew their certificate because their spouse's military service caused them to be absent from the state of Ohio;
  - (2) The certificate holder presents the board satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the certificate holder's spouse was honorably discharged or separated under honorable conditions; and
  - (3) The certificate holder meets the requirements for license renewal required by section 4723.77 of the Revised Code and rule 4723-23-05 of the Administrative Code.
- (G) A community health worker certificate holder, who submits a renewal application on April first or later, or whose certificate lapsed due to the holder's service in the armed forces shall be eligible for renewal and reinstatement without payment of the late application fee required by paragraph (C) of rule 4723-26-04 of the Administrative Code ~~and division (A)(10) of section 4723.08 of the Revised Code,~~ and the reinstatement fee required by paragraph ~~(H)~~(E)(2) of rule 4723-26-04 of the Administrative Code and division (A)~~(15)~~(14) of section 4723.08 of the Revised Code if the following conditions are met:
- (1) The certificate holder presents the board with satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board,

the certificate holder was honorably discharged or separated under honorable conditions; and

- (2) The certificate holder is not suffering a mental or physical impairment that may affect the individual's ability to provide safe care.
- (H) A community health worker certificate holder, who submits a renewal application on April first or later, or whose certificate lapsed, due to the holder's spouse's service in the armed forces shall be eligible for renewal and reinstatement without payment of the late application fee required by paragraph (C) of rule 4723-26-04 ~~of the Administrative Code and division (A)(10) of section 4723.08 of the Revised Code~~, and the reinstatement fee required by paragraph ~~(H)~~(E)(2) of rule 4723-26-04 of the Administrative Code and division ~~(A)(15)~~(14) of section 4723.08 of the Revised Code, if the following are met:
- (1) The certificate holder presents the board with satisfactory evidence that the holder did not renew their certificate because their spouse's military service caused them to be absent from the state of Ohio;
  - (2) The certificate holder presents the board satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the holder's spouse was honorably discharged or separated under honorable conditions; and
  - (3) The certificate holder meets the requirements for certificate renewal required by section 4723.85 of the Revised Code.
- (I) A medication aide certificate holder who submits a renewal application after March first, or whose certificate lapsed due to the holder's service in the armed forces shall be eligible for renewal and reinstatement by paying the renewal fee set forth in paragraph (A)(2) of rule 4723-27-10 of the Administrative Code without payment of the late application fee set forth in paragraph (A)(3) of rule 4723-27-10 of the Administrative Code ~~and division (A)(10) of section 4723.08 of the Revised Code~~ or the reinstatement fee specified in paragraph (A)(4) of rule 4723-27-10 of the Administrative Code, if the following conditions are met:
- (1) The certificate holder presents the board with satisfactory evidence that not more than six months prior to the date the evidence is submitted to the board, the certificate holder was honorably discharged or separated under honorable conditions; and
  - (2) The certificate holder is not suffering a mental or physical impairment that may



affect the individual's ability to provide safe care.

(J) A medication aide certificate holder who submits a renewal application after March first, or whose certificate lapsed, due to the holder's spouse's service in the armed forces shall be eligible for renewal and reinstatement without payment of the late application fee required by paragraph (C) of rule 4723-27-05 of the Administrative Code ~~and division (A)(10) of section 4723.08 of the Revised Code~~, and the reinstatement fee required by paragraph (H)(2) of rule 4723-27-05 of the Administrative Code and division (A)~~(15)~~(14) of section 4723.08 of the Revised Code, if the following are met:

- (1) The certificate holder presents the board with satisfactory evidence that the holder did not renew their certificate because their spouse's military service caused them to be absent from the state of Ohio;
- (2) The certificate holder presents the board satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the holder's spouse was honorably discharged or separated under honorable conditions; and
- (3) The certificate holder meets the requirements for certificate renewal required by rule 4723-27-05 of the Administrative Code and section 4723.651 of the Revised Code.

(K) A doula certificate holder, who submits a renewal application on April first or later, or whose certificate lapsed due to the holder's service in the armed forces shall be eligible for renewal and reinstatement without payment of the late application fee required by paragraph (C) of rule 4723-24-03 of the Administrative Code, and the reinstatement fee required by paragraph (E)(2) of rule 4723-24-03 of the Administrative Code and division (A)(14) of section 4723.08 of the Revised Code if the following conditions are met:

- (1) The certificate holder presents the board with satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the certificate holder was honorably discharged or separated under honorable conditions; and
- (2) The certificate holder is not suffering a mental or physical impairment that may affect the individual's ability to provide safe care.

(L) A doula certificate holder, who submits a renewal application on April first or later, or whose certificate lapsed, due to the holder's spouse's service in the armed forces shall be eligible for renewal and reinstatement without payment of the late

application fee required by rule 4723-24-03 of the Administrative Code, and the reinstatement fee required by paragraph (E)(2) of rule 4723-24-03 of the Administrative Code and division (A)(14) of section 4723.08 of the Revised Code, if the following are met:

- (1) The certificate holder presents the board with satisfactory evidence that the holder did not renew their certificate because their spouse's military service caused them to be absent from the state of Ohio;
- (2) The certificate holder presents the board satisfactory evidence that, not more than six months prior to the date the evidence is submitted to the board, the holder's spouse was honorably discharged or separated under honorable conditions; and
- (3) The certificate holder meets the requirements for certificate renewal required by section 4723.89 of the Revised Code.

4723-2-04

**Military duty time extension and factors to be considered.**

- (A) Upon receipt of an application from a licensed nurse, dialysis technician, certified community health worker, ~~or~~ medication aide, or doula that is accompanied by proper documentation certifying that the individual has been called to active duty during a current or prior reporting period, and certifying the length of that active duty, the individual shall receive an extension of the current continuing education reporting period equal to the total number of months spent in active duty during the current reporting period. For purposes of this rule, any portion of a month served on active duty shall be considered one full month.
- (B) In determining whether the requirements of this chapter are met, the board shall consider relevant education, training, or service completed by a licensee or certificate holder as a member of the armed forces.

4723-2-05

**Temporary military licenses.**

- (A) For purposes of this rule, the definitions set forth in section 4743.041 of the Revised Code and rule 4723-2-01 of the Administrative Code apply. In addition, for purposes of this rule:
- (1) "In good standing" means an applicant's license in another state or jurisdiction is current, valid and unrestricted;
  - (2) "License" includes certificates;
  - (3) "Spouse" means a person to whom the applicant for a temporary license is currently married, or less than six months have expired since the divorce, dissolution, or annulment of the marriage.
- (B) The board shall issue temporary licenses to applicants according to section 4743.041 of the Revised Code. For purposes of determining whether an applicant is qualified for a temporary license as set forth in that section, the following apply:
- (1) The applicant has indicated in the Ohio elicense system that the applicant is seeking a temporary military license;
  - (2) The applicant holds a license in good standing in another state or jurisdiction, of the same type sought in this state;
  - (3) The applicant has submitted to the board a copy of a document issued by the armed forces showing that the applicant or the applicant's spouse is on military duty in this state; and
  - (4) The board has received the results of a criminal records check conducted in accordance with section 4723.091 of the Revised Code and is not ineligible for temporary licensure due to a disqualifying criminal offense as specified in section 4723.092 of the Revised Code.
- (C) The board shall waive all license fees for issuance of a temporary license as required by section 4743.041 of the Revised Code.
- (D) The board shall issue a temporary license to a qualified applicant within fourteen days of board's receipt of the results of a criminal records check conducted in accordance with section 4723.091 of the Revised Code.
- (1) In order to track, prioritize and expedite the issuance of temporary military

licenses, the board shall comply with the requirements of rule 4723-2-02 of the Administrative Code.

(2) The board may postpone issuance of the temporary license until:

(a) Completion of any investigation being conducted by the licensing agency in another state or jurisdiction in which the applicant holds a license; or

(b) Confirmation from the licensing agency in another state or jurisdiction that the applicant holds a license of the same type sought in this state that is in good standing.

(E) For purposes of implementing temporary licenses in accordance with section 4743.041 of the Revised Code, the temporary license shall be valid for a period of six years.

(F) Within thirty days following the board's fiscal year end, the board shall submit a report to the director of veterans services on the number and type of temporary licenses issued according to section 4743.041 of the Revised Code during fiscal year.

4723-16-01

**General information.**

(A) For the purpose of this chapter of the Administrative Code:

- (1) "Days" means calendar days.
- (2) "Board hearing committee" means a standing committee of not less than three board members, appointed by the board at a public meeting, to conduct administrative hearings and provide a report and recommendation to the board as set forth in rule 4723-16-13 of the Administrative Code.
- (3) "Hearing examiner" means the attorney appointed by the board to conduct a hearing pursuant to section 119.09 of the Revised Code.
- (4) "Respondent" means the person who is requesting or has requested a hearing as provided in Chapter 119. of the Revised Code.
- (5) "Representative of record" means the respondent or legal counsel for respondent who has filed a notice of appearance in accordance with rule 4723-16-02 of the Administrative Code or the assistant attorney general representing the state of Ohio.
- (6) "Telecommunication" means communication by telephone conference or videoconference.

(B) The compilation of all time periods set forth in this chapter of the Administrative Code shall be in accordance with section 1.14 of the Revised Code.

(C) Procedures for filing, or mailing a motion or notice related to a board hearing shall comply with the following:

- (1) Any notice specifying the date, time, and place for a hearing mailed by the board shall be mailed by certified mail, or regular mail with a certificate of mailing, to respondent and, if applicable, respondent's representative of record.
- (2) The mailing date of any document mailed by the board, including but not limited to, a notice of opportunity or adjudication order, shall be the date appearing on the certified mail receipt or certificate of mailing.
- (3) A document is filed with the board when the document is received and time stamped at the board office located in Columbus, Ohio.

- (4) A document may be filed by hand-delivery, mail, email or facsimile. If multiple copies of the same document are filed, only the first to be received by the board will be time stamped and retained by the board.
- (D) A certified copy of a conviction, plea of guilty to, judicial finding of guilt, judicial finding of eligibility for pretrial diversion or similar program, or judicial finding of eligibility for intervention in lieu of conviction related to a felony or misdemeanor from a court of competent jurisdiction shall be conclusive proof of the commission of all elements of the felony or misdemeanor.
- (E) The Ohio Rules of Evidence may be taken into consideration by the board, board hearing committee or the hearing examiner in determining the admissibility of evidence but shall not be controlling. The board, board hearing committee or hearing examiner may permit the use of electronic or photographic means for presentation of evidence.

4723-16-02

**Hearing representation and appearances.**

- (A) Respondents may be self represented or may be represented by an attorney, or attorneys, admitted to the practice of law in Ohio, and holding a current, active license to practice in Ohio.
- (B) When respondent is represented by an attorney or attorneys, the attorney or attorneys each shall file a written notice of appearance with the board. The attorney or attorneys who have filed a notice of appearance with the board shall be considered by the board as the representative of record unless and until a written notice of withdrawal is filed with the board or until written notice of termination of representation is filed by respondent.
- (C) A representative of record may present respondent's position, arguments, or contentions in writing rather than appearing in person at any hearing, provided the board has not subpoenaed respondent to appear at the hearing, and provided respondent has timely requested a hearing.
- (D) Respondent is not required to appear in person at any hearing provided the board has not subpoenaed the respondent to appear at the hearing. For good cause shown, respondent may appear by telecommunication. Respondent's representative of record shall not be permitted to appear by telecommunication unless the hearing examiner or board hearing committee has ordered the hearing to be conducted by videoconference as specified in rule 4723-16-13 of the Administrative Code.
- (E) The office of the attorney general shall identify one attorney from that office as the representative of record for purposes of service pursuant this chapter of the Administrative Code. Each assistant attorney general representing the board shall file his or her appearance in writing.
- (F) Except as otherwise provided in Chapter 119. of the Revised Code, communications from the board, board hearing committee or hearing examiner shall be sent to the representative of record for each party.



4723-16-03

**Hearing continuances and motions for extensions of time.**

- (A) The board, board hearing committee, or hearing examiner may continue a hearing upon its or their own motion in order to more efficiently and effectively conduct its business, unless the circumstances establish that a continuance would not be in the interest of public safety.
- (B) Upon written or oral motion of a representative of record, the board, board hearing committee or hearing examiner may continue the hearing. If a continuance is granted, the board, board hearing committee or the hearing examiner shall immediately establish a new hearing date unless otherwise agreed by the representatives of record.
- (C) A hearing shall not be continued upon motion by a representative of record unless a showing of reasonable cause and due diligence is shown. Before granting a continuance, consideration shall be given to the harm to the public that may result from a delay in the proceedings.
- (D) A motion for continuance filed by a representative of record fewer than five calendar days prior to the scheduled date of the hearing shall not be granted unless it is demonstrated that an extraordinary situation exists that could not have been anticipated and that would justify the granting of a continuance.
- (E) Except as otherwise provided in Chapter 119. of the Revised Code or rules of the board, any motion or request for an extension of time in which to file a motion, brief, or objection, unless made upon the record at the hearing, shall be made in writing and filed with the board.
- (F) No motion for an extension of time shall be granted by the board, board hearing committee or the hearing examiner unless:
  - (1) The representative of record filing the motion makes a showing of reasonable cause and due diligence; and
  - (2) If the extension of time will result in a delay in the proceedings, the representative of record can show that no harm to the public will result from the delay in the proceedings.
- (G) In making a determination about harm to the public, the board, board hearing committee or the hearing examiner may consider whether the respondent holds an active license or certificate to practice in Ohio.
- (H) If notice of opportunity for hearing has been given to respondent according to section

119.07 of the Revised Code, and respondent has timely requested a hearing, if respondent has failed to participate in prehearing conferences, or otherwise has failed to respond to the board hearing committee or hearing examiner, the hearing date shall not be continued based solely on the respondent's lack of participation or response.

4723-16-04

**Motions.**

- (A) Except as otherwise provided in Chapter 119. of the Revised Code, any motion, unless made upon the record at a hearing or as an oral motion for continuance in accordance with rule 4723-16-03 of the Administrative Code, shall be in writing and filed with the board.
  
- (B) A written motion shall state the relief sought and shall be accompanied by a memorandum stating the grounds for the motion and citing the authorities relied upon. A motion shall be made no later than fourteen days before the scheduled date of the hearing, unless one of the following applies:
  - (1) The case involves a summary suspension issued pursuant to section 4723.281 of the Revised Code; or
  
  - (2) The board, board hearing committee or hearing examiner expressly grants an exception.
  
- (C) A response to a motion must be filed within ten days after service of a motion, or within the time frame established by the board, board hearing committee or hearing examiner. The party who made the original motion may reply to a response to a motion only with the permission of the board, board hearing committee or hearing examiner.
  
- (D) The board, board hearing committee or hearing examiner shall issue a ruling on a written motion, after considering all memoranda and supporting documentation filed with the motion, in writing, and issue copies of the ruling to each representative of record. The board, board hearing committee or hearing examiner shall include in each written ruling a short statement setting forth the reason for the ruling.
  
