

4731-11-09 Prescribing to persons not seen by the physician.

- (A) Except in institutional settings, on call situations, cross coverage situations, situations involving new patients, protocol situations, situations involving nurses practicing in accordance with standard care arrangements, and hospice settings, as described in paragraphs (D) and (E) of this rule, a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.
- (B) Except in institutional settings, on call situations, cross coverage situations, situations involving new patients, protocol situations, situations involving nurses practicing in accordance with standard care arrangements, and hospice settings, as described in paragraphs (D) and (E) of this rule, a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any dangerous drug which is not a controlled substance to a person who the physician has never personally physically examined and diagnosed, except in accordance with the following requirements:
 - (1) The physician is providing care in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient's use of the drug or drugs to be provided; and
 - (2) The physician's care of the patient meets all applicable standards of care and all applicable statutory and regulatory requirements.
- (C) A physician shall not advertise or offer, or permit the physician's name or certificate to be used in an advertisement or offer, to provide any dangerous drug in a manner that would violate paragraph (A) or paragraph (B) of this rule.
- (D) Paragraphs (A) and (B) of this rule do not apply to or prohibit the provision of drugs to a person who is admitted as an inpatient to or is a resident of an institutional facility. For purposes of this rule, "institutional facility" has the same meaning as in rule 4729-17-01 of the Administrative Code. This paragraph does not authorize or legitimize practices that would violate other applicable standards or legal requirements.
- (E) Paragraphs (A) and (B) of this rule do not apply to or prohibit:
 - (1) The provision of controlled substances or dangerous drugs by a physician to a person who is a patient of a colleague of the physician, if the drugs are provided pursuant to an on call or cross coverage arrangement between the physicians;
 - (2) The provision of controlled substances or dangerous drugs by a physician to a person who the physician has accepted as a patient, if the physician has scheduled or is in the process of scheduling an appointment to examine the patient and the drugs are intended to be used pending that appointment;
 - (3) The provision of controlled substances or dangerous drugs by emergency medical squad personnel, nurses, or other appropriately trained and licensed individuals, in accordance with protocols approved by the state board of pharmacy pursuant to rule 4729-5-01 of the Administrative Code; or
 - (4) The provision of controlled substances or dangerous drugs by a nurse practicing in accordance with a standard care arrangement that meets the requirements of Chapter 4723. of the Revised Code and rules promulgated by the board of nursing pursuant thereto.
 - (5) The provision of controlled substances or dangerous drugs by a physician who is a medical director or hospice physician of a hospice program licensed pursuant to Chapter 3712. of the Revised Code, to a patient who is enrolled in that hospice program.

This paragraph does not authorize or legitimize practices that would violate other applicable standards or legal requirements.
- (F) For purposes of this rule, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code.
- (G) For purposes of this rule, "dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

- (H) A violation of any provision of this rule, 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; “selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes,” as that clause is used in division (B)(3) of section 4731.22 of the Revised Code; and “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.

Effective 8/31/06.

4731-22-01 Definitions.

As used in Chapter 4731-22 of the Administrative Code:

- (A) “Active” is a status that means an individual may perform acts that would constitute the practice of medicine requiring a license.
- (B) “Board” means the state medical board of Ohio.
- (C) “Registrant” means an individual who holds an emeritus registration.
- (D) “Retired” is a status that means an individual has no active license in another state, or agrees in the emeritus application that he or she will not apply for renewal or reinstatement of any license held in another state.

Effective 8/31/06.

4731-22-02 Application.

Any practitioner duly licensed to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, massage therapy, or cosmetic therapy in this state for at least ten years who declares that he or she is retired from active practice may apply to the board for emeritus registration. The practitioner may do so by indicating on his or her biennial registration form or in written correspondence to the Board if he or she is in fact retired and has not been the subject of disciplinary action in Ohio resulting in the revocation, suspension, probation, reprimand, or any other limitation of the physician's license to practice.

Effective 8/31/06.

4731-22-07 Change to active status.

- (A) A registrant may apply to change to active status by completing a restoration application, which shall include the following:
- (1) Documentation of compliance with the continuing medical education requirements for an active licensee for the time period in which the registrant's license was in inactive status. This requirement must be fulfilled prior to submission of the application.
 - (2) Submission of appropriate renewal fees and any applicable monetary penalty pursuant to section 4731.281 of the Revised Code.
 - (3) Submission of any other information required by the board.
- (B) In the event the holder of an emeritus certificate applies for restoration after two years from the effective date of emeritus certificate, the Board may require the applicant to demonstrate present fitness to practice pursuant to section 4731.222 of the Revised Code.

Effective 8/31/06.

4731-22-08 Cancellation of or refusal to issue an emeritus registration.

The board may refuse to issue or may cancel a registrant's emeritus registration for acts or conduct that the secretary and supervising member deem to be a violation of any provision of Chapter 4731. of the Revised Code or this chapter of the Administrative Code. The decision to refuse to issue or to cancel a registrant's emeritus registration is not subject to hearing rights or appeal under Chapter 119. of the Revised Code.

Effective 8/31/06.