

Chapter 4731-16 Impaired Practitioners

4731-16-01 Definitions.

As used in this chapter of the Administrative Code:

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

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

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

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

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

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

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

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

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4731-16-02 General procedures in impairment cases.

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

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

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

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

(B) In cases where the only disciplinary action initiated against the individual is for violation of division (B)(5) of section [4730.25](#) of the Revised Code, division (B)(26) of section [4731.22](#) of the Revised Code, division (B)(6) of section [4760.13](#) of the Revised Code or division (B)(6) of section [4762.13](#) of the Revised Code the following general pattern of action shall be followed:

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

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

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

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

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

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

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

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

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

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

(ii) If the impaired individual is a massage therapist or cosmetic therapist who does not meet the criteria set forth in paragraph (B)(3)(iii) of this rule, the required treatment shall include intensive outpatient treatment meeting the requirements of paragraph (A)(13) of rule [4731-16-08](#) of the Administrative Code.

The required intensive outpatient treatment must include a minimum of twenty treatment sessions over no less than five consecutive weeks with the following exception: If the massage therapist or cosmetic therapist has previously completed an intensive outpatient treatment program of at least twenty treatment sessions over no less than five consecutive weeks and has maintained sobriety for at least one year following completion of that intensive outpatient treatment, the treatment required shall be determined by the treatment provider.

(iii) If the impaired individual is a massage therapist or cosmetic therapist who was investigated by the board for possible impairment as part of a previous application for or while holding any certificate issued by the board other than a certificate to practice massage therapy or cosmetic therapy, the required treatment shall be in compliance with paragraph (B)(3)(a)(i) of this rule.

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

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

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

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

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

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

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

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

(D) Except as provided in this paragraph, an individual who has relapsed during or following treatment shall be ineligible to apply for reinstatement for at least ninety days following the date of license suspension for a first relapse, for at least one year following the date of license suspension for a second

relapse, and for at least three years following the date of license suspension for a third relapse. An individual who suffers a relapse, as that term is defined in paragraph (B) of rule [4731-16-01](#) of the Administrative Code, will not be subjected to suspension or other board discipline based on that relapse if all of the following conditions are met:

- (1) The relapse was the first ever suffered by the individual;
- (2) The relapse occurred under circumstances that the board finds minimized the probability that the individual would either provide patient care while under influence of alcohol or drugs or leave patients without necessary care while under the influence of alcohol or drugs;
- (3) The relapse involved a single occasion of use for less than one day;
- (4) The individual self-reported the relapse within forty-eight hours in accordance with rule [4731-15-01](#) of the Administrative Code;
- (5) The individual does not thereafter suffer another relapse;
- (6) The board does not obtain evidence of acts, conduct or omissions that would support the imposition of discipline, apart from the relapse itself;
- (7) The relapse does not lead to the individual being charged with any criminal offense;
- (8) The individual reported the relapse to an approved treatment provider within forty-eight hours, submitted to evaluation as requested by the approved treatment provider, and obtained any additional treatment recommended;
- (9) The individual suspended practice until the approved treatment provider reported in writing to the board that it had made a clear determination that the individual was capable of practicing according to acceptable and prevailing standards of care; and
- (10) The approved treatment provider provides the board a full report of the evaluation, and the board's secretary and supervising member decide that there are not circumstances warranting the initiation of disciplinary action.

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[4731-16-03 Mental or physical impairment. \[Rescinded\].](#)

Rescinded eff 6-30-07

[4731-16-04 Other violations.](#)

For purposes of board disciplinary action for violations of any board rule or any provision of Chapter 4731. Chapter 4730. Chapter 4760. or Chapter 4762. of the Revised Code other than division (B)(26) of section [4731.22](#) of the Revised Code, division (B)(5) of section [4730.25](#) of the Revised Code, division (B)(6) of section [4760.13](#) of the Revised Code or division (B)(6) of section [4762.13](#) of the Revised Code, impairment shall not excuse acts which result in conviction or which might, as determined by the board,

have an adverse impact on other individuals. Such acts shall constitute independent basis for disciplinary action.

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4731-16-05 Examinations.