- (E) The ruling on all oral and written motions made at a hearing shall be included in the record of the hearing. The board, board hearing committee or hearing examiner may also take motions made during a hearing under advisement and issue a written ruling at a later time.
  
- (F) Except as otherwise provided in this chapter or Chapter 119. of the Revised Code, rulings on all motions filed after the report and recommendation is issued are to be decided by the board.

4723-16-05

**Prehearing processes.**

- (A) Any representative of record may serve upon the opposing representative of record a written request for a list of witnesses and copies of proposed exhibits intended to be introduced at hearing. Except in the case of summary suspensions, the opposing representative of record shall supply a list and copies to the requesting representative within a reasonable time, but not less than fourteen days before the hearing date.
- (B) In cases of summary suspensions, the exchange of lists of witnesses and proposed exhibits intended to be introduced at hearing shall be completed as soon as possible, but not less than three days before the hearing date.
- (C) If a representative of record fails to comply with a request for, or scheduling order requiring the timely exchange of, a list of witnesses, expert witness reports, if any, or copies of proposed exhibits, the opposing representative of record may request, and, absent extraordinary circumstances, the board, board hearing committee or hearing examiner shall grant, a motion to exclude from the hearing the testimony and proposed exhibits that were the subject of request.
- (D) Upon written motion of any representative of record or upon the initiative of the board, board hearing committee or the hearing examiner, the board, board hearing committee or hearing examiner shall issue a scheduling order that may include but need not be limited to:
- (1) A schedule for exchange of proposed hearing exhibits;
  - (2) A schedule for identifying lay and expert witnesses; and
  - (3) A schedule for the exchange of written reports, if any, from expert witnesses.
- (E) If expert witness testimony is proposed, the expert may submit a written report. A written report by an expert shall set forth the opinions that the expert will testify about and the basis for the opinions. In order to be admitted as evidence at hearing, the written report must be provided to the opposing representative of record not less than thirty days before the hearing date. The expert may also testify as a fact witness.
- (F) At any time before a hearing, with or without motion from a representative of record, the board, board hearing committee or hearing examiner may schedule a prehearing conference. The conference may be in person or by telecommunication. No witness testimony shall be taken during a prehearing conference. A prehearing conference may be held for reasons including but not limited to:

- (1) Settlement negotiation;
  - (2) Identification of issues;
  - (3) Obtaining stipulations and admissions;
  - (4) Agreements limiting the number of witnesses;
  - (5) Discussion of proposed exhibits and witness lists;
  - (6) Estimating the time necessary for the hearing; and
  - (7) Discussion of any other matter tending to expedite the proceedings.
- (G) The board, board hearing committee or hearing examiner may issue orders related to preparation for the hearing and the conduct of the hearing that facilitate the just and efficient disposition of the subject of the hearing. Orders may include, but are not limited to, requirements that by a date specified, a party or both parties submit:
- (1) Legal briefs regarding the relevancy of proposed testimony or evidence;
  - (2) Legal briefs regarding a point of law; or
  - (3) Written opening statements and closing arguments.
- (H) Any document that is a patient record or that contains information that is required to be kept confidential according to any state or federal law may, for purposes of the administrative hearing only, be provided to a representative of record or to a witness in the proceeding, but shall not be disseminated to any other person unless the confidential information is redacted.

4723-16-06

**Witnesses.**

- (A) A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent, shall be limited to the protection of that witness's rights. The legal counsel shall neither examine nor cross-examine any witness.
- (B) Pursuant to section 119.09 of the Revised Code, the board may institute contempt proceedings or file a motion to compel if a witness refuses to answer a question ruled proper at a hearing or disobeys a subpoena.
- (C) A representative of record may move for, or the hearing examiner or board hearing committee may order, a separation of witnesses at the hearing.
- (D) Each witness who appears before the board in response to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.
- (E) For purposes of efficiency, the hearing examiner or board hearing committee may order that witnesses be called to testify out of order, by telecommunication, or by deposition.

4723-16-07

**Evidence or factors to be considered by the board.**

(A) The board, board hearing committee or hearing examiner shall admit evidence of any prior action taken by the board against respondent. The evidence shall include a copy of the board adjudication order, including all records incorporated within the order, and the notice of opportunity for hearing, or a copy of any consent agreement entered between the board and respondent, including all records incorporated within the consent agreement. The board, board hearing committee or hearing examiner may admit other records related to prior board action against respondent if the evidence offered is:

- (1) To prove notice to respondent that particular conduct was unacceptable;
- (2) To prove a continuing problem justifying harsher discipline than might otherwise be warranted in the case;
- (3) To demonstrate respondent's disregard for compliance with the laws regulating the practice of nursing or for the actions of the board; or
- (4) For purposes of impeachment.

(B) When making a decision regarding disciplinary action, the board shall consider:

- (1) Prior action taken by the board against respondent;
- (2) Respondent's prior completion of the alternative program for substance use disorder, as set forth in paragraph (C) of rule 4723-6-04 of the Administrative Code, or prior completion of the practice intervention and improvement program, as set forth in paragraph (E) of rule 4723-18-09 of the Administrative Code.

(C) When making a decision regarding disciplinary action, the board may consider factors including, but not limited to, the following:

- (1) Whether the act is willful, intentional, irresponsible, or unintentional;
- (2) Whether the respondent failed to cooperate with the board investigation;
- (3) Whether the respondent provided false, misleading or deceptive information to the board or board staff;
- (4) The frequency of occurrence of the act at issue;

- (5) Whether the act represents a pattern of commissions or omissions;
- (6) The outcome of the actions of a licensee or certificate holder; or
- (7) The level of harm or potential harm to a patient.



4723-16-08

**Subpoenas for purpose of hearing.**

- (A) Upon written request, filed at least forty-five days before the hearing date, the board shall issue a subpoena for purposes of hearing to compel the attendance and testimony of a witness, or production of books, records or papers, at the hearing. The board, board hearing committee or hearing examiner may approve a subpoena request filed less than thirty days before the hearing date only upon a showing by the requestor of good cause for the short time frame.
- (B) Each subpoena request shall specify the name and address of the individual to be served, or the books, records or papers to be produced and name and address of the person who is to appear at the hearing to produce the books, records or papers. The board shall not be responsible for determining the address of any individual named in a subpoena.
- (C) Unless a subpoena is challenged as described in paragraph (E) of this rule, the board shall issue each subpoena requested within fourteen days of request. Subpoenas shall be directed to the sheriff of the county where the witness resides and returned in the same manner as a subpoena in a criminal case, as specified in section 119.09 of the Revised Code.
- (D) Upon agreement of the parties, the board, board hearing committee or hearing examiner may approve an alternative means of obtaining a witness's testimony, including, but not limited to, affidavit, deposition or testimony by telecommunication.
- (E) Upon written motion filed according to rule 4723-16-04 of the Administrative Code, the board, board hearing committee or hearing examiner may order any subpoena quashed or modified for good cause shown. Good cause may be shown for reasons including but not limited to:
- (1) The total number of subpoenas requested by a party is unreasonable and a showing of necessity has not been made;
  - (2) A subpoena does not provide a reasonable time to comply;
  - (3) A subpoena requires disclosure of information that is privileged or confidential under law and no exception or waiver applies;
  - (4) A subpoena for books, records or papers does not specify dates or time frames or specifies dates or time frames that are unreasonable or not relevant to the incidents described in the notice of opportunity for hearing; or

- (5) A subpoena subjects a witness to undue burden. For purposes of this rule, the board, board hearing committee or hearing examiner may approve an alternative means of obtaining a witness's testimony, including but not limited to, affidavit, deposition, or testimony by telephone or other means of telecommunication. If no reasonable means can be used to alleviate an undue burden on a witness, the board, board hearing committee or hearing examiner may quash the subpoena. A finding of an undue burden requires the showing of an extraordinary hardship that is more than the usual and expected inconvenience of attending a hearing. In considering whether a burden is undue, the board, board hearing committee or hearing examiner shall consider the magnitude of the burden on the witness and the materiality of the witness's testimony.
- (F) In the event the number of subpoenas requested appears to be unreasonable, the board hearing committee or hearing examiner may require a showing of necessity for the witnesses or records, and in the absence of such showing, may limit the number of subpoenas.
- (G) At any point after a hearing has begun, the board, board hearing committee or hearing examiner may order that a subpoena be issued to compel the attendance and testimony of a witness or production of books, records or papers.

4723-16-09

**Ex parte communication.**

- (A) No representative of record shall communicate with a board member or hearing examiner concerning a pending adjudication without the participation of the opposing representative of record, unless the communication relates solely to a procedural matter.
- (B) No board member or hearing examiner shall engage in communication with or on behalf of any representative of record without the participation of the opposing representative of record, unless the communication relates to a procedural matter.
- (C) A board member or hearing examiner shall disclose to the representatives of record and members of the board, any communication or attempted communication that appears to violate paragraph (A) or (B) of this rule. Such disclosure shall be made prior to the completion of deliberations on the pending adjudication.

4723-16-10

**Settlements.**

- (A) Any matter that is the subject of an investigation may be settled at any time by the board.
- (B) A settlement shall be authorized on behalf of the board by the supervising member for disciplinary matters. In cases assigned for hearing, the parties may inform the board hearing committee or the hearing examiner that a settlement has been reached in lieu of proceeding with the hearing, and the board hearing committee or hearing examiner may continue the hearing pending ratification of the agreement by the board.
- (C) A settlement agreement shall be in writing and shall be submitted for ratification to the board.
- (D) A settlement agreement shall not be effective until the agreement is ratified by the board and signed by respondent, respondent's legal counsel, in any, and the president of the board.

4723-16-12

**Request to address the board regarding a hearing.**

- (A) A representative of record may be permitted to address the board at the time of the board's consideration of the report and recommendation, provided that prior to addressing the board, the representative of record has filed a written request with the board not less than seven days before the board meeting.
- (B) If a representative of record addresses the board, the opposing representative of record shall also be given an opportunity to address the board. The representative of record who submitted a request to address the board first shall make the initial presentation before the board, and if both parties submit a request on the same date, the respondent of record for the state of Ohio shall make the initial presentation.
- (C) Each representative of record who addresses the board shall be given not more than seven minutes in which to do so. The representative of record may request that time for rebuttal be deducted from their allotted time.

4723-16-13

**Authority and duties of board hearing committee or hearing examiners.**

- (A) Adjudication hearings may be conducted before the board, a board hearing committee or a hearing examiner appointed by the board.
- (B) The hearing examiner shall be licensed to practice law in Ohio and may be an employee of the board or an independent contractor.
- (C) The board hearing committee shall be composed of at least three board members, and one or more alternates, appointed by the board at a public meeting, to serve for a term of one year. One board hearing committee member shall preside and be responsible for conduct of the hearing. The presiding board member shall also be responsible for approving the report and recommendation discussed in paragraph (H) of this rule. The board hearing committee may request advice on legal questions from a staff attorney employed by the board, or an attorney with whom the board contracts as a hearing examiner, related to procedural or evidentiary questions or in preparation of the report and recommendation. This legal consultation shall not be deemed an ex parte communication.
- (D) All hearings shall be open to the public, but the board hearing committee or hearing examiner conducting a hearing may close the hearing to the extent necessary to protect compelling interests or to comply with statutory requirements. In the event this occurs, the board hearing committee or hearing examiner shall state on the public record the reasons for closing the hearing.
- (E) If the hearing examiner or board hearing committee determines that permitting broadcasting, televising, recording or the taking of photographs in the hearing room would not distract participants, impair the dignity of the proceedings, violate patient confidentiality or otherwise materially interfere with the achievement of a fair administrative hearing, the broadcasting, televising, recording or taking of photographs during hearing proceedings open to the public may be permitted under the following conditions and upon request:
  - (1) Requests for permission for the broadcasting, televising, recording or taking of photographs in the hearing room shall be made in writing and submitted to the hearing examiner or board hearing committee prior to the start of the hearing, and shall be made part of the record of the proceedings;
  - (2) Written permission is granted prior to the start of the hearing by the hearing examiner or board hearing committee and is made part of the record of the proceedings;
  - (3) The filming, videotaping, recording or taking of photographs of witnesses who

object shall not be permitted; and

- (4) Any film, video, photograph or audio recording created during a hearing, except for an audio recording made by the court reporter hired by the board to prepare the stenographic hearing record, shall not be part of the record of the proceeding.
- (F) The board hearing committee or hearing examiner shall conduct hearings so as to prevent unnecessary delay, maintain order and ensure the development of a clear record. The authority of the board hearing committee or hearing examiner conducting a hearing includes, but is not limited to, the following:
- (1) Administering oaths or affirmations;
  - (2) Ordering that subpoenas be issued or that depositions in lieu of live testimony be conducted;
  - (3) Examining witnesses and ~~directly~~ directing witnesses to testify;
  - (4) Making rulings on admissibility of evidence;
  - (5) Making rulings on procedural motions, whether such motions are oral or written;
  - (6) Holding prehearing conferences, as discussed in rule 4723-16-05 of the Administrative Code;
  - (7) Requesting briefs, before, during or after a hearing;
  - (8) Issuing scheduling orders for exchange of documents and filing deadlines;
  - (9) Determining the order of the hearing;
  - (10) Requiring or disallowing oral or written opening statements and closing arguments;
  - (11) Consolidating two or more matters involving the same respondent into one hearing;

- (12) Preparing entries, proposed findings, and reports and recommendations to the board, as discussed in paragraph (H) of this rule; and
  - (13) Based upon a conflict in schedule, complexity of the issues involved, or for reasons of administrative efficiency, the board hearing committee may reassign the matter to a hearing examiner, or a hearing examiner may reassign to another hearing examiner or to the board hearing committee.
  - (14) In the sole discretion of the board hearing committee or hearing examiner, the hearing may be conducted by live, real-time video conference if requested and agreed upon by both parties. The board hearing committee or hearing examiner shall issue instructions as to how the proceeding is to be conducted. The video conference platform selected must enable the parties, hearing examiner, court reporter and witnesses to see and converse with each other and to display documentary and physical evidence. The video conference platform selected must be widely available to the general public without charge, and accessible to the public to watch and listen to the hearing, upon request, unless the hearing or portions thereof are closed to the public by the hearing examiner according to paragraph (D) of this rule.
- (G) The board hearing committee or hearing examiner may recommend in the report and recommendation that factual or legal allegations set forth in the notice of opportunity for hearing issued to respondent be dismissed, however, the authority of the board hearing committee or hearing examiner does not include authority to grant motions for dismissal of, or to otherwise dismiss, factual or legal allegations, or to modify, compromise or settle factual or legal allegations.
- (H) Within one hundred twenty days of the date an adjudication hearing is closed, the board hearing committee or hearing examiner assigned to the case shall submit a written report to the board setting forth the proposed findings of fact and conclusions of law, or in the case of the board hearing committee, conclusions, and a recommendation of action to be taken by the board. A copy of the written report shall be mailed by certified mail to representatives of record for both parties. Either party may, within ten days of receipt of the report and recommendation, file written objections. Written objections, if filed in a timely manner, shall be considered by the board in determining whether to approve, modify or reject the report and recommendation.
- (I) At a board meeting scheduled after the time for filing objections to a report and recommendation has passed, the board may approve, modify or reject the report and recommendation of the board committee or hearing examiner. Members of the board hearing committee that heard a case shall abstain from voting on a matter heard as members of the board hearing committee.



