

The following procedures ~~will~~ shall be followed if the board receives information suggesting that a licensee is infected with HIV or HBV:

- (A) The board ~~will~~ shall record a complaint and investigate to determine whether the licensee is infected with HIV or HBV; whether the licensee is likely to perform or participate in an invasive procedure; and whether there is evidence that the licensee has violated any provision of section 4730.25, 4731.22, 4760.13 or 4762.13 of the Revised Code.
- (B) If investigation confirms that the licensee is one who performs invasive procedures and is infected with HIV or HBV but produces insufficient evidence which would support formal discipline based on violations of section 4730.25, 4731.22, 4760.13 or 4762.13 of the Revised Code or any rule of the board, the board will refer the licensee to ODH for evaluation and monitoring as provided in paragraph (B) of rule 4731-19-02 of the Administrative Code. If the licensee who performs invasive procedures fails to verify to the board his or her compliance with the requirements of the monitoring program established by the ODH review panel or institutional review panel approved by ODH, the board will enter the licensee into its confidential monitoring program as provided in rule 4731-19-07 of the Administrative Code. The board will refrain from initiating disciplinary proceedings so long as the licensee complies with the requirements of the confidential monitoring program and so long as the board does not have evidence which support charges of violations of section 4730.25, 4731.22, 4760.13 or 4762.13 of the Revised Code.
- (C) If investigation produces evidence which would support formal discipline and additionally confirms that the licensee is infected with HIV or HBV, the board ~~will~~ shall initiate formal disciplinary proceedings based on the alleged violations of law, and may also enter the licensee into the confidential monitoring program. The board will treat all information relating to the licensee's infection with HIV or HBV as confidential, and will divulge the information only to the extent necessary to prove its allegations in the disciplinary proceedings.
- (D) A licensee who has been entered into the confidential monitoring program who fails to comply with the requirements of the program will be subject to discipline for violations of divisions (B)(20) and (B)(28) of section 4731.22 of the Revised Code, and additionally for violations of any other division of section 4730.25, 4731.22, 4760.13 or 4762.13 of the Revised Code as the facts may warrant.

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Certification

Date

Promulgated Under: 119.03
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