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

- (1) Urine screening or blood alcohol testing, or both, with legal chain of custody and forensic capability protocol;
- (2) Comprehensive evaluation pertinent to the reasons for referral, including:
 - (a) Complete medical history and physical examination;
 - (b) Psychiatric evaluation and mental status examination;
 - (c) Comprehensive chemical use history; and
- (3) One of the following assessment standards, as applicable:
 - (a) Except as provided in paragraph (A)(3)(b) of this rule, observation of the individual in an inpatient setting for at least seventy-two consecutive hours, unless the approved treatment provider diagnoses the individual as chemically dependent and formulates a treatment plan in a shorter time period.
 - (b) If the individual is a massage therapist or cosmetic therapist who does not meet the criteria set forth in paragraph (A)(3)(c) of this rule:
 - (i) In-depth assessment, including use of a structured interview, by a physician, registered nurse or nurse practitioner who has specialized training in addiction medicine or treatment of addiction, or by a licensed independent chemical dependency counselor or licensed chemical dependency counselor III;
 - (ii) Routine laboratory tests, to include complete blood count and liver function studies;
 - (iii) Corroborating interviews of at least two persons who are close to the individual;
 - (iv) Administration of the "Beck Depression Inventory" and the "Hamilton Anxiety Survey;" and
 - (v) Any other requirements as identified by the board or treatment provider. Psychiatric evaluation is not required in an examination administered under this paragraph unless the need for such an evaluation is identified by the board of the treatment provider.

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

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

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

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

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

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

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

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[4731-16-06 Consent agreements and orders for reinstatement of impaired practitioners.](#)

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

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

- (2) Submission of quarterly declarations under penalty of perjury stating whether there has been compliance with all conditions of the consent agreement;
- (3) Periodic appearances before the board or its representatives as requested;
- (4) Notification to the board of departures or absences from Ohio. Periods of departure or absence shall not reduce the probationary term, unless otherwise determined by motion of the board for absences of three months or longer, or by the secretary or the supervising member of the board for absences of less than three months, in instances where the board can be assured that probationary monitoring is otherwise being performed;
- (5) Maintenance of a log of all controlled substances, and other drugs as directed by the board, which the practitioner prescribes, orders, personally furnishes, or administers, where appropriate;
- (6) Prohibition of authority to prescribe, administer, personally furnish, order, or possess controlled substances and, as directed by the board, other substances which may impair ability to practice, where appropriate;
- (7) Abstinence from the use of alcohol;
- (8) Abstinence from the use or personal possession of drugs, except those prescribed, administered, or dispensed by another person so authorized by law who has knowledge of the patient's history and of the disease of addiction;
- (9) Submission of witnessed urine or blood samples upon request of the board, and without prior notice;
- (10) Undertaking and maintaining participation in a self help support group acceptable to the board, such as alcoholics anonymous or narcotics anonymous, with evidence of compliance to be provided to the board in each quarterly report;
- (11) Undertaking psychiatric evaluation, and, where appropriate, continuing treatment acceptable to the board, with evidence of compliance to be provided in each quarterly report;
- (12) Monitoring of progress and status by a physician approved by the board, with reports to be provided to the board quarterly;
- (13) Prior approval by the board of any practice arrangements or any health care field employment, where appropriate;
- (14) Copies of the agreement to be provided by the individual to all of the following during the effective period of the agreement or board order:
 - (a) All employers or prospective employers, entities with which the individual contracts or seeks to contract to provide health services or receive training, the chief of staff at each hospital where the individual has or applies for privileges, and all persons and entities that provide the individual chemical dependency treatment or monitoring; and
 - (b) By certified mail, the proper licensing authority of any state or jurisdiction in which the individual holds or applies for any professional license.
- (15) Contacting an appropriate impaired physicians committee, such as the physician health program, to arrange for assistance in recovery or aftercare;
- (16) Continuing compliance with the terms of the aftercare contract entered into with the treatment provider, provided, that where terms of the aftercare contract conflict with the terms of the consent agreement or board order, the terms of the consent agreement or board order shall control;

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

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

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

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

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

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

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[4731-16-07 Treatment provider program obligations.](#)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Date of admission for evaluation;

(3) Date treatment recommendations are made;

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

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

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

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

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

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

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

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

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[4731-16-08 Criteria for approval.](#)

- (A) Criteria for approval of treatment providers shall include all of the following:
- (1) The philosophy and individualized treatment plan of the program is based on the disease concept.
 - (2) The chemical dependency model of treatment is based on a twelve-step program such as alcoholics anonymous.
 - (3) The program provides specialized medical and nursing care during detoxification and appropriate health care professionals during treatment phase.