4723-25-01

**Purpose of nurse education grant program.**

The board shall award grants to nurse education programs that have partnerships with health care facilities, community health agencies, patient centered medical homes or other education programs to establish or support partnerships that will increase the enrollment capacity of the nurse education programs. Methods of increasing a program's enrollment capacity may include hiring faculty and instructional personnel or purchasing educational equipment and materials if the grant applicant can clearly demonstrate that additional faculty and instructional personnel, or equipment and materials, are directly related and necessary to increasing the enrollment capacity of the nurse education program.

4723-25-02

**Definitions.**

For purposes of this chapter, the following definitions apply:

(A) "Nurse education program" means a prelicensure nurse education program approved by the board of nursing under section 4723.06 of the Revised Code, or a postlicensure nurse education program approved by the board of regents under section 3333.04 of the Revised Code.

(B) "Health care facility" means:

(1) A hospital registered under section 3701.07 of the Revised Code;

(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, amended;

(4) A freestanding dialysis center;

(5) A freestanding inpatient rehabilitation facility;

(6) An ambulatory surgical facility;

(7) A freestanding cardiac catheterization facility;

(8) A freestanding birthing center;

(9) A freestanding or mobile diagnostic imaging center;

(10) A freestanding radiation therapy center.

(C) "Partnership" means a written agreement between a nurse education program and one or more health care facilities, community health agencies, patient centered medical homes or other education programs, that is signed by the legal signatory for each party and that shows how the partnership will increase the enrollment capacity of the nurse education program or programs.

(D) "Community health agency" means any program or agency that provides or contracts to provide health care services and is not a health care facility as defined in

paragraph (B) of this rule.

(E) "Board" means the Ohio board of nursing.

(F) "Nurse education grant program" means the program established in division (B) of section 4723.063 of the Revised Code.

(G) "Faculty and instructional personnel" means:

(1) For prelicensure nursing education programs, persons who satisfy the standards for faculty and instructional personnel as set forth in rules 4723-5-10 and 4723-5-11 of the Administrative Code; or

(2) For postlicensure nursing education programs, persons who satisfy standards established by the credentialing organization that accredits the program in accordance with paragraph (H) of this rule.

(H) "Education program" means a program approved or accredited by any of the following:

(1) The Ohio board of nursing under section 4723.06 of the Revised Code;

(2) The chancellor of higher education under section 3333.04 of the Revised Code;

(3) The Ohio department of education under section 3313.90 of the Revised Code;

(4) The state board of career colleges and schools under section 3332.05 of the Revised Code;

(5) The higher learning commission of the north central association of colleges and schools;

(6) The accrediting council for independent colleges and schools; or

(7) Any other national or regional post-secondary education accreditation entity recognized by the board.

(I) "Grantee" means a nurse education program to which the board has awarded a grant from the nurse education grant program.

- (J) "Administrator of the program" has the same meaning as set forth in paragraph (A) of rule 4723-5-01 of the Administrative Code.
  
- (K) "Patient centered medical home" is an advanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinated patient centered care.
  
- (L) "Preceptor" has the same meaning as set forth in paragraph (CC) of rule 4723-5-01 of the Administrative Code.

\*\*\* DRAFT - NOT YET FILED \*\*\*

4723-25-03

**Fund balance.**

The board may recommend that the office of budget and management retain a percentage of money, which the office of budget and management determines to be fiscally responsible, in the nurse education grant program fund that it maintains to accomplish the goals of the nurse education grant program established in section 4723.063 of the Revised Code.

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4723-25-04

**Program administrative costs.**

In accordance with division (D) of section 4723.063 of the Revised Code, no more than ten per cent of the nurse education grant program funds shall be used by the board for administrative costs associated with the program.

4723-25-05

**Distribution of grants to prelicensure and postlicensure nurse education programs.**

- (A) Except as provided in paragraphs (B), (C), and (D) of this rule, nurse education grant program funds available for distribution in a two year grant cycle shall be distributed as follows:
- (1) Approximately ~~fifteen per cent~~ one third of the available funds shall be awarded in grants to prelicensure education programs for licensed practical nurses approved by the board under section 4723.06 of the Revised Code, if the program allows students, following licensure as a licensed practical nurse, to transition into a registered nursing program approved by the board during the student's second year (a one plus one program);
  - (2) Approximately ~~thirty five per cent~~ one third of the available funds shall be awarded in grants to prelicensure education programs for registered nurses approved by the board under section 4723.06 of the Revised Code; and
  - (3) Approximately ~~fifty per cent~~ one third of the available funds shall be awarded in grants to postlicensure nurse education programs approved or accredited as described in paragraph (H) of rule 4723-25-02 of the Administrative Code, for the purpose of preparing nursing faculty or instructional personnel.
- (B) The board has discretion to reallocate funds among one or more of the three grant categories set forth in paragraphs (A)(1) to (A)(3) of this rule to one or more other grant categories if no grant proposals are submitted in a category, if none of the proposals received in a category meet the funding criteria established in section 4723.063 of the Revised Code, or if funds remain in a category after all eligible grant applications have been considered by the board.
- (C) A nurse education program may submit one grant proposal in each of the grant proposal categories set forth in paragraphs (A)(1) to (A)(3) of this rule for the same grant cycle.
- (D) Grant awards shall not exceed two hundred thousand dollars per grant, per grant cycle.
- (E) While no grant is guaranteed for renewal in subsequent grant periods, the board may elect to renew a grant approved for initial funding if both of the following conditions are met:
- (1) A new grant proposal is submitted within the time frame for the next grant cycle; and

(2) The new proposal meets the standards contained in the request for proposals for the next grant cycle.

(F) Total awards to a nurse education program from each of the three grant categories set forth in paragraphs (A)(1) to (A)(3) of this rule shall not exceed one million dollars between January 2, ~~2014~~ 2024 and December 31, ~~2023~~ 2033.



4723-25-06

**Eligibility criteria for funding consideration.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

To be eligible for consideration to receive nurse education program grant funds, all of the following must be satisfied:

- (A) Applicant is a nurse education program as defined in division (A)(2) of section 4723.063 of the Revised Code and this chapter;
- (B) Applicant has entered into a partnership with one or more health care facilities, community health agencies, patient centered medical homes, or other education programs that will result in increased enrollment capacity in the applicant's nurse education program or programs;
- (C) Applicant has submitted a completed "NEGP RFP" form, discussed in rule 4723-25-09 of the administrative code, by the proposal deadline date.

4723-25-07

**Publication of notice for requests for proposals.**

- (A) Not less than thirty days prior to issuing a request for proposals, the board shall, by regular or electronic mail, provide notice of the issuance of a request for proposals to the administrator of all nurse education programs approved by the board under section 4723.06 of the Revised Code, or approved by the chancellor of higher education under section 3333.04 of the Revised Code.
  
- (B) In addition to the notice required in paragraph (A) of this rule, the board shall also post notice of the issuance of the request for proposals on the board's website, distribute electronic notice to all persons included on the board's electronic subscriber list, and mail notice to any persons who do not have access to electronic mail but who have requested to be placed on a courtesy mailing list maintained by the board.

\*\*\* DRAFT - NOT YET FILED \*\*\*

4723-25-08

**Funding cycle.**

Grant cycles will begin on November first of odd number calendar years and extend for a period of two years, to October thirty-first of odd number years.

4723-25-09

**Grant proposal form.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

- (A) Grant applicants shall a "NEGP RFP" form to be considered for the nurse education grant program.
- (B) Information to be provided in the proposal shall be consistent with the request for proposal issued by the board and shall at minimum include the following:
- (1) Specifics as to how the requested grant funds will allow the nurse education program to increase its enrollment capacity and the specific role to be played by the health care facility, community health agency, or other education program with which it has entered a partnership;
  - (2) The name of the administrator of the program employed by, or under contract with, the nurse education program who will be principally responsible for the grant and his or her academic and professional credentials;
  - (3) A projection of the amount that the nurse education program's enrollment capacity will be increased as a result of the grant;
  - (4) A detailed description of how the proposal is consistent with the standards for nurse education programs set forth in Chapter 4723-5 of the Administrative Code;
  - (5) Any faculty or instructional personnel positions to be supported with funds from the grant and how they will directly contribute to increasing the enrollment capacity of the nurse education program;
  - (6) Type and uses of any equipment requested to be leased or purchased with funds from the grant and how it will directly contribute to increasing the enrollment capacity of the nurse education program;
  - (7) If an applicant is a postlicensure nursing education program, how it will increase the number of faculty and instructional personnel to serve as educators in nurse education programs;
  - (8) How the program will maintain the increased enrollment capacity in a nurse education program following conclusion of the grant funding cycle;

- (9) Other sources of funding, if any, that will be used to support efforts by the nurse education program and its partnership to increase the enrollment capacity of the program; and
  - (10) How grant funds will be accounted for separately from other sources of funding received by the nurse education program.
- (C) Grant proposals that are received by the board after the proposal deadline date will not be considered for funding during the grant cycle for which they were submitted. A nurse education program submitting a late proposal may resubmit a grant request in a subsequent grant cycle according to standards set forth in the subsequent request for proposals.

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4723-25-10

**Grant review.**

The board may delegate its authority, as it deems appropriate, to a committee of the board and staff members of the board, to review grants and make recommendations for funding to the full board.

4723-25-11

**Grant review criteria.**

- (A) Grant awards shall be made at the sole discretion of the board according to section 4723.063 of the Revised Code and the rules contained in this chapter.
- (B) Preference in the award of grants shall be given to partnerships between nurse education programs and the following:
  - (1) Hospitals registered under section 3701.07 of the Revised Code;
  - (2) Nursing homes licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;
  - (3) County homes or county nursing homes as defined in section 5155.31 of the Revised Code that are certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, amended; and
  - (4) Education programs as defined in paragraph (H) of rule 4723-25-02 of the Administrative Code.
- (C) Preference in the award of grants may be given to those programs seeking grant renewal that have demonstrated success in meeting the nurse education grant program goal of increasing the enrollment capacity of the applicant nurse education program.
- (D) Preference in the award of grants may be given to programs that have a pass rate on the applicable nurse licensure examination that averages ninety-five per cent or higher of the national average for first time candidates in any given year for three consecutive years prior to submission of the grant proposal.
- (E) Preference in the award of grants may be given to postlicensure nursing education programs that have demonstrated success in training and preparing graduate level nurses to serve as nurse educators in Ohio nurse education programs.
- (F) Grants shall be awarded to prelicensure education programs for licensed practical nurses only if the program allows students, following licensure as a licensed practical nurse, to transition into a registered nursing program approved by the board during the student's second year (a one plus one program).

4723-25-12

**Use of grant funds.**

- (A) Grant funds shall be used solely for purposes of increasing enrollment capacity in nurse education programs.
- (B) Grant funds may be used to hire or contract with:
- (1) Prelicensure nurse education program faculty and instructional personnel whose role will be the active supervision of one or more nursing students in a clinical setting; or
  - (2) Faculty or instructional personnel engaged in training and preparing graduate level nurses to serve as nurse educators in Ohio nurse education programs.
- (C) Grant funds may be used for the lease or purchase of equipment only when it can be demonstrated that the equipment will be directly related to an increase in enrollment capacity at a nurse education program and only when the equipment will be leased or owned by the applicant nurse education program.
- (D) Grant funds may be used as matching funds for other funding sources if both of the following are satisfied:
- (1) Use of the funds from the other funding sources is consistent with the goal of the nurse education grant program of increasing the enrollment capacity in the nurse education program; and
  - (2) All grant requirements continue to be met.



4723-25-13

**Prohibited uses of grant funds.**

(A) Grant funds shall not be used for any of the following purposes:

- (1) Administrative costs associated with the nurse education program, health care facility, community health agency, other education program, or partnership;
- (2) The purchase of disposable items or disposable equipment;
- (3) The purchase of personal items or equipment for students participating in a nurse education program;
- (4) Costs associated with travel and lodging;
- (5) Costs associated with meals and entertainment;
- (6) Lease or purchase of vehicles;
- (7) The construction or renovation of buildings;
- (8) Liquidation of bad debts;
- (9) Fines, penalties, interest, or other financial payments;
- (10) The compensation of nurses who will be used as preceptors for prelicensure nursing education program students, except for the actual time a preceptor spends supervising no more than two nursing students at any one time in accordance with rule 4723-5-20 of the Administrative Code;
- (11) The compensation of nurses who will be used as preceptors for postlicensure nursing education program students except for the actual time a preceptor spends supervising nursing students engaged in a clinical experience at the direction of faculty or instructional personnel of the nurse education program;  
or
- (12) Student tuition assistance.

(B) Funds used for any purposes set forth in paragraph (A) of this rule must be repaid to the board within thirty days after the grantee is provided with notice of the board's determination that grant funds had previously been, or were currently being, used for purposes prohibited by this rule.

4723-25-14

**Acknowledgment of terms.**

- (A) After receiving notification of approval of a grant proposal, the board and the nurse education program submitting the proposal shall execute a written agreement that contains the terms and conditions of the grant.
  
- (B) This agreement, or acknowledgment of terms, shall be signed by the administrator of the nurse education program, or grantee, and by the board. The agreement may include but need not be limited to the following terms and conditions:
  - (1) Method for advising the board regarding a change of circumstances that may significantly impact the grantee's ability to comply with the terms of the grant;
  
  - (2) Method and schedule for disbursement of funds;
  
  - (3) Special reporting requirements specific to an individual grant proposal;
  
  - (4) Applicability of all relevant laws, regulations, and rulings; and
  
  - (5) Grantee indemnification requirements.

4723-25-15

**Grantee reporting requirements.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

- (A) The administrator of a grantee nurse education program shall submit the following reports to the board according to the schedule determined by the board that identify how the grant funds were used to increase the enrollment capacity of the program:
- (1) "NEGP Annual Report Year 1," for the first year of the grant funding cycle;
  - (2) "NEGP Annual Report Year 2" for the second year of the grant funding cycle;  
and
  - (3) "NEGP Quarterly Progress Report" form.
- (B) At any time during the grant funding cycle the board may require that the grantee provide additional information or undergo an independent audit of the grant funds and how funds are being administered by the nurse education program or its partner health care facility, community health agency, or other education program.
- (1) Any independent audits requested by the board shall be paid for by the grantee nurse education program.
  - (2) Grant funds shall not be used to pay the expenses of an independent audit requested by the board in accordance with this paragraph.
- (C) All grant funds shall be administered and accounted for using generally accepted accounting principles.

