



You are invited to submit comments concerning the following rules, with comments due by **February 11, 2016**:

RULES IN CHAPTER 4731-23, Ohio Administrative Code: Delegation to unlicensed persons

Chapter 4731-23 contains the rules of the Board which deal with the delegation of medical tasks to unlicensed individuals.

For most of the rules the Medical Board has not proposed changes in content. This does not necessarily mean that the Medical Board does not anticipate amending the rules. In lieu of sending proposed amendments to the public, the Medical Board is asking for public input on the current rules and suggested changes to them in order to gauge areas of concern. The comments will be reviewed for possible inclusion into proposed amendments to the rules

Rule 4731-23-01: Definitions: *Change the definition of “task” to be more explanative and consistent with the definition used in the revised physician assistant statutes.*

Rule 4731-23-02: Delegation of medical tasks: *No changes proposed.*

Rule 4731-23-03: Delegation of medical tasks; Prohibitions: *No changes proposed.*

Rule 4731-23-04: Violations: *No changes proposed.*

Please send comments to Sallie.Debolt@med.ohio.gov by February 11, 2016.

4731-23-01

Definitions.

As used in Chapter 4731-23 of the Administrative Code:

- (A) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.
- (B) "Delegate" means to transfer authority for the performance of a medical task to an unlicensed person.
- (C) "On-site supervision" means that the physical presence of the physician is required in the same location (e.g., the physician's office suite) as the unlicensed person to whom the medical task has been delegated while the medical task is being performed. "On-site supervision" does not require the physician's presence in the same room.
- (D) "Physician" means an individual authorized by Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.
- (E) "Task" includes, but is not limited to, ~~the administration of drugs in accordance with this chapter of the Administrative Code~~ a routine medical service not requiring the special skills of a licensed provider.
- (F) "Unlicensed person" means an individual who is not licensed or otherwise specifically authorized by the Revised Code to perform the delegated medical task.
- (G) "Drug" means the same as in section 4729.01(E) of the Revised Code.

4731-23-02

Delegation of medical tasks.

- (A) A physician shall not delegate the performance of a medical task unless that physician has complied with all of the requirements of this chapter of the Administrative Code and the delegation otherwise conforms to minimal standards of care of similar physicians under the same or similar circumstances.
- (B) Prior to a physician's delegation of the performance of a medical task, that physician shall determine each of the following:
- (1) That the task is within that physician's authority;
 - (2) That the task is indicated for the patient;
 - (3) The appropriate level of supervision;
 - (4) That no law prohibits the delegation;
 - (5) That the person to whom the task will be delegated is competent to perform that task; and,
 - (6) That the task itself is one that should be appropriately delegated when considering the following factors:
 - (a) That the task can be performed without requiring the exercise of judgment based on medical knowledge;
 - (b) That results of the task are reasonably predictable;
 - (c) That the task can safely be performed according to exact, unchanging directions;
 - (d) That the task can be performed without a need for complex observations or critical decisions;
 - (e) That the task can be performed without repeated medical assessments; and,
 - (f) That the task, if performed improperly, would not present life threatening consequences or the danger of immediate and serious harm to the patient.

(C) When a physician delegates the administration of drugs, that physician shall provide on-site supervision, except in the following situations:

- (1) When the physician has transferred responsibility for the on-site supervision of the unlicensed person who is administering the drug to another physician and that physician has knowingly accepted that responsibility on a patient-by-patient basis; or
- (2) In the routine administration of a topical drug, such as a medicated shampoo.
- (3) When delegation occurs pursuant to section 5126.356 of the Revised Code within the programs and services offered by a county board of mental retardation and developmental disabilities.
- (4) When delegation occurs pursuant to section 5123.193 of the Revised Code.
- (5) When written policies and procedures have been adopted for the distribution of drugs by an unlicensed person to individuals incarcerated in state correctional institutions as defined in division (A) of section 2796.01 of the Revised Code, other correctional facilities including county and municipal jails, workhouses, minimum security jails, halfway houses, community residential centers, regional jails and multi-county jails, or any other detention facility as defined in division (F) of section 2921.01 of the Revised Code.

(D) This chapter of the Administrative Code shall not apply if the rules contained herein:

- (1) Prevent an individual from engaging in an activity performed for a handicapped child as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code;
- (2) Prevent delegation from occurring pursuant to section 5126.356 of the Revised Code within the programs and services offered by a county board of mental retardation and developmental disabilities;
- (3) Conflict with any provision of the Revised Code that specifically authorizes an individual to perform a particular task;
- (4) Conflict with any rule adopted pursuant to the Revised Code that is in effect on the effective date of this section, as long as the rule remains in effect, specifically authorizing an individual to perform a particular task;

- (5) Prohibit a perfusionist from administering drugs intravenously while practicing as a perfusionist.

4731-23-03 Delegation of medical tasks; Prohibitions.

(A) A physician shall not delegate the practice of medicine as defined in section [4731.34](#) of the Revised Code unless specifically authorized to do so in the Revised Code or by an administrative rule adopted pursuant to the Revised Code and which became effective prior to April 10, 2001. Nothing in this chapter of the Administrative Code shall prohibit the performance of emergency medical tasks.

(B) A physician shall not delegate a task to an unlicensed person if the task is beyond that person's competence. In a hospital, as defined in section [3727.01](#) of the Revised Code, or an ambulatory care center affiliated with the hospital (if the center meets the same credentialing, quality assurance, and utilization review standards as the hospital) wherein unlicensed persons are employed or otherwise authorized by the governing authority of the institution to perform specific medical tasks, one factor the physician shall take into account is the policies by which the employer or the governing authority of the institution seeks to ensure that competent persons will be performing the delegated tasks.

(C) A physician shall not delegate a medical task that is not within the authority of that physician or is beyond the physician's training, expertise, or normal course of practice.

(D) A physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical task, except to another physician who has knowingly accepted that responsibility.

(E) A physician shall not authorize or permit an unlicensed person to whom a medical task is delegated to delegate the performance of that task to another person.

(F) Except as provided in divisions (D)(4) to (D)(8) of section [4731.053](#) of the Revised Code, a physician shall not delegate to an unlicensed person the administration of anesthesia, controlled substances, or drugs administered intravenously.

(G) The supervising physician retains responsibility for the manner in which the delegated task is carried out.

Eff 9-30-01; 5-31-02

Rule promulgated under: RC [119.03](#)

Rule authorized by: RC [4731.05](#), [4731.053](#)

Rule amplifies: RC [4731.22](#), [4731.34](#)

R.C. [119.032](#) review dates: 9/30/2006

4731-23-04

Violations.

- (A) A violation of any provision of any rule in this chapter of the Administrative Code, as determined by the board, shall constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

- (B) A violation of any provision of any rule in this chapter of the Administrative Code that pertains to the administration of drugs, as determined by the board, shall constitute "failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code.