



Current Rule 4731-11-09, Ohio Administrative Code, requires a physician to have personally physically examined a patient before prescribing any drug to the patient --- except in specific situations. The rule also applies to physician assistants who have prescriptive authority.

In 2016, the legislature enacted Section 4731.74, Ohio Revised Code, which requires the Medical Board to adopt rules governing the requirements for a physician to prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug to a person on whom the physician has never conducted a physical examination and who is at a location remote from the physician. The rule is required to be adopted not later than March 23, 2017. The rule will also be applicable to physician assistants who have prescriptive authority.

To that end, the Medical Board proposes to rescind current Rule 4731-11-09 and replace it with a new rule that complies with the following requirements in Section 4731.74, Ohio Revised Code:

- ✓ Regarding prescription drugs that are not controlled substances, the rules shall authorize a physician to establish a physician-patient relationship by the use of appropriate technology that permits, in a manner that is consistent with the minimal standard of care for in-person care by a physician, a medical evaluation and the collection of relevant clinical history as needed to establish a diagnosis, identify any underlying conditions, and identify any contraindications to the treatment that is recommended or provided.
- ✓ Regarding prescription drugs that are controlled substances, the rules shall establish standards that are consistent with federal law.

In addition, Rule 4731-11-01, Ohio Administrative Code, is proposed to be amended to add definitions of terms that are used in draft replacement rule 4731-11-09.

Proposed amended Rule 4731-11-01, proposed replacement Rule 4731-11-09, and current Rule 4731-11-09 are attached to this memo. The Medical Board is accepting comments on the proposed actions through **Thursday, May 12, 2016**.

Please send any comments to: Sallie.Debolt@med.ohio.gov

4731-11-01 Definitions.

As used in Chapter 4731-11 of the Administrative Code:

(A) "Controlled substance" means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V pursuant to the provisions of Chapter 3719. of the Revised Code.

(B) "Controlled substance stimulant" means any drug, compound, mixture, preparation, or substance which is classified as a stimulant in controlled substance schedule II, III, or IV listed in section [3719.41](#) of the Revised Code, or which is classified as a stimulant in controlled substances schedule II, III, or IV pursuant to section [3719.43](#) or [3719.44](#) of the Revised Code.

(C) "Cross-coverage" means an agreement between Ohio-licensed physicians under which one physician covers the established active patients of the other when that physician is not available. This type of agreement includes on-call coverage for after hours and weekends.

(D) For purposes of paragraph(D) of Rule 4731-11-09 of the Administrative Code, "active patient" as that term is used in paragraph (C) of this rule means that within the previous twenty-four months, the physician conducted at least one in-person medical evaluation of the patient or an evaluation of the patient through the practice telemedicine as that term is defined in 21 C.F.R. 1300.04, in effect on March 23, 2017.

(E) "Consult" means a request for treatment in the physical presence of a practitioner as defined in 21 C.F.R. 1300.04, in effect on March 23, 2017.

(~~CF~~) "Utilize a controlled substance or controlled substance stimulant" means to prescribe, administer, dispense, supply, sell or give a controlled substance or controlled substance stimulant.

(~~DG~~) "Recognized contraindication" means any contraindication to the use of a drug which is listed in the United States food and drug administration (hereinafter, "F.D.A.") approved labeling for the drug, or which the board determines to be accepted as a contraindication.

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

(~~FI~~) "BMI" means body mass index, calculated as a person's weight in kilograms divided by height in meters squared.

(~~GJ~~) "Physician" means an individual holding a certificate under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and practicing within his or her scope of practice as defined by section [4731.51](#) of the Revised Code.

(~~HK~~) "Board certified addictionologist or addiction psychiatrist" means a medical doctor or doctor of osteopathic medicine and surgery who holds one of the following certifications:

(1) Subspecialty board certification in addiction psychiatry from the American board of psychiatry and neurology;

(2) Board certification in addiction medicine from the American board of addiction medicine;

(3) Certification from the American society of addiction medicine; or

(4) Board certification with additional qualification in addiction medicine from the American osteopathic association.

(1) "Office based opioid treatment", or "OBOT", means treatment of opioid addiction utilizing a schedule III, IV or V controlled substance narcotic.

(3) "Opioid treatment program", or "OTP", sometimes referred to as a "methadone clinic", means a program licensed by the state to administer or dispense schedule II controlled substance narcotics in the maintenance or detoxification treatment of opioid addiction.