4723-25-16

**Reversion of funding.**

- (A) Grant recipients shall return to the board any unexpended grant funds that remain at the end of the grant period.
- (B) Unexpended grant funds shall also be promptly returned to the board upon receipt of notice that any of the following have occurred:
- (1) The grantee has failed to spend the grant funds according to the grant proposal approved by the board;
  - (2) The grantee has failed to comply with any provision included in the acknowledgment of terms as required by rule 4723-25-14 of the Administrative Code; or
  - (3) The grantee no longer maintains its status as a nurse education program approved by the board under section 4723.06 of the Revised Code, or by the board of regents under section 3333.04 of the Revised Code.

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4723-25-17

**Grantee programs, products, or publications.**

Any special programs, products, or publications developed by the grantee nurse education program shall indicate that such program, product, or publication, was funded in whole or part by a grant from the Ohio board of nursing.

4723-25-18

**Annual grantee report.**

The board shall make available on an annual basis, in print or by electronic means, a current list of nurse education grant program grantees together with the following information:

- (A) The amount of the grant received by each grantee;
- (B) The health care facility, community health agency, patient centered medical home or other education program with which the grantee nurse education program has partnered;
- (C) The amount by which the enrollment capacity of the grantee nurse education program was projected to increase;
- (D) The proposed use of the grant funds;
- (E) The extent to which funding of the grant proposal has resulted in an increase in the enrollment capacity of the grantee nurse education program; and
- (F) Such other information the board deems appropriate.

4723-26-01

**Definition of terms.**

For the purpose of this chapter, the following definitions apply:

- (A) "Administrator" means the individual who is administratively responsible for a community health worker training program.
- (B) "Board" means the Ohio board of nursing.
- (C) "Certificate to practice" means the certificate issued by the board in accordance with section 4723.85 of the Revised Code.
- (D) "Clinical experience" means a task or activity planned to meet course objectives or outcomes and to provide community health worker students with the opportunity to practice cognitive, psychomotor, and affective skills related to the delivery of care by community health workers. This experience may take place in a community setting or other appropriate site.
- (E) "Community health worker" and "certified community health worker" mean an individual who satisfies both of the following:
  - (1) As a community representative, advocates for clients in the community by assisting them in accessing community health and supportive resources through the provision of such services as education, role modeling, outreach, home visits, or referrals; and
  - (2) Holds a certificate to practice issued or renewed by the board under section 4723.85 of the Revised Code.
- (F) "Continuing education" means a planned learning activity that builds upon a community health worker's precertification education program and enables a community health worker to acquire or improve skills, knowledge or behavior that promotes professional or technical development or the enhancement of career goals and is approved by the board under Chapter 4723-14 of the Administrative Code.
- (G) "Curriculum" means the standard minimum curriculum to be used in a board-approved training program for community health workers as provided in rule 4723-26-13 of the Administrative Code.
- (H) "Delegation" means the transfer of responsibility for the performance of selected nursing tasks from a registered nurse to a community health worker.
- (I) "Didactic" means the component of an educational program that provides

faculty-interactive instruction and includes lecture, verbal instruction, or other means of exchanging theoretical information between instructor and students.

- (J) "Inactive certificate" means the status of the certificate of an individual who has ~~made a written request that the board place the certificate~~ placed their certificate on inactive status. An individual with an inactive certificate does not hold a current, valid certificate.
- (K) "Laboratory experience" means an activity planned to meet course objectives or outcomes and to provide a community health worker student with the opportunity to practice cognitive, psychomotor, and affective skills in the delivery of care, that takes place in a learning resource center or other appropriate location.
- (L) "Lapsed certificate" means the status of a certificate of an individual who did not meet all of the requirements of certificate renewal and has not ~~requested~~ placed the certificate on inactive status prior to the renewal deadline. ~~that the board place the certificate on inactive status.~~
- (M) "Patient" means the recipient of a nursing task delegated by a registered nurse and may include an individual, group, or community.
- (N) "Registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a registered nurse.
- (O) "Representative of the board" means an employee of the board or an individual designated by the board to act on its behalf.
- (P) ~~"Site visit"~~ "Survey" means an announced or unannounced ~~visit to~~ survey of a community health worker training program by a representative of the board to determine whether the program meets or maintains the minimum standards required by the board. The survey may include a site visit.
- (Q) "Supervision by a registered nurse" means initial and ongoing direction, procedural guidance, observation, and evaluation by a registered nurse who is continually available in person, or by some form of telecommunication, of the nursing tasks performed by a community health worker. For purposes of Chapter 4723-26 of the Administrative Code, supervision by a registered nurse is not required when a community health worker is performing non-nursing tasks.



4723-26-02

**Community health worker certification.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

(A) To obtain a certificate to practice as a community health worker, an applicant who meets the qualifications set forth in division (A) of section 4723.84 of the Revised Code shall:

(1) Submit a completed "Community Health Worker Application";

(2) Submit an application fee of thirty-five dollars; and

(3) In accordance with division (A) of section 4723.091 of the Revised Code, submit a request to the bureau of criminal identification and investigation for a criminal records check. The results of the criminal records check shall:

(a) Be received by the board before a certificate can be issued; and

(b) Indicate that the individual has not been convicted of, pled guilty to, or had a judicial finding of guilt for any violation set forth in section 4723.092 of the Revised Code.

(B) The board shall issue a certificate to practice as a community health worker to applicants who satisfy the requirements of paragraph (A) of this rule, after receipt of written notice from a community health worker training program approved by the board that the applicant has successfully completed the program, and that the applicant is competent to provide care as a community health worker.

(C) If an applicant fails to meet the requirements for certification within one year from the time the board receives the application, the application shall be considered void and the fee shall be forfeited. The application shall state the circumstances under which this forfeiture may occur.

(D) A community health worker certificate shall be considered current until the next scheduled renewal period for a certified community health worker. When a certificate is issued on or after January first of an odd numbered year, that certificate shall be considered current through March thirty-first of the next odd-numbered year.

4723-26-03

**Community health worker certification by endorsement.**

- (A) An applicant for community health worker certification by endorsement shall satisfy the following:
- (1) Submit a completed "Certified Community Health Worker by Endorsement Application," and the certification application fee required by sections 4723.08 and 4723.88 and Chapter 4796. of the Revised Code;
  - (2) Submit to a criminal records check completed by the bureau of criminal identification and investigation;
  - (3) The applicant has not surrendered or had revoked a license, out-of-state occupational license, or government certification because of negligence or intentional misconduct related to the applicant's practice as a community health worker;
  - (4) The applicant has not been convicted of, found guilty pursuant to a judicial finding of, or plead guilty to a criminal offense for which a licensing authority may deny an application for a license or government certification or that would otherwise disqualify the applicant for the license or government certification under the applicable law of this state governing the profession, occupation, or occupational activity for which the applicant is applying;
  - (5) Submit any other documentation required by the board.
- (B) Pursuant to section 4796.03 of the Revised Code, the board shall issue a community health worker certificate in accordance with Chapter 4796. of the Revised Code to an applicant if the applicant holds a substantially similar out-of-state occupational license to engage in practice as a community health worker, or, holds a government certification to engage in practice as a community health worker from one of the uniformed services or from a state that does not issue a license for practice as a community health worker, if the applicant:
- (1) Has held the license or government certification for at least one year immediately preceding the date the application is submitted to the board;
  - (2) Has been actively engaged in practice as a community health worker for at least one of the five years immediately ~~preceeding~~ preceding the date the application is submitted to the board;
  - (3) Is in good standing in all jurisdictions in which the applicant holds the license or government certification; and

- (4) Was required to satisfy minimum education, training, or experience requirements or pass an examination to receive the license or government certification.

The applicant shall have verification of licensure or government certification to practice as a community health worker submitted directly to the board from the issuing state or uniformed services. The applicant shall also have verification of having been actively engaged in practice as a community health worker for at least one of the past five years submitted directly to the board by the employer or employer designee for whom the applicant practiced as a community health worker.

- (C) Pursuant to section 4796.04 of the Revised Code, the board shall issue a community health worker certificate in accordance with Chapter 4796. of the Revised Code to an applicant who has held a private certification as a community health worker in a state that does not issue an occupational license or governmental certification to practice as a community health worker, if the applicant:

- (1) Held the private certification for at least two years immediately preceding the date the application is submitted;
- (2) Has been actively engaged in practice as a community health worker in a state that does not issue an occupational license or government certification to practice as a community health worker, for at least two of the five years immediately preceding the date the application is submitted; and
- (3) Is in good standing with the private organization that issued the private certification.

The applicant shall have verification of private certification as a community health worker submitted directly to the board by the private organization that issued the certification. The applicant shall also have verification of having been actively engaged in practice as a community health worker for at least two of the past five years, submitted directly to the board by the employer or employer designee for whom the applicant practiced as a community health worker.

- (D) Pursuant to section 4796.05 of the Revised Code, the board shall issue a community health worker certificate in accordance with Chapter 4796. of the Revised Code to an applicant who, for at least three of the five years immediately preceding the date the application is submitted to the board, has been actively engaged in practice as a community health worker, in either:

(1) A state that does not issue an occupational license or government certificate to practice as a community health worker, or

(2) Service of the uniformed services.

The applicant shall have verification of having been actively engaged in practice as a community health worker for at least three of the past five years submitted directly to the board by the employer or employer designee or the uniformed services for whom the applicant practiced as a community health worker.

(E) The board may propose to deny certification by endorsement pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

(F) If an applicant for certification by endorsement as a community health worker fails to meet the requirements for certification within one year from the date the application is received, or the application remains incomplete for one year, the application shall be considered void and the fee forfeited. The application shall state the circumstances under which forfeiture may occur.

4723-26-04

**Renewal of community health worker certificate.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

- (A) The board shall provide on-line access to a "Community Healthworker Renewal Application" to every holder of a current, valid certificate, except when the board is aware that the individual may be ineligible for certificate renewal for any reason, including those reasons set forth in section 4723.092 of the Revised Code. Failure of the certificate holder to receive an application for renewal from the board does not excuse the certificate holder from the requirements of section 4723.85 of the Revised Code and this chapter, except as provided in section 5903.10 of the Revised Code.
- (B) To renew a certificate to practice as a community health worker a holder of a current, valid certificate shall meet the continuing education requirements set forth in rule 4723-26-05 of the Administrative Code and submit:
- (1) A completed on-line "Community Healthworker Renewal Application"; and
  - (2) A renewal fee of thirty-five dollars.
- (C) If a completed renewal application is not submitted on-line on or before March first of each odd numbered year, the application shall be considered late and a late fee of fifty dollars shall be imposed in addition to the thirty-five dollar renewal fee.
- (D) A certificate holder with a current, valid certificate may ~~request that the certificate be placed~~ place the certificate on inactive status at any time by submitting to the board ~~an written statement or~~ electronic request ~~asking that the~~ to place the certificate ~~be placed~~ on inactive status.
- (E) To reactivate an inactive certificate or reinstate a lapsed certificate the certificate holder must meet the continuing education requirements set forth in rule 4723-26-05 of the Administrative Code and submit:
- (1) A completed "Community Healthworker Reactivation and Reinstatement Application" including all required documentation; and
  - (2) A reactivation fee in the amount of thirty-five dollars.
- (F) A certificate holder who has placed a community health worker certificate on inactive status is not required to pay a renewal fee unless the holder seeks to reactivate the

certificate. If the certificate holder placed a certificate on inactive status after March second of the year in which the certificate was to be renewed, and notifies the board on or before March thirty-first of the same renewal year of the intent to reactivate, the certificate holder must still pay the late processing fee required by paragraph (C) of this rule.

- (G) If a certificate to practice as a community health worker is not renewed by March thirty-first of each odd numbered year and the certificate holder has failed by that time to request that the certificate be placed on inactive status, the certificate will lapse.
- (H) When a community health worker certificate is inactive or lapsed, the individual shall not represent or imply to the public that he or she is certified by the board as a community health worker.
- (I) An individual who continues to represent to the public that he or she is a certified community health worker during the time that his or her certificate is inactive or lapsed, may be subject to disciplinary action by the board in accordance with rule 4723-26-11 of the Administrative Code.
- (J) A community health worker certificate holder who is a service member or veteran, as defined in rule 4723-2-01 of the Administrative Code, or who is the spouse or surviving spouse of a service member or veteran, may be eligible for a waiver of the late application fee and the reinstatement fee according to rule 4723-2-03 of the Administrative Code.

4723-26-05

**Continuing education requirements.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

- (A) Except in the case of the first renewal of a current, valid certificate to practice as a community health worker, to be eligible to renew a certificate, a community health worker shall complete fifteen contact hours of continuing education during each renewal period. For each reporting period, at least one of the required hours of continuing education must be directly related to Chapter 4723. of the Revised Code and the rules of the board in Chapters 4723-1 to 4723-27 of the Administrative Code. To qualify as continuing education directly related to Chapter 4723. of the Revised Code and the rules of the board, the continuing education must be approved by an OBN approver, or offered by an OBN approved provider unit headquartered in the state of Ohio. For each reporting period, at least one of the required hours of continuing education must be directly related to establishing and maintaining professional boundaries. This requirement applies to the reporting period set forth in paragraph (B) of this rule.
- (B) A community health worker who ~~requests that~~ places the certificate to practice as a community health worker ~~be placed~~ on inactive status shall not be required to meet the continuing education requirement for the period of time the certificate is on inactive status. To reactivate the certificate the community health worker shall complete fifteen hours of continuing education that meet the requirements as set forth in paragraph (A) of this rule, during the twenty-four months immediately prior to the application for reactivation.
- (C) The holder of a lapsed certificate shall complete fifteen hours of continuing education that meet the requirements of paragraph (A) of this rule during the twenty-four months immediately prior to the application for reinstatement of the certificate.
- (D) A community health worker shall verify completion of the continuing education required by this rule on the "Community Health Worker Renewal Application" or "Community Health Worker Reactivation and Reinstatement Application" for certificate renewal, reactivation or reinstatement, and at the discretion of the board, may be required to show proof of completion of the approved continuing education. Failure to verify or provide proof of completion shall result in ineligibility to renew, reactivate or reinstate a certificate until proof of completion of the continuing education requirements is provided to the board.
- (E) A community health worker who earns more than the number of contact hours of continuing education required for a single reporting period cannot apply the excess hours to satisfy future continuing education requirements.