- (4) The evaluation process is an objective, measurable program which uses tools and testing procedures to identify patterns, progression, and stages of recovery at appropriate times in the treatment program. The evaluation shall also emphasize patient self-assessment.
- (5) The treatment provider has a network of referral agencies or professionals which meets the needs of the practitioner and significant others in the event that the needs go beyond the program's expertise or available facilities.
- (6) The treatment provider has a variety of treatment plan options including inpatient detoxification treatment, inpatient or residential treatment, and outpatient services.
- (7) The involvement and treatment of family and significant others is provided.
- (8) The provider gives each patient who has been diagnosed as in need of treatment a written list of approved treatment providers from whom indicated inpatient or residential treatment, outpatient treatment, or aftercare can be obtained.
- (9) The provider holds certification as an alcoholism program or drug treatment program by the Ohio department of alcohol and drug addiction services, or if located outside Ohio, holds appropriate certification or registration with an agency exercising a similar function in the state in which it is located.
- (10) The provider provides advocacy services only at no cost to the patient, or provides such services only after obtaining the signature of the patient acknowledging that he or she has been notified:
- (a) That advocacy is not treatment;
 - (b) That nothing in Chapter 4730., 4731., 4760. or 4762. of the Revised Code or this chapter of the Administrative Code requires a practitioner to obtain aftercare, monitoring or advocacy from the provider of inpatient or extended residential treatment or intensive outpatient treatment, as applicable; and
 - (c) That the practitioner's refusal to obtain aftercare, monitoring, or advocacy services from the provider of inpatient treatment or intensive outpatient treatment, as applicable, shall not constitute grounds to report to the board so long as the practitioner demonstrates that the practitioner has contracted with another approved treatment provider to receive any further recommended treatment.
- (11) The provider has the capability of making an initial examination to determine what type of treatment an impaired practitioner requires.
- (12) The provider requires that each patient who is subject to the jurisdiction of the board, who is determined to be impaired, except as provided in paragraph (A)(13) of this rule, complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, during which the patient shall be prohibited by the terms of the treatment contract from conducting any practice or practice related activities, and after which the provider shall evaluate the patient and determine the necessity for further treatment based solely on clinical grounds. The exceptions in paragraph (C) of this rule notwithstanding, the provider must personally provide the required inpatient or residential treatment and the assessment or must confirm that another approved treatment provider has provided the inpatient or residential treatment and the assessment before providing any outpatient treatment or aftercare. The inpatient or residential treatment program must have a continuing inpatient or residential patient census sufficient to provide an appropriate treatment milieu for patients receiving treatment in the inpatient or residential setting. This paragraph shall not apply to a patient who has previously completed an inpatient or residential treatment program of at least twenty-eight days if the patient was able to maintain sobriety for at least one year following completion of that inpatient or residential treatment.
- (13) The provider requires that a massage therapist or cosmetic therapist who is determined to be impaired and who does not meet the criteria set forth in paragraph (A)(14) of this rule, complete a minimum of twenty treatment sessions over no less than five consecutive weeks of intensive outpatient

treatment, after which the provider shall evaluate the patient and determine the necessity for further treatment based solely on clinical grounds. The intensive outpatient treatment must include:

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

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

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

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

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

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

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

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

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

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

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Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/1/91, 9/1/99, 11/30/02, 6/30/07

4731-16-09 Procedures for approval.

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

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

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

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

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

(1) Transfer of ownership of the program; or

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

(3) Change of directorship.

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

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Rule Amplifies: [4730.25](#), [4731.22](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 10/31/95, 9/1/99, 9/30/01

4731-16-10 Aftercare contracts.

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

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

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

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

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

(4) Abstinence from use of alcohol;

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

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

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

- (b) Report any relapse to the treatment provider and the board;
- (7) A length of contract specified with a minimum of at least two years and at least one hundred and four weekly aftercare sessions, with missed sessions to be made up;
- (8) Professional therapy, where indicated, to resolve family and work-related problems;
- (9) Treatment of any ongoing medical problems to be managed by a physician qualified by training or experience, or both, to provide medical care to chemically dependent persons, provided that where such a physician is unavailable due to geographic or other reasonable constraints, treatment shall be managed by a physician in consultation with one so qualified;
- (10) Referral to other forms of extended care, when indicated; and
- (11) Any required supervision or restrictions of practice during aftercare.

