Rules & Policies Agenda for Board Meeting
May 11, 2022

A. Rule Review Update
B. IMLC Rule for Adoption
C. Examination Rules
D. Rules 4731-2-01 and 4731-6-04, Five-Year Review
E. QIP Pilot Project
F. Telehealth Rules
G. Legislative Update
MEMORANDUM

TO: Betty Montgomery, President
    Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Update

DATE: May 3, 2022

Attached please find the Rule Schedule and Spreadsheet for May 2022.

**Requested Action:** No action requested.
### RULES TO APRIL BOARD MEETING

**For Final Adoption**
4731-38-01 (IMLC)-effective May 31, 2022

**Initial Circulation**

Podiatric Licensure Rules (Comment Period ends 5/6/22)
- 4731-12-01
- 4731-12-02
- 4731-12-03
- 4731-12-04
- 4731-12-05
- 4731-12-06
- 4731-12-07

**Ready to file with CSI**

Massage Therapy Rules
- 4731-1-01
- 4731-1-02
- 4731-1-03
- 4731-1-04
- 4731-1-05
- 4731-1-07
- 4731-1-08
- 4731-1-09
- 4731-1-10
- 4731-1-11
- 4731-1-12
- 4731-1-15
- 4731-1-16
- 4731-1-17
- 4731-1-18
- 4731-1-19

Light Based Medical Device Rules
- 4731-18-01
- 4731-18-02
- 4731-18-03

Telehealth Rules
- 4731-11-09
- 4731-37-01

Controlled Substance & Weight Loss Rules
- 4731-11-03
- 4731-11-04
- 4731-11-04.1

**Rules to Review for Initial Circulation**

- 4731-2-01 Public Notice of Rules Procedures-Proposed No Change
- 4731-5-03 Conduct During Examinations-Proposed to Rescind
- 4731-5-04 Termination of Examinations-Proposed to Rescind
- 4731-6-04 Demonstration of proficiency in Spoken English-Proposed No Change
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<th>CSI filing</th>
<th>CSI recommendation</th>
<th>JCARR filing</th>
<th>Rules Hearing</th>
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MEMORANDUM

TO: Betty Montgomery, President
    Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule for Adoption, 4731-38-01, IMLC

DATE: April 28, 2022

This memo proposes adoption for Rule 4731-38-01, regarding licenses issued or renewed under the Interstate Medical Licensure Compact. The proposed rule is attached.

The public hearing was held on March 25, 2022. No comments were received. The Hearing Examiner’s report, materials and transcript are attached. JCARR jurisdiction ended on April 24, 2022

Requested motion: I move to adopt Rule 4731-38-01, OAC and to assign an effective date of May 31, 2022.
4731-38-01 Licenses Issued or Renewed Under the Interstate Medical Licensure Compact.

(A) “IMLC” means the Interstate Medical Licensure Compact

(B) “IMLCC” means the Interstate Medical Licensure Compact Commission

(C) An individual applying for a license through the IMLC, shall pay directly to the IMLCC the application fee in the amount described in Section 4731.09 of the Revised Code, and any additional fees required by the IMLCC.

(D) A license issued by the board through the IMLC shall be valid for two years, unless suspended or revoked.

(E) An individual renewing a license issued through the IMLC shall pay directly to the IMLCC the biennial renewal fee, reinstatement fee, or restoration fee, as applicable, in the amount described in Section 4731.281 of the Revised Code, and any additional fees required by the IMLCC.

(F) An individual renewing a license issued through the IMLC shall provide to the board, in the manner determined by the board, the information described in Section 4731.281 of the Revised Code.
Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4731.05, 4731.11
Rule Amplifies: 4731.09, 4731.281
SUMMARY OF THE MARCH 25, 2022 PUBLIC HEARING REGARDING PROPOSED CHANGES TO THE OHIO ADMINISTRATIVE CODE

Pursuant to Section 119.03, Ohio Revised Code, a public hearing was held on March 25, 2022, to hear comments concerning proposed changes to the administrative rules of the State Medical Board of Ohio (“Board”). R. Gregory Porter, Hearing Examiner, presided.

PURPOSE OF THE HEARING

The following changes are proposed:

Interstate Medical Licensure Compact Rule

<table>
<thead>
<tr>
<th>Rule No.</th>
<th>Title</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>4731-38-01</td>
<td>Licenses Issued or Renewed Under the Interstate Medical Licensure Compact</td>
<td>Adopt new rule</td>
</tr>
</tbody>
</table>

PROCEDURAL MATTERS

1. The record was held open until 5:00 p.m. on March 25, 2022, for the purpose of receiving additional written comments concerning the proposed changes to the Ohio Administrative Code. No additional comments were received.

2. The hearing examiner marked Exhibits 1 through 3 post hearing.

TESTIMONY HEARD

Kimberly Anderson, Chief Legal Counsel for the Board

EXHIBITS EXAMINED

Exhibit 1: Copy of the rule originally filed in Package 192043 with JCARR, Secretary of State, and the Legislative Services Commission via the Electronic Rule-Filing System on February 18, 2022 and a copy of the confirmation of filing.

Exhibit 2: Copy of the Notice of Public Hearing for the rule in package 192043 that was filed on February 18, 2022.

Exhibit 3: Copies of the address portion of e-mails sent to persons and organizations pursuant to their standing request to be notified when the Medical Board proposes rules.
SUMMARY OF EVIDENCE

1. Kimberly Anderson, Chief Legal Counsel for the Board, identified Exhibits 1 through 3. She further testified with respect to the notice that the Board provided to the public and interested parties regarding the proposed rule change, and with respect to other procedural matters. Ms. Anderson further testified that no written comments were received by the Board concerning the proposed new rule. (Hearing Transcript at 4-6)

2. No public testimony was received during the hearing.

CONCLUSION

The requirements of Chapter 119, Ohio Revised Code, have been satisfied. The Board may proceed to take action regarding the proposed adoption of new Rule 4731-38-01.

R. Gregory Porter
Hearing Examiner
There are no sealed or proffered exhibits in this master copy.

- **Report of Hearing**

- **Transcript**
  - Full-Page Transcript
  - Word Index

- **Exhibits**

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CONCLUSION

The requirements of Chapter 119, Ohio Revised Code, have been satisfied. The Board may proceed to take action regarding the proposed adoption of new Rule 4731-38-01.

R. Gregory Porter
Hearing Examiner
TRANSCRIPT
BEFORE THE OHIO STATE MEDICAL BOARD

---

In the Matter of the
Proposed New Rule
4731-38-01.

---

PROCEEDINGS

before Mr. Greg Porter, Hearing Examiner, at the Ohio State Medical Board, via Go to Webinar