- (F) A community health worker who is ineligible to renew or reinstate a certificate due to failure to meet the continuing education requirements, may be required to show completion of up to thirty contact hours of continuing education, that meets the requirements of this rule, before their certificate is renewed or reinstated by the board. The continuing education shall be obtained within the forty-eight months immediately prior to the application for renewal or reinstatement.
- (G) A community health worker may use a waiver to satisfy the continuing education requirement only one time, and must notify the board in writing requesting the waiver. Once requested the waiver cannot be rescinded and use of the waiver shall be documented on the community health worker's certification record.
- (H) The calculation of contact hours based on credit hours earned in an academic institution shall be made according to paragraph (B) of rule 4723-14-04 of the Administrative Code.
- (I) Educational activities that satisfy the requirements of this rule are the same as those set forth in rule 4723-14-05 of the Administrative Code.
- (J) The board may conduct a retrospective audit of any holder of a certificate to practice as a community health worker to determine compliance with this rule. The audit shall be conducted according to rule 4723-14-07 of the Administrative Code. A community health worker shall retain proof of completion of approved continuing education for a period of six years.
- (K) A community health worker certificate holder who is engaged in active military duty may be eligible for an extension of time to complete continuing education as provided in rule 4723-2-04 of the Administrative Code.



4723-26-06

**Nurse delegation to community health workers.**

- (A) This chapter sets forth standards for the delegation and supervision of nursing tasks performed by a community health worker at the delegation of a registered nurse.
  
- (B) Nothing in this chapter shall be construed to prevent any person registered, certified, licensed, or otherwise legally authorized under any law in this state from engaging in the practice for which such person is registered, certified, licensed, or authorized.

4723-26-07

**Prohibitions on delegation.**

- (A) Pursuant to division (B) of section 4723.82 of the Revised Code, a registered nurse shall not delegate to a community health worker the administration of medications.
- (B) No community health worker to whom a nursing task is delegated shall delegate the nursing task to any other person.
- (C) Employing a community health worker to engage in the unauthorized practice of nursing is prohibited by section 4723.03 of the Revised Code.
- (D) If a community health worker delegates a nursing task, the community health worker shall be engaging in the unauthorized practice of nursing, which is prohibited by section 4723.03 of the Revised Code.
- (E) If a community health worker performs a nursing task and does not comply with all the provisions set forth in this chapter, the community health worker shall be engaging in the unauthorized practice of nursing, in violation of section 4723.03 of the Revised Code.

4723-26-08

**Criteria and standards for a registered nurse delegating to a community health worker.**

- (A) A registered nurse may delegate a nursing task to a community health worker if all the conditions for delegation set forth in this chapter are met.
- (B) Prior to delegating a nursing task to a community health worker, the delegating registered nurse shall determine each of the following:
- (1) That the nursing task is within the scope of practice of a registered nurse as set forth in section 4723.01 of the Revised Code;
  - (2) That the nursing task is within the knowledge, skill, and ability of the registered nurse delegating the nursing task;
  - (3) That the nursing task is within the training, skill, and ability of the community health worker who will be performing the delegated nursing task;
  - (4) That appropriate resources and support are available for the performance of the nursing task, and for management of the outcome;
  - (5) That adequate and appropriate supervision by the registered nurse of the performance of the nursing task is available in accordance with this rule; and
  - (6) That:
    - (a) The nursing task requires no judgment based on nursing knowledge and expertise on the part of the community health worker performing the task;
    - (b) The results of the nursing task are reasonably predictable;
    - (c) The nursing task can be safely performed according to exact, unchanging directions, with no need to alter the standard procedures for performing the task;
    - (d) The performance of the nursing task does not require that complex observations or critical decisions be made with respect to the nursing task;
    - (e) The nursing task does not require repeated performance of nursing assessments by the delegating registered nurse; and

- (f) The consequences of performing the nursing task improperly are minimal and not life threatening.
- (C) Prior to delegating a nursing task to a community health worker, a registered nurse shall:
- (1) Identify:
    - (a) The individual on whom the nursing task may be performed; and
    - (b) A specific time frame during which the delegated nursing task may be performed.
  - (2) Complete an evaluation of the conditions that relate to the delegation of the nursing task to be performed, including:
    - (a) An evaluation of the individual who needs nursing care;
    - (b) The types of nursing care the individual requires;
    - (c) The complexity and frequency of the nursing care needed;
    - (d) The stability of the individual who needs nursing care; and
    - (e) A review of the evaluations performed by other licensed health care professionals.
- (D) The delegating registered nurse shall be accountable for the acts of delegation to and supervision of the community health worker in the performance of the delegated nursing task.
- (E) If a registered nurse determines that a community health worker is not correctly performing a delegated task the registered nurse shall immediately intervene.
- (F) A registered nurse shall not be responsible for the delegation of a nursing task by another licensed health care practitioner to a community health worker.

4723-26-09

**Supervision of the performance of a nursing task performed by a community health worker.**

- (A) When a community health worker is performing a nursing task in accordance with this chapter, supervision shall be provided by a registered nurse. For purposes of this rule, supervision includes initial and ongoing direction, procedural guidance, and observation and evaluation. The registered nurse providing the supervision for a delegated nursing task shall evaluate and document the following on an ongoing basis:
- (1) The degree to which the nursing care needs of the individual are being met;
  - (2) The performance by the community health worker of the delegated nursing task;
  - (3) The need for further instruction to the community health worker who is performing the nursing task; and
  - (4) The need to withdraw the delegation.
- (B) For purposes of providing supervision to a community health worker performing a delegated nursing task, the registered nurse must be either:
- (1) Continually accessible to the community health worker in person; or
  - (2) Continually available to the community health worker by some form of telecommunication.
- (C) In determining the number of community health workers that a registered nurse may supervise, the registered nurse shall consider all of the following:
- (1) A registered nurse may not supervise any more than five community health workers at one given time;
  - (2) The number of clients who require nursing care and the health status of those clients;
  - (3) The types and numbers of nursing tasks delegated to each community health worker;
  - (4) The competency, dependability, and reliability of each community health worker to be supervised;

- (5) The number of different settings in which the community health workers will be providing services and the proximity between these settings and the location of the registered nurse; and
- (6) The availability of emergency aid if the registered nurse is not able to reach, in a timely manner, the setting in which the community health workers are providing services.

4723-26-10

**Standards of safe care provided by the community health worker.**

- (A) The purpose of this chapter is to establish minimal acceptable standards of safe and effective care provided by community health workers holding a certificate issued by the board of nursing pursuant to Chapter 4723. of the Revised Code.
- (B) A community health worker shall maintain knowledge of the duties, responsibilities, and accountabilities of a community health worker and shall practice in accordance with the following:
  - (1) Laws regulating the provision of care by a community health worker as set forth in Chapter 4723. of the Revised Code;
  - (2) Rules adopted by the board in accordance with Chapter 119. of the Revised Code; and
  - (3) Any other applicable state or federal laws and rules.
- (C) A community health worker shall perform nursing tasks in accordance with sections 4723.81 and 4723.82 of the Revised Code, only as delegated and supervised by a registered nurse holding a current, valid license issued by the board under Chapter 4723. of the Revised Code.
- (D) A community health worker shall demonstrate competence and accountability in performing nursing tasks as delegated by a registered nurse, including, but not limited to, the following:
  - (1) Consistent performance of nursing tasks as delegated by a registered nurse; and
  - (2) Consulting with the supervising nurse in a timely manner to facilitate referral, consultation, or intervention when a community health worker identifies factors or conditions adversely affecting, or potentially affecting, a patient's health status.
- (E) A community health worker shall, in a timely manner:
  - (1) Perform the nursing tasks as delegated by a registered nurse, unless the community health worker believes or should have reason to believe any of the following:
    - (a) Performing the nursing task would be harmful or potentially harmful to

the patient;

(b) The nursing task is contraindicated by other documented information; or

(c) The nursing task has not been properly authorized.

(2) Clarify the direction received from the delegating nurse if the community health worker believes, or should have reason to believe, any of the following:

(a) Performing the nursing task would be harmful or potentially harmful to the patient;

(b) The nursing task is contraindicated by other documented information;

(c) The nursing task has not been properly authorized; or

(d) The condition of the patient has changed.

(F) When clarifying a nursing task the community health worker shall, in a timely manner:

(1) Consult with the supervising registered nurse to explain the cause of concern;

(2) Advise the supervising registered nurse if the community health worker decides not to perform the nursing task;

(3) Document that the supervising registered nurse was advised of the community health worker's decision not to perform the nursing task as delegated; and

(4) Take any other actions needed to assure the safety of the patient.

(G) A community health worker shall, in a timely manner, document, report to, and consult with, the supervising registered nurse when a patient refuses to follow the health care regimen.

(H) A community health worker shall maintain the confidentiality of patient information obtained in the course of the community health worker's duties and responsibilities. A community health worker shall communicate patient information to other members of the health care team for health care purposes only, shall access patient



information only for purposes of patient care or for otherwise fulfilling the worker's assigned job responsibilities, and shall not disseminate patient information for purposes other than patient care or for otherwise fulfilling the worker's assigned job responsibilities through social media, texting, emailing, or any other form of communication.

- (I) To the maximum extent feasible, identifiable patient health care information shall not be disclosed by a community health worker unless the patient has consented to the disclosure of identifiable patient health care information. A community health worker shall report individually identifiable patient information without written consent in limited circumstances only, and in accordance with an authorized law, rule, or other recognized legal authority.
  
- (J) A community health worker shall do all of the following to promote patient safety:
  - (1) Display the applicable title set forth in section 4723.82 of the Revised Code at all times when providing direct patient care, or if interacting with a patient, or health care provider on behalf of the patient, through any form of telecommunication, the community health worker shall identify their certification to the patient or healthcare provider;
  
  - (2) In a timely manner, completely and accurately document and report all client data obtained while performing nursing tasks delegated by the supervising registered nurse, and the patient's response to the care;
  
  - (3) In a timely manner, completely and accurately document and report to the supervising registered nurse all errors in, or deviations from, the delegated nursing tasks;
  
  - (4) Not falsify any patient record or other document prepared in the course of, or in conjunction with, the performance of delegated nursing tasks;
  
  - (5) Implement measures to promote a safe environment for the patient including consulting with a supervising registered nurse any time that the community health worker suspects patient abuse or neglect;
  
  - (6) Establish, delineate, and maintain professional boundaries with each patient;
  
  - (7) Refrain from all behavior that causes or may cause physical, verbal, mental, or emotional abuse or distress to a patient, or in behavior that may be reasonably interpreted to cause physical, verbal, mental, or emotional abuse or distress;

- (8) Not misappropriate a patient's property, engage in behavior to seek or obtain, behavior that may reasonably be interpreted as seeking or obtaining, personal gain at the patient's expense, or engage in behavior that constitutes, or that may reasonably be interpreted as constituting, inappropriate involvement in a patient's personal relationships or financial matters;
- (9) Not engage in sexual conduct or in conduct that may reasonably be interpreted as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or in verbal behavior that may reasonably be interpreted as seductive or sexually demeaning to a patient;
- (10) Treat each patient with courtesy, respect, and with full recognition of dignity and individuality; and
- (11) Provide each patient with privacy while performing delegated nursing tasks.

For purposes of paragraphs (J)(6) to (J)(9) of this rule, a patient is always considered to be incapable of giving free, full, or informed consent to the actions of a community health worker.

(K) A community health worker shall not make any false, misleading, or deceptive statements, or submit or cause to be submitted any false, misleading or deceptive information or documentation to:

- (1) The board or any representative of the board;
- (2) Current employers;
- (3) Prospective employers when applying for positions requiring a community health worker certificate;
- (4) Facilities in which, or organizations for whom, the community health worker is working a temporary or agency assignment;
- (5) Other members of the patient's health care team; or
- (6) Law enforcement personnel.

(L) For purposes of paragraphs (J)(6), (J)(7), (J)(8), (J)(9), and (J)(10) of this rule, a certified community health worker shall not use social media, texting, emailing, or other forms of telecommunication with, or about, a patient, for non-health care

purposes or for purposes other than fulfilling the worker's assigned job responsibilities.

4723-26-11

**Disciplinary actions against certified community health workers; investigations.**

- (A) The board of nursing, by the vote of a quorum, may impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required by a community health worker training program, or committed fraud, misrepresentation, or deception in applying for a community health worker certificate: deny, revoke, suspend, or place restrictions on a certificate issued by the board; reprimand or otherwise discipline a certificate holder; or impose a fine of not more than five hundred dollars per violation.
- (B) By the vote of a quorum, the board may impose one or more of the following sanctions on an individual who applies for or holds, a community health worker certificate: deny, revoke, suspend, or place restrictions on a community health worker certificate, or reprimand or otherwise discipline a holder of a community health worker certificate. The sanctions may be imposed for any of the following:
- (1) Denial, revocation, suspension, or restriction of authority to engage in a licensed profession or practice a health care occupation, in Ohio or another state or jurisdiction, including but not limited to nursing, practice as a dialysis technician, nurse aide, community health care worker or medication aide, for any reason other than a failure to renew;
  - (2) Performing a nursing task as a certified community health worker having failed to renew a community health worker certificate issued under Chapter 4723. of the Revised Code, or while a community health worker certificate is under suspension or inactive;
  - (3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, of a misdemeanor committed in the course of performing care as a certified community health worker;
  - (4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or any crime involving gross immorality or moral turpitude;
  - (5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial

diversion or similar program or for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;

- (6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;
- (7) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;
- (8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way not in accordance with a legal, valid prescription issued for that individual, or self-administering or otherwise taking into the body any drug that is a schedule I controlled substance;
- (9) Habitual or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs the individual's ability to comply with the standards of safe care established in rule 4723-26-10 of the Administrative Code;
- (10) Impairment of the ability to comply with standards of safe care established in rule 4723-26-10 of the Administrative Code because of the use of drugs, alcohol or other chemical substances;
- (11) Impairment of the ability to comply with standards of safe care established in rule 4723-26-10 of the Administrative Code because of a physical or mental disability;
- (12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;
- (13) Misappropriation or attempted misappropriation of money or anything of value in the course of performing care as a certified community health worker;
- (14) Adjudication by a probate court of being mentally ill or mentally incompetent.

The board may restore the person's community health worker certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency;

- (15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate his chapter;
  - (16) Violation of Chapter 4723. of the Revised Code or any rules adopted under it;
  - (17) Violation of any restrictions placed on a community health worker certificate by the board;
  - (18) Failure to use universal and standard precautions including those set forth in Chapter 4723-20 of the Administrative Code;
  - (19) Engaging in activities that exceed those permitted under sections 4723.81 to 4723.88 of the Revised Code or this chapter;
  - (20) Failure by a certified community health worker to conform to the standards of safe care established in rule 4723-26-10 of the Administrative Code;
  - (21) Aiding and abetting a person in that person's practice of nursing without a license, or practice as a dialysis technician or certified medication aide without a certificate issued under this chapter;
  - (22) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other [than](#) the spouse of the certified community health worker in any of the following:
    - (a) Sexual contact, as defined in section 2907.01 of the Revised Code;
    - (b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning; or
  - (23) Assisting suicide as defined in section 3795.01 of the Revised Code.
- (C) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code and Chapter 4723-16 of the Administrative Code. The board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to

conduct any hearing the board is authorized to hold under Chapter 119. of the Revised Code.

(D) In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or certificate holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code:

(1) The board is not required to hold a hearing, but may adopt, by vote of a quorum, a final order that contains the board's findings; and

(2) In the final order, the board may order any of the sanctions listed in paragraph (A) or (B) of this rule.