Replaces: 4731-16-10

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Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/1/91, 9/1/99, 11/3/02

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

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

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

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

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

R.C. [119.032](#) review dates: 03/23/2007 and 03/23/2012

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4731.05](#), [4731.25](#)

Rule Amplifies: [4731.25](#)

Prior Effective Dates: 12/1/91, 9/1/99

4731-16-12 Out-of-state impairment cases.

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

- (1) Whether the certificate holder is being monitored by the proper licensing authority in the jurisdiction where the certificate holder resides;
- (2) Whether the certificate holder has received or is receiving evaluation and treatment from a treatment provider acceptable to the proper licensing authority in the jurisdictions where the certificate holder resides, and whether the treatment provider has agreed to report to the board on the certificate holder's diagnosis and progress in treatment, and to provide the board copies of all reports required to be submitted to the licensing authority in the jurisdiction where the certificate holder resides, if requested by the board;
- (3) Whether the certificate holder is being monitored by a monitoring or advocacy group acceptable to the proper licensing authority in the jurisdiction where the certificate holder resides;
- (4) Whether the certificate holder's employer or professional associates are aware of the certificate holder's impairment or alleged impairment.

(B) Grant of a waiver or waivers pursuant to this rule shall be conditioned on the certificate holder agreeing by a signed notarized statement to notify the board in writing of any intent to practice medicine or reside in Ohio, to submit to an evaluation by an approved treatment provider at the certificate holder's expense at that time if requested by the board, and to refrain from commencing practice in Ohio without prior board approval.

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

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

- (1) Has not been subject to discipline in any other jurisdiction;
- (2) Is receiving or has completed treatment with a treatment provider acceptable to the medical licensing authority of the jurisdiction in which he or she resides;
- (3) Has not relapsed;
- (4) Is participating in or has successfully completed participation in a monitoring program or diversion program acceptable to the medical licensing authority of the jurisdiction in which he or she resides.

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

(1) If the certificate holder has less than one year documented sobriety at the time of relocation to Ohio, he or she must submit to an evaluation that meets all the requirements of rule [4731-16-05](#) of the

Administrative Code, and must complete two years of aftercare and the applicable treatment as required by paragraph (B)(3) of rule [4731-16-02](#) of the Administrative Code.

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

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Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.224](#), [4731.25](#), [4760.13](#), [4762.13](#)

Prior Effective Dates: 12/1/91, 9/1/99, 11/30/02, 6/30/07

[4731-16-13 Duty to report or refer practitioner, execution of release forms.](#)

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

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

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

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

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Rule Amplifies: [4730.25](#), [4730.32](#), [4731.22](#), [4731.25](#)

Prior Effective Dates: 12/1/91, 9/1/99

[4731-16-14 Caffeine, nicotine, and over-the-counter drugs.](#)

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

R.C. [119.032](#) review dates: 03/23/2007 and 03/23/2012

Promulgated Under: [119.03](#)

Statutory Authority: [4730.07](#), [4730.25](#), [4731.05](#)

Rule Amplifies: [4731.22](#)

Prior Effective Dates: 12/1/91, 9/1/99

4731-16-15 Patient rights.

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

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

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

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

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

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Statutory Authority: [4730.07](#), [4731.05](#), [4731.25](#)

Rule Amplifies: [4731.25](#)

Prior Effective Dates: 12/1/91, 9/1/99

4731-16-16 Practice prohibition.

(A) No individual licensed pursuant to Chapter 4730., 4731., 4760., or 4762. of the Revised Code shall practice while receiving a controlled substance for the treatment of opioid dependence. A violation of this section shall constitute "a departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established" as that language is used in division (B)(6) of section [4731.22](#) of the Revised Code, division (B)(19) of section [4730.25](#) of the Revised Code, division (B)(4) of section [4760.13](#) of the Revised Code, and in division (B)(4) of section [4762.13](#) of the Revised Code.

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