(E) If a criminal action is brought against a certified community health worker for an act or crime described in paragraphs (B)(3) to (B)(7) of this rule and the action is dismissed by the trial court other than on the merits:

(1) The board shall conduct an adjudication to determine whether the certified community health worker committed the act upon which the action was based.

(2) If the board determines on the basis of the adjudication that the certified community health worker committed the act, or if the certified community health worker fails to participate in the adjudication, the board may take action as though the certified community health worker had been convicted of the act.

(F) If the board takes action on the basis of a conviction, plea, or a judicial finding as described in paragraphs (B)(3) to (B)(7) of this rule that is overturned on appeal, the certified community health worker may, on exhaustion of the appeal process, petition the board for reconsideration of its action.

(1) On receipt of the petition and supporting court documents, the board shall temporarily rescind its action.

(2) If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action.

(3) If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the certified

community health worker committed the act on which the original conviction, plea, or judicial finding was based.

- (a) If the board determines on the basis of the adjudication that the certified community health worker committed such act, or if the certified community health worker does not request an adjudication, the board shall reinstate its action.
  - (b) If the board determines that the certified community health worker did not commit such act, the board shall permanently rescind its action.
- (G) The board may investigate an individual's criminal background in performing its duties under this rule and sections 4723.81 to 4723.88 of the Revised Code. As part of such investigation, the board may order the individual to submit, at the individual's expense, a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records in accordance with the procedure described in section 4723.091 of the Revised Code.
- (H) During the course of an investigation the board may compel any certified community health worker, or applicant under section 4723.84 of the Revised Code, to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability perform delegated nursing tasks. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.
- (I) If the board finds that an individual is impaired in accordance with paragraph (H) of this rule, the board shall require the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certified community health worker certificate.
- (1) The individual shall be afforded an opportunity to demonstrate to the board that the individual can begin or resume the performance of delegated nursing tasks in accordance with standards established under rule 4723-26-10 of the Administrative Code.
  - (2) For purposes of this paragraph, any certified community health worker or applicant under this rule shall be deemed to have given consent to submit to a



mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

- (J) The provisions of division (I) of section 4723.28 of the Revised Code apply to information, investigations and adjudications involving certified community health workers or applicants under sections 4723.81 to 4723.88 of the Revised Code and this chapter.
- (K) The provisions of section 4723.29 of the Revised Code apply with respect to any matter that the board has authority to investigate, inquire into, or hear under sections 4723.81 to 4723.88 of the Revised Code and this chapter.
- (L) When the board refuses to grant a community health worker certificate to an applicant, revokes a certificate, or refuses to reinstate a certificate, the board may specify that its action is permanent. An individual subject to permanent action taken by the board is forever ineligible to hold a community health worker certificate and the board shall not accept from the individual an application for reinstatement of the certificate or for a new certificate.
- (M) No unilateral surrender of a community health worker certificate issued under Chapter 4723. of the Revised Code shall be effective unless accepted by majority vote of the board. No application for a community health worker certificate issued under Chapter 4723. of the Revised Code may be withdrawn without a majority vote of the board. The board's jurisdiction to take disciplinary action is not removed or limited when an individual has a certificate classified as inactive or fails to renew a certificate.

(A) To be approved by the board in accordance with division (G) of section 4723.88 of the Revised Code, a community health worker training program shall employ or contract with a person to serve as program administrator. Such person shall meet one of the following criteria:

(1) Hold a license or certificate to practice as one of the following health care professionals:

(a) A dentist licensed under Chapter 4715. of the Revised Code;

(b) A nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A pharmacist licensed under Chapter 4729. of the Revised Code;

(e) A physician assistant certified under Chapter 4730. of the Revised Code;

(f) A physician licensed under Chapter 4731. of the Revised Code;

(g) A psychologist licensed under Chapter 4732. of the Revised Code;

(h) A chiropractor licensed under Chapter 4734. of the Revised Code;

(i) A nursing home administrator licensed under Chapter 4751. of the Revised Code;

(j) A counselor, social worker, or marriage and family therapist licensed under Chapter 4757. of the Revised Code; or

(k) A dietitian licensed under Chapter 4759. of the Revised Code.

(2) Hold credentials as an education professional that are recognized by:

(a) The Ohio department of education;

(b) The chancellor of higher education; or

(c) A nationally or regionally recognized accreditation body for programs of

postsecondary education.

(B) The administrator of a community health worker training program shall be responsible for the following:

(1) Assuring that the community health worker training program establishes written policies addressing the issues set forth in paragraph (C) of this rule;

(2) Assuring that the policies of the program are implemented as written;

(3) If the curriculum includes nursing tasks. ~~Assuring~~ assuring that the nursing tasks included in the curriculum of an approved community health worker training program are taught by an individual who:

(a) Has held an Ohio license to practice registered nursing for a minimum of two years;

(b) Is not prohibited by law from teaching nursing tasks;

(c) Satisfies one of the following:

(i) Has experience in working directly with community health workers for a minimum of six months prior to entering into an instructor role; or

(ii) Within six months after assuming instructor responsibilities in the community health worker training program, successfully completes the community health worker program coursework.

(4) Assuring that the training program utilizes other licensed health care professionals to provide portions of the relevant classroom and clinical instruction in accordance with the professional's educational background and licensed scope of practice.

(C) The program administrator of the ~~A~~ community health worker training program shall ~~adopt~~ establish and implement written program policies that address all of the following:

(1) Student enrollment. ~~Criteria for students to enroll and continue in the program that establish a basic level of ability necessary for an individual to safely~~

~~perform the essential functions of a community health worker;~~

- (2) Student re-enrollment; ~~Criteria for student re-enrollment in the program;~~
- (3) The process for determining the amount of credit to be granted to an applicant with experience in the armed forces of the United States or in the national guard, or in a reserve component. The program shall have a process in place to: ~~Criteria for successful completion of the program;~~
  - (a) Review the individual's military education and skills training;
  - (b) Determine whether any of the military education or skill training is substantially equivalent to the curriculum established in 4723-26 of the Administrative Code;
  - (c) Award credit to the individual for any substantially equivalent military education or skills training;
- (4) Student progression, which shall include the following.~~A process for determining that a student has sufficient knowledge and understanding to competently provide the care and services of a community health worker including both nursing tasks and non-nursing tasks.~~
  - (a) The level of achievement a student must maintain in order to remain in or to progress in the program;
  - (b) A process for determining that a student has sufficient knowledge and understanding to competently provide the care and services of a community health worker including both nursing tasks, if nursing tasks are in the curriculum, and non-nursing tasks.
    - ~~(a) A registered nurse shall provide written verification that a community health worker student has been taught the skills necessary to perform delegated nursing tasks;~~
    - ~~(b) A registered nurse or other qualified community health worker training program instructor or administrator shall provide written verification that a student has been taught skills necessary to provide the non-nursing tasks provided by a community health worker.~~
- (5) Requirements for completion of the program;
  - (a) A registered nurse shall provide written verification that a community health worker student has been taught the skills necessary to perform delegated nursing tasks, if nursing tasks are included in the curriculum;

(b) A registered nurse or other qualified community health worker training program instructor or administrator shall provide written verification that a student has been taught skills necessary to provide the non-nursing tasks provided by a community health worker.

~~(5)~~(6) A process for maintaining student records including:

- (a) The date a student began the program;
- (b) The date a student completed the program; and
- (c) The competency check lists for each individual student.

~~(6)~~(7) An accurate, timely process to provide verification to the board that a student seeking certification as a community health worker has successfully completed the approved training program;

~~(7)~~(8) A process for program evaluation that includes feedback from students, instructors and employers of individuals who have successfully completed the community health worker training program;

~~(8)~~(9) Designation of those persons with authority to notify the board regarding student enrollment, re-enrollment, and completion of the program;

~~(9)~~(10) A process for addressing the unexpected vacancy of the administrator of the program; and

~~(10) For individuals with experience in the armed forces of the United States, or in the national guard or in a reserve component, the program shall have a process in place to:~~

- ~~(a) Review the individual's military education and skills training;~~
- ~~(b) Determine whether any of the military education or skills training is substantially equivalent to the curriculum established in Chapter 4723-26 of the Administrative Code;~~
- ~~(c) Award credit to the individual for any substantially equivalent military education or skills training.~~

(D) When the administrator of an approved community health worker training program vacates the position or is replaced, an authorized representative of the program shall

provide written notice to the board within thirty days after the position is vacated and within thirty days after a new person assumes the role.

- (E) An approved training program shall not initiate a new [cohort of students for the community health worker training program](#) unless an administrator who meets the requirements of paragraph (A) of this rule is in place.
  
- (F) When a decision is made to close a community health worker training program, the board shall be notified in writing of the decision and provided with the following information:
  - (1) The tentative date of closing;
  
  - (2) The location of the program's records, including but not limited to, student records; and
  
  - (3) The name and address of the custodian of the records.

4723-26-13

**Standard curriculum for community health worker training programs.**

- (A) An approved curriculum for a training program for community health workers shall be the standard minimum curriculum set forth in paragraph (B) of this rule and shall satisfy all of the following:
- (1) Include a program philosophy, program objectives or outcomes, course objectives or outcomes, teaching strategies, and core competencies or other evaluation methods that are:
    - (a) Consistent with the law regulating the practice of the community health worker;
    - (b) Internally consistent;
    - (c) Implemented as written; and
    - (d) Distributed to community health worker students;
  - (2) Include a curriculum plan showing the sequence of courses, laboratory experiences, and units of credit or number of clock hours allotted to theory and laboratory experiences; and
  - (3) Include a curriculum content that is a minimum of one hundred hours of didactic instruction and one hundred thirty hours of clinical experience. Relevant laboratory experiences may be integrated into the curriculum.
- (B) As part of the instruction required in paragraph (A) of this rule, related clinical and laboratory experiences shall provide a community health worker with an opportunity to practice cognitive, psychomotor, and affective skills in the performance of a variety of basic tasks and activities with individuals or groups across the life span. Portions of the relevant clinical experience shall be provided in a community setting similar to the settings in which a community health worker will provide services.
- (C) The standard minimum curriculum for community health workers shall include courses, content, and expected outcomes, relative to the defined role of the community health worker, in the following major areas:
- (1) Health care, including expected competencies in the areas of:

- (a) The physical, mental, emotional and spiritual impacts on health;
  - (b) Basic anatomy and physiology of major body systems;
  - (c) Substance use and affects on health;
  - (d) Signs indicating a change in a client's health status;
  - (e) Obtaining accurate vital signs;
  - (f) Basic cardiopulmonary resuscitation skills;
  - (g) Medical terminology;
  - (h) Documentation methods; ~~and~~
  - (i) Utilization of local health and referral systems-; ~~and~~
  - (j) Social determinants of health.
- (2) Community resources, including expected competencies in the areas of:
- (a) Referral methods to assist various target population groups;
  - (b) Utilization of community resources and their referral processes;
  - (c) Utilization of resources related to entitlement programs;
  - (d) Recognizing and reporting signs of family violence, human trafficking, abuse and neglect; and
  - (e) Recognizing and making appropriate referral for signs of mental health and addiction problems.
- (3) Communication skills, including expected competencies in the areas of:
- (a) Interpersonal communication skills and support group facilitation skills;



- (b) Effective interview techniques;
  - (c) Effective written communications to health care and service care providers; and
  - (d) Utilization of appropriate ~~telephone~~ telecommunication technique.
- (4) Individual and community advocacy, including expected competencies in the areas of:
- (a) Recognition of diversity, and the role of the community health worker in an interdisciplinary team;
  - (b) Supporting development of self care skills in various target population groups;
  - (c) Utilization of skills to assure that different target population groups receive needed services; and
  - (d) Methods of serving as a community liaison between different target population groups and local agencies and providers.
- (5) Health education, including expected competencies in the areas of:
- (a) Educating on healthy lifestyle choices, including nutrition, exercise, and stress management to reduce health risk factors;
  - (b) Educating on adverse health consequences of smoking, drinking, and drugs of abuse;
  - (c) Educating on the importance of oral health care across the lifespan;
  - (d) Explaining basic prevention and wellness topics; and
  - (e) Explaining age-appropriate safety and injury prevention techniques.
- (6) Service skills and responsibilities, including expected competencies in the areas of:

(a) Protocols and policies regarding:

- (i) Confidentiality;
- (ii) Care coordination;
- (iii) Documentation;
- (iv) Submission of documentation for review by a supervisor; and
- (v) Release of client information.

(b) Skills necessary to carry out an effective home visit, including:

- (i) Personal safety;
- (ii) Emotional dynamics;
- (iii) Setting appropriate boundaries with clients;
- (iv) Time management; and
- (v) Conflict management skills.

(c) Performance of basic clerical, computing, and office skills necessary in the role of the community health worker.

(D) The standard minimum curriculum for community health workers shall also educate students on needs throughout the span of a lifetime including the following:

(1) Content related to the family during childbearing years, including expected competencies in the areas of:

- (a) Health education related to the childbearing years; and
- (b) A basic understanding of related anatomy, physiology, and appropriate health care.

- (2) Content related to the family during pregnancy, including expected competencies in the areas of:
  - (a) Basic anatomy, physiology, and normal signs related to pregnancy;
  - (b) Recognition of warning signs during pregnancy requiring immediate reporting to the registered nurse supervisor; and
  - (c) Health education related to pregnancy, labor, and postpartum care.
- (3) Content related to the newborn, infant, and young child, including expected competencies in the areas of:
  - (a) Routine infant feeding and newborn care;
  - (b) Recognizing and reporting problems that can occur in early infancy;
  - (c) Immunization schedules and information regarding referral to appropriate health care facilities and practitioners;
  - (d) Basic methods to enhance typical child development; and
  - (e) Identification of potential developmental delays.
- (4) Content related to adolescents including expected competencies in the areas of:
  - (a) Age appropriate health education;
  - (b) Acute and chronic illnesses including, but not limited to asthma, obesity, and eating disorders; and
  - (c) High risk behaviors.
- (5) Content related to adults and seniors, including expected competencies in the areas of:
  - (a) The aging process;
  - (b) Prevention strategies;

- (c) Recommended screenings;
  - (d) Top causes of morbidity and mortality by age group; and
  - (e) Acute and chronic illnesses of adulthood including but not limited to heart disease, cancer, stroke, diabetes, and lung disease.
- (6) Content related to special health care and social needs of target population groups including:
- (a) Grandparents raising grandchildren;
  - (b) Adults caring for aging parents; and
  - (c) Children and adults with disabilities.
- (E) For purposes of paragraph (B) of this rule, students participating in a clinical practicum in a community setting shall be supervised by qualified instructional personnel ~~employed~~ utilized by, or under contract with, the community health worker training program.
- (F) When a program has any type of cooperative relationship, including but not limited to relationships with clinical agencies, a written agreement with the cooperating entity shall:
- (1) Exist and be current;
  - (2) Be signed by representatives of both the program and the entity with which it has entered into a cooperative relationship; and
  - (3) Be on file at the program.
- ~~(F)~~(G) It is the intent of the board that this curriculum is structured in such a way as to assure that participants who successfully complete a program that provides the curriculum may be able to utilize a portion of the credit hours earned toward additional career-related education.

4723-26-14

**Procedures for obtaining approval or reapproval of community health worker training programs.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

The board shall approve and reapprove community health worker training programs as follows:

(A) A community health worker training program that seeks to be approved by the board shall submit to the board all of the following:

- (1) A completed "Community Health Worker Training Program Approval Application";
- (2) Payment of a program approval fee of three hundred dollars; and
- (3) Any other information requested by the board.

(B) A community health worker training program seeking reapproval by the board shall submit the following to the board within ninety days prior to the expiration of its current approval:

- (1) A completed "Community Health Worker Training Program Re-Approval Application";
- (2) Payment of a program reapproval fee of three hundred dollars; and
- (3) Any other information requested by the board.

(C) If the board determines that additional information is necessary to make a determination regarding an application for program approval or reapproval, the board shall provide written notice to the applicant requesting the information. An application will expire, and a new application must be submitted, if the requested information is not received by the board within one year of the date of the board's request.

(D) The board may conduct a [survey, which may include a site visit](#), of a community health worker training program or applicant either prior to approving or reapproving a program application, or at any time during the two year period for which a program is approved.

- (E) At a regularly scheduled board meeting the board shall review the completed application for approval or reapproval and all other relevant documentation to determine whether a program complies with standards set forth in this chapter. If the board finds that the program meets all the requirements of this chapter it shall issue its approval or reapproval, in writing, to the applicant program.
- (F) Program approval shall extend for two years provided the program continues to meet the program standards set forth in this chapter.
- (G) After a survey is completed by a representative of the board, a report of the survey shall be completed and submitted to the program administrator. The survey report shall indicate requirements that were not met and maintained by the program, when applicable, and the date that the report will be considered by the board. The survey report may include recommendations for enhancement of the program. ~~If the board determines that an application for program approval or reapproval does not demonstrate that the applicant program meets or maintains the minimum standards set forth in this chapter, the board shall send to the administrator of the program a written report that identifies the specific deficiencies. The deficiency report must notify the applicant or program of a board meeting date, not less than ninety days in the future, at which the board will make a decision regarding the application.~~
- (H) If the survey report indicates that a requirement was not met and maintained, the program administrator may submit to the board documentation that the program is meeting and maintaining the requirements identified in the survey report as not being met and maintained. The program administrator's documentation must be submitted to the board not later than forty-five days prior to the date the board is to consider the survey report. ~~Within thirty days after receipt of the deficiency report, the administrator of the program may submit to the board either:~~
- ~~(1) A written plan of correction that sets forth the steps taken by the program to meet or maintain each minimum standard identified in the report as not being met or maintained; or~~
  - ~~(2) A written response to the report setting forth evidence that the program is meeting and maintaining each minimum standard identified in the report as not being met or maintained.~~
- ~~In order for the board to consider the program's response to the deficiency report, the program must submit the response not less than thirty days prior to the board meeting at which the board will consider the program's approval status.~~
- (I) When making a determination about a program's approval status, the board shall consider the survey report and any documentation submitted by the program

administrator, provided the documentation was submitted by the program administrator at least forty-five days prior to the board meeting.

(J) Based on the ~~deficiency~~ survey report and the program's response to the survey report, if any, the board may grant approval, grant provisional approval, continue approval, or propose to deny or withdraw approval of the program. The board shall deny or withdraw approval of a program according to the procedures set forth in Chapter 119. of the Revised Code. In the alternative, the board and applicant or program may enter into a consent agreement specifying terms and conditions the applicant or program must satisfy in order to achieve or maintain an approval status.

(K) If at any time a program with full approval fails to meet and maintain the minimum standards set forth in this chapter, the board ~~shall~~ may place the program on provisional approval. When a program is placed on provisional approval, the board shall specify the minimum standard or standards the program is not meeting or maintaining and shall establish the time period during which the program will be on provisional approval. When the time period for provisional approval has expired, the board shall reconsider the program's approval status.

(L) If a program on provisional approval continues to fail to meet or maintain minimum standards at the end of the time period established for provisional approval, the board may propose to continue provisional approval for a period of time specified by the board or may propose to withdraw approval, according to the procedures set forth in Chapter 119. of the Revised Code. In the alternative, the board and applicant or program may enter into a consent agreement specifying terms and conditions the applicant or program must satisfy in order to achieve or maintain an approval status.

(M) When a complete application for reapproval is submitted to the board in accordance with paragraph (B) of this rule, and the board fails to make a determination before the current program approval expires, the board shall issue a notice to the administrator of the program extending approval of the program until board action is taken on the reapproval application.

4723-5-01

**Definitions.**

For the purpose of this chapter, the following definitions shall apply:

- (A) "Administrator of the program" or "program administrator" means the registered nurse who is administratively responsible for a program.
- (B) "Advanced standing" means credit granted for prior nursing courses or transfer credit, according to the policy required by paragraph (A)(3) of rule 4723-5-12 of the Administrative Code.
- (C) "Accelerated program" means a program or program track that accepts applicants with a non-nursing baccalaureate or higher degree, and that provides a pre-license nursing education program curriculum that meets the requirements of rule 4723-5-13 of the Administrative Code, except that the program spans a minimum of fifty-two weeks of clinical courses.
- (D) "Associate program administrator" means a registered nurse who meets the requirements set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program or rule 4723-5-11 of the ~~Administrative~~ Administrative Code for a practical nursing education program.
- (E) "Change of control" means transfer of the authority to manage, direct, or supervise a program from a controlling agency to another entity, including, but not limited to, the power, directly or indirectly, to direct the management or policies of a program or to vote fifty per cent or more of any class of voting interest in an entity that is the controlling agency.
- (F) "Clinical course" means a nursing course that includes clinical experience.
- (G) "Clinical experience" means an activity planned to meet course objectives or outcomes and to provide a nursing student with the opportunity to practice cognitive, psychomotor, and affective skills in the supervised delivery of nursing care to an individual or group of individuals who require nursing care.
- (H) "Compliance" means a program meets and maintains the requirements set forth in this chapter.
- (I) "Conceptual framework" means the key concepts and basic themes drawn from the program's philosophy that form the basis for the curriculum.
- (J) "Conditional approval" means the initial approval status granted to a proposed program that meets and maintains the requirements of this chapter. Conditional



approval authorizes implementation of the program and is required prior to the final acceptance of a student into the program.

- (K) "Controlling agency" means the entity that grants credentials upon completion of a program and under which a program is organized and administered.
- (L) "Course objectives or outcomes" means the cognitive, psychomotor, or affective knowledge and skills to be learned by the nursing student upon completion of a course.
- (M) "Current, valid license" and "current, valid licensure" mean, for the period from February 1, 2008 to February 1, 2016, an individual holds a license issued under Chapter 4723. of the Revised Code that is not inactive, suspended, revoked, or currently subject to any restrictions, and for which the individual continues to meet all of the requirements for issuance.
- (N) "Current, valid license" and "current, valid licensure" mean an individual holds a license to practice nursing issued under Chapter 4723. of the Revised Code that is not inactive, suspended, revoked, subject to restrictions, or subject to a consent agreement or board order with remaining terms or conditions that the individual has not satisfied, and for which the individual continues to meet all of the requirements for issuance.
- (O) "Curriculum" means all theory components, clinical ~~components~~ experiences, and laboratory experiences that must be successfully completed for admission to licensure examinations.
- (P) "Faculty" means a registered nurse who meets the faculty requirements set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program or rule 4723-5-11 of the Administrative Code for a practical nursing education program. Faculty:
  - (1) Plan and teach all courses containing nursing objectives, or direct the teaching of those courses provided by teaching assistants;
  - (2) Report to the program administrator or associate administrator; and
  - (3) Contribute to the evaluation and implementation of, or changes in program curriculum.
- (Q) "Full approval" means the approval status granted to a program that meets and

maintains the requirements of this chapter. Full approval may be granted for a five-year period to:

- (1) A program with conditional approval after completion of the program by the first class who entered the program immediately after conditional approval was granted, provided the program meets and maintains the requirements of this chapter;
  - (2) A program with full approval demonstrating that the requirements of this chapter continue to be met and maintained; or
  - (3) A program with provisional approval if the board determines that the program is meeting and maintaining the requirements of this chapter and if the established time period for provisional approval has expired.
- (R) "High fidelity" means experiences using full scale computerized patient simulators, virtual reality or standardized patients that are extremely realistic and provide a high level of interactivity and realism for the learner.
- (S) "Jurisdiction" means any state, territory, or political subdivision of the United States of America in which a board or legal approving authority regulates nurse licensure and nursing practice and maintains membership in the national council of state boards of nursing.
- (T) "Laboratory experience" means an activity planned to meet course objectives or outcomes and to provide a nursing student with the opportunity to practice cognitive, psychomotor, and affective skills in the performance of nursing activities or tasks in a simulated clinical environment, which may include the opportunity to practice nursing skills through the reproduction of life-like health care experiences using computerized models and simulator programs.
- (U) "Life span" means conception to death.
- (V) "Low fidelity" means experiences such as case studies, role-playing, using partial task trainers or static mannequins to immerse students in a clinical situation or practice of a specific skill.
- (W) "Mid or moderate fidelity" means experiences that are more technologically sophisticated, such as computer-based self-directed learning systems simulations in which the participant relies on a two-dimensional focused experience to problem solve, perform a skill, and make decisions, or which use mannequins that are more

realistic than static low- fidelity ones and have breath sounds, heart sounds and/or pulses.

- (X) "Observational experience" means faculty assigned learning experiences during which a student observes the delivery of care to patients, but does not participate in providing nursing care.
- (Y) "Organizing theme" means the concepts drawn from one or more theorists that provide a description as to how the concepts serve as a basis for curriculum development.
- (Z) "Patient simulation" means the replication of a real world patient in situ through accurate representations of patient cues and stimuli that a student is to observe, analyze, interact, and respond to with right nursing judgments and actions. The replication may be provided through the use or combination of low fidelity, mid or moderate fidelity, or high fidelity experiences.
- (AA) "Pharmacotherapeutics" means knowledge and intervention related to the administration of medications and includes, but is not limited to, drug actions and interactions, indications for and usage of the drug, contraindications, dosage, route of administration, side effects of the drug, and nursing implications.
- (BB) "Philosophy" means beliefs about the nature of the individual, society or community, nursing, health, teaching, and learning.
- (CC) "Practical nursing education program" means a nursing education program that leads to initial licensure as a licensed practical nurse.
- (DD) "Preceptor" means a registered nurse or licensed practical nurse who meets the requirements of this chapter, who provides supervision of a nursing student's clinical experience at the clinical agency in which the preceptor is employed, to no more than two students at any one time, and who implements the clinical education plan at the direction of a faculty member responsible for the course in which the student is enrolled.
- (EE) "Program" means an approved nursing education program leading to initial licensure to practice as a nurse that issues a program completion letter to the board.
- (FF) "Program objectives or outcomes" means the cognitive, psychomotor, or affective knowledge and skills to be learned by a nursing student upon completion of a program.

- (GG) "Provisional approval" means the approval status granted in accordance with this chapter to a program that was previously granted full approval, but fails to meet and maintain the requirements of this chapter. Provisional approval is granted for a specific time period.
- (HH) "Registered nursing education program" means a professional nursing education program that leads to initial licensure as a registered nurse.
- (II) "Representative of the board" means an employee of the board or an individual designated by the board to act on the board's behalf.
- (JJ) "Resume" means a resume, curriculum vitae, or any other record that summarizes an individual's education and nursing related employment history, including the locations of educational institutions and employers, dates of graduation, months and years of employment, and description of job functions performed.
- (KK) "Structured setting" means a setting in which direction and supervision are readily available; written policies and procedures are in place; and information, material, and human resources are easily accessed.
- (LL) "Supervision of a nursing student in a clinical setting" means that a faculty member, teaching assistant, or preceptor is immediately available to the nursing student at all times to provide guidance and review of the student's performance.
- (MM) "Survey " means an on-site or remote review of a program or proposed program by a representative of the board to determine whether the program meets and maintains the requirements of this chapter for nursing education programs.~~"Survey report" means any report, or any summary of such a report, prepared by a representative of the board that contains information from an on-site review of a program or proposed program.~~
- (NN) "Survey report" means any report, or any summary of such a report, prepared by a representative of the board that contains information from an on-site or remote review of a program or proposed program. ~~"Survey visit" means an on-site review of a program or proposed program by a representative of the board to determine whether the program meets and maintains the requirements of this chapter for nursing education programs.~~
- (OO) "Teaching assistant" means a person employed to assist and work at the direction of a faculty member providing instruction in the classroom, laboratory, or in a clinical setting in which nursing care is delivered to an individual or group of individuals, and who meets the qualifications set forth in this chapter.

(PP) "Teaching strategy" means a system of instructional processes designed to meet course objectives or outcomes.

4723-5-04

**Procedure for board determination of a program's status.**

(A) The board shall grant full approval status to programs holding:

- (1) Full approval, if a program demonstrates to the board that it continues to meet and maintain the requirements of this chapter;
- (2) Conditional approval, at the first board meeting following completion of the survey process required by division (A)(5) of section 4723.06 of the Revised Code, provided the program demonstrates to the board that it meets and maintains the requirements of this chapter;
- (3) Provisional approval, if the program demonstrates to the board that it meets and maintains the requirements of this chapter.

(B) The following procedures shall be followed by the board when a program does not meet and maintain the requirements of this chapter:

- (1) For a program with conditional approval, the board shall propose to withdraw conditional approval pursuant to an adjudication under Chapter 119. of the Revised Code. The adjudication may result in the continuance of conditional approval, continuance of conditional approval based on compliance with the terms and conditions of a board order or consent agreement, or withdrawal of conditional approval;
- (2) For a program with full approval, the board shall place the program on provisional approval in accordance with this chapter. When a program is placed on provisional approval, the board shall specify the requirements the program has not met and maintained and shall establish the time period during which the program will be on provisional approval. [A program on provisional approval shall prominently publish the provisional approval status on its website homepage and through written communications to current students, and shall include a definition of provisional approval or a link to the applicable list of approved programs published by the board on its website.](#) The board shall reconsider the program's approval status when the program demonstrates to the board that it meets and maintains the requirements of this chapter;
- (3) If a program on provisional approval continues to fail to meet and maintain the requirements of this chapter at the end of the time period established for provisional approval, [or if the program's NCLEX pass rates continue to fall below 95% of the national average for first time test candidates for four or more years.](#) the board may propose to continue provisional approval for a period of time specified by the board or may propose to withdraw approval

pursuant to an adjudication under Chapter 119. of the Revised Code. The adjudication may result in the continuance of provisional approval, withdrawal of approval, or granting of full approval;

- (4) The board may enter into a consent agreement in lieu of conducting an adjudication under this rule that addresses the requirements of this chapter not met and maintained.
- (C) The board shall provide to the administrator of the program written notice of the board's action.
- (D) If a program with full approval status loses its approval, accreditation or certificate of registration from the Ohio board of regents, the Ohio department of education, the state board of career colleges and schools, or any national or regional post-secondary education accreditation entity, a representative of the board may conduct a survey ~~visit~~ and the board may place the program on provisional approval.
- (E) If a program with full approval status fails to meet any of the following requirements, the board shall place the program on provisional approval status for a period of time:
- (1) Failure to provide clinical or laboratory experience to students, as required by paragraph (G) or (I)(8) of rule 4723-5-13 of the Administrative Code for a registered nursing program, or paragraph (G) or (H)(12) of rule 4723-5-14 of the Administrative Code or paragraph (I) of rule 4723-5-14 of the Administrative Code for a practical nursing program;
  - (2) Failure to timely designate a qualified administrator or interim administrator according to paragraph (D) of rule 4723-5-09 of the Administrative Code;
  - (3) Providing or submitting false, misleading or deceptive information, documentation or statements to the board, in violation of rule 4723-5-25 of the Administrative Code; or
  - (4) Having pass rates on the licensure examination of less than ninety-five per cent of the national average for first-time candidates for the ~~fourth~~ third consecutive year, as specified in paragraph (B) of rule 4723-5-23 of the Administrative Code.

4723-5-06

**Surveys ~~visits~~, reports, and response by the administrator of a program to a survey ~~visit~~ report.**

[Comment: Information regarding the availability and effective date of the materials incorporated by reference in this rule can be found in paragraph (G) of rule 4723-1-03 of the Administrative Code.]

(A) A representative of the board shall conduct a survey ~~visit~~ for the purpose of determining if a program is meeting and maintaining the requirements of this chapter. Survey ~~visits~~ may be made to the program and any or all of its locations. Surveys ~~visits~~ include the following:

- (1) An announced survey ~~visit~~ for each program at least once during the program's approval period as part of the reapproval process. If a representative of the board fails to conduct a survey ~~visit~~ before a program's full approval period expires, the board shall issue a notice to the administrator of the program extending the full approval status until a representative of the board conducts a survey ~~visit~~ and the board takes action on the program's approval status;
- (2) Additional announced or unannounced surveys ~~visits~~ as deemed necessary and appropriate by the board or representative of the board;
- (3) An announced survey ~~visit~~ for a proposed program seeking conditional approval as provided in paragraph (D) of rule 4723-5-08 of the Administrative Code:
  - (a) The board may conduct a survey ~~visit~~ for a proposed program prior to granting conditional approval;
  - (b) If a survey ~~visit~~ is not conducted prior to the board granting conditional approval, a survey ~~visit~~ shall be conducted no later than eight months after the date on which formal instruction begins for the first class of students admitted to the program;
  - (c) A survey ~~visit~~ conducted within eight months after the date on which formal instruction begins for the first class of students admitted to a program, may be conducted in conjunction with the survey ~~visit~~ required by paragraph (A)(4) of this rule;
- (4) An announced survey ~~visit~~ for a program with conditional approval, prior to completion of the program by the first class that entered the program immediately after conditional approval was granted;
- (5) An announced survey ~~visit~~ in accordance with paragraph (B) of rule 4723-5-23 of the Administrative Code when a program has a pass rate on the licensure



examination that is less than ninety-five per cent of the national average for first-time candidates in a calendar year for ~~three~~ two consecutive years; and

- (6) An announced survey ~~visit~~ in accordance with paragraph (B) of rule 4723-5-23 of the Administrative Code when a program has a pass rate on the licensure examination that is less than ninety-five per cent of the national average for first-time candidates in a calendar year for four or more consecutive years.
- (B) Prior to an announced survey ~~visit~~ as set forth in paragraph (A) of this rule, the board shall contact the administrator of the program to arrange the dates for the survey ~~visit~~. The contact shall be followed by a notice to the administrator of the program that shall include information pertinent to the survey ~~visit~~.
- (1) ~~If the program to be surveyed has two or more locations, the~~The program administrator shall notify the faculty, teaching assistants and students at ~~each~~ all program locations of the anticipated date of the survey, and provide contact information for the board so that faculty, teaching assistants and students at each location may directly forward any comments to the board concerning the program.
- (2) When finalizing the survey schedule, a representative of the board may consider faculty, teaching assistant and student comments when determining if a survey ~~visits~~ will be made for specific program locations.
- (C) Prior to an announced survey ~~visit~~ as set forth in paragraph (A)(1) of this rule, the administrator of the program shall complete an "Education Program PN Presurvey ~~Visit~~ Report Form " or "Education Program RN Presurvey Visit Report Form" and shall submit the form to the board at least three weeks prior to the scheduled date of the survey ~~visit~~.
- (D) After a survey ~~visit~~ is completed by a representative of the board, a survey report ~~of the visit~~ shall be completed and submitted to the administrator of the program. The report shall indicate the requirements that were not met and maintained by the program, when applicable, and the date that the survey report will be considered by the board. The report may include recommendations for enhancement of the program.
- (E) If the survey report indicates that a requirement is not being met and maintained, the administrator of the program may submit to the board, not later than forty-five days prior to the date the board is to consider the report, documentation that the program is meeting and maintaining each requirement identified in the report as not being met and maintained.

- (F) When making a determination about a program's approval status, the board shall consider the survey report and any documentation submitted by the administrator of the program, provided the documentation was submitted by the administrator of the program within the time frame specified in paragraph (E) of this rule.

4723-5-09

**Organization and administration of the program.**

- (A) The program shall have and implement a plan of organization and administration that clearly shows:
- (1) The relationship between the program and the controlling agency;
  - (2) How faculty and students are involved in determining academic and program policies and procedures, planning curriculum, and program evaluation;
  - (3) How faculty are involved in implementing academic and program policies and procedures.
- (B) The program shall be administered by a registered nurse administrator who meets the qualifications set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program, or rule 4723-5-11 of the Administrative Code for a practical nursing education program. The program administrator shall have the authority, accountability, and responsibility for all aspects of the program including but not limited to:
- (1) Providing input into the budget process;
  - (2) Maintaining communication with central administration and other units of the controlling agency, faculty, teaching assistants, students, clinical agencies, and the board;
  - (3) Ensuring regular meetings of the faculty and teaching assistants to facilitate communication and faculty participation in planning, implementing, and evaluating the curriculum;
  - (4) Implementing an orientation process for new faculty and teaching assistants;
  - (5) Recommending faculty and teaching assistants for appointment, promotion, tenure or retention, and termination as applicable;
  - (6) Facilitating faculty and teaching assistant development, including enhancing educational competencies;
  - (7) Establishing the faculty or teaching assistant to student ratio for direct patient care experiences at no greater a ratio than ten students to one faculty or teaching assistant, or a smaller ratio in clinical settings where necessary to ensure the safe delivery of nursing care by students, faculty, and teaching

assistants;

- (8) Ensuring a written policy related to the evaluation of faculty, teaching assistants and preceptors is implemented;
- (9) Certifying to the board, in a format prescribed by the board, for each student who is an applicant for licensure in Ohio that each applicant successfully completed the requirements of a program and the date the applicant completed the program requirements;
- (10) Submitting to the board a corrective action plan any time the program administrator submits one or more erroneous certifications of program completion to the board;
- (11) Verifying that each nurse teaching a course in the program holds a current, valid license; ~~and~~
- (12) Maintaining resources, including but not limited to classroom and skills laboratory equipment and supplies necessary for students to successfully complete the program; ~~and~~
- (13) Maintaining graduate NCLEX first time pass rates within a calendar year that meets or exceeds 95% of the national average for first time test candidates for the same calendar year.

(C) If a program has more than one location and all locations share the same philosophy, conceptual framework or organizing theme, program objectives or outcomes, curriculum and admission, progression and completion policies, the program shall be administered by a registered nurse administrator who meets the qualifications set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program, or rule 4723-5-11 of the Administrative Code for a practical nursing education program. The program administrator shall have the authority, accountability, and responsibility for all aspects of the entire program at all locations.

- (1) If the program has more than one location, each location that is more than sixty miles from the program shall be administered by a registered nurse associate administrator who meets the qualifications set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program, or rule 4723-5-11 of the Administrative Code for a practical nursing education program. The associate administrator, acting at the direction of the program administrator, shall have the authority, accountability, and responsibility for

the program at the given location.

- (2) The board may require a program that is not otherwise subject to paragraph (C)(1) of this rule to designate an associate administrator for a program location based upon consideration of the following:
    - (a) Average student census at program locations;
    - (b) Total number of program locations;
    - (c) Geographic proximity of locations to one another; and
    - (d) Approval status of the program.
  - (3) The program shall develop and implement a plan of organization and administration that clearly delineates the lines of authority, accountability, and responsibility among all program locations and associate administrators.
  - (4) If a program or any of its locations fail to meet or maintain the requirements of this chapter, the approved program and all of its locations shall be subject to board review and possible board action.
  - (5) The program and all of its location must use the program's name on all signage, advertising and written materials.
- (D) The controlling agency shall ensure continuity of the administrative responsibilities for the program as follows:
- (1) If the program administrator vacates the position the controlling agency shall:
    - (a) Notify the board, in writing, no later than forty-five days following the date of the vacancy; and
    - (b) Within forty-five days of the date of vacancy, ensure that a qualified registered nurse assumes the position of program administrator or interim program administrator.
  - (2) If the program administrator is absent for more than thirty consecutive business days, the controlling agency shall:

- (a) Notify the board, in writing, of the absence, no later than forty-five days after the thirtieth consecutive business date of absence; and
  - (b) Within forty-five days, following the thirtieth consecutive business date of absence, appoint a registered nurse to replace the program administrator or designate a registered nurse to serve as an interim program administrator.
- (3) For purposes of this rule an interim program administrator must be a registered nurse, who assumes the administrative responsibilities of the program administrator on a temporary basis, and meets all of the following requirements:
- (a) Meets the requirements of an associate administrator as set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program, except that an individual with a master's degree in nursing may serve as an interim program administrator for a baccalaureate program for a period not to exceed one year;
  - (b) Meets the requirements of an associate administrator as set forth in rule 4723-5-11 of the Administrative Code for a practical nursing education program, except that, an individual with a bachelor of science in nursing degree may serve as an interim program administrator for a period not to exceed one year;
  - (c) Provide official transcripts to the board verifying academic preparation that satisfies the requirements of rule 4723-5-10 of the Administrative Code for a registered nursing education program or rule 4723-5-11 of the Administrative Code for a practical nursing education program; and
  - (d) Have been a faculty member with the program for a minimum of one year.
- (4) When the controlling agency appoints a new program administrator or designates an interim program administrator, the controlling agency shall notify the board, in writing, within forty-five days of the effective date of the appointment or designation and provide the name and resume of the new program administrator or interim program administrator. The controlling agency shall attest in its written notification to the board that the new program administrator or interim program administrator:
- (a) Meets the requirements for a program administrator set forth in rule

4723-5-10 of the Administrative Code for a registered nursing education program or rule 4723-5-11 of the Administrative Code for a practical nursing education program, or that the interim program administrator meets the requirements of an associate administrator of a program set forth in rule 4723-5-10 of the Administrative Code for a registered nursing education program or rule 4723-5-11 of the Administrative Code for a practical nursing education program.;

- (b) Has provided the controlling agency official transcripts verifying academic preparation that satisfies the requirements of rule 4723-5-10 of the Administrative Code for a registered nursing education program, or rule 4723-5-11 of the Administrative Code for a practical nursing education program.

4723-5-23

**Program NCLEX rates.**

(A) Only a program with full, conditional, or provisional approval shall issue program completion letters to the board for its students.

(B) A program shall prominently publish on its website homepage the previous four years of its NCLEX first time pass rates. The program will continue to update the NCLEX first time pass rates each successive year by adding the most recent year's pass rate and removing the older year's pass rate.

~~(B)~~(C) If a program has a pass rate on the licensure examination that is less than ninety-five per cent of the national average for first-time candidates, ~~who took the examination within six months of completion of the program,~~ in a calendar year the following shall apply:

(1) After the first year, the program administrator shall conduct a review and analysis of the program to determine the underlying causes of the low NCLEX pass rate, establish a plan ~~indicating action steps~~ to improve the NCLEX ~~scores~~ pass rates of ~~its~~ the program's graduates, and submit the plan ~~with the annual report to the board by March 31 of the following year;~~

(2) After two consecutive years, ~~the program shall prepare a report that evaluates the plan of action established after the first year of low NCLEX scores, identify additional steps, and submit the plan with the annual report; and~~

(a) The program administrator shall appear before the board on a biannual basis or as otherwise determined by the board to report on the status of the program's compliance with Chapter 4723-5, Ohio Administrative Code, the current status of its graduates' NCLEX pass rates, and respond to questions; and

(b) A representative of the board may conduct a survey of the program.

(3) After three consecutive years, ~~a representative of the board shall conduct a survey visit and the board may take action on the approval status of the program.~~

(a) The board shall place the program on provisional approval; and

(b) The program administrator should consider engaging a consultant, determined by the administrator, to conduct a comprehensive assessment of the program to identify the underlying causes of the program's continued low NCLEX pass rates and make recommendations for pass rate improvement. The program administrator will cause the provision of the consultant's resulting



report to the board no later than June 30 of the year that immediately follows the year in which the program incurred its third year of low NCLEX pass rates. The program will bear any and all costs associated with the consultant's assessment and resulting report.

(4) After four consecutive years, ~~a representative of the board may conduct a survey visit and the board shall place the program on provisional approval, or, if the program is on conditional approval status, propose to withdraw conditional approval and deny full approval status according to the procedures contained in Chapter 119. of the Revised Code.~~ a representative of the board shall conduct a survey and the board may propose to withdraw its approval pursuant to an adjudication under Chapter 119. of the Revised Code. If the program is on conditional approval status, the board shall propose to withdraw conditional approval and deny full approval status according to the procedures contained in Chapter 119. of the Revised Code.

(5) During, or during a relevant time period following, an emergency declared by the state or federal government, or state or local disaster, the board may abstain from changing a program's approval status.

~~(E)~~(D) For the board to consider restoring a program to full approval status after a program is placed on provisional status due to low NCLEX scores, a program shall attain a pass rate for at least two consecutive years that meets or exceeds ninety-five per cent of the national average for first-time candidates. ~~who took the examination within six months of completion of the program.~~

\*\*\* DRAFT - NOT YET FILED \*\*\*

4723-11-04

**Application forfeiture.**

If an applicant for multistate licensure fails to meet the requirements for licensure within one year from the date the application is received, or the application remains incomplete for one year, the application shall be considered void and the fee submitted with the application shall be forfeited. The application shall state the circumstances under which forfeiture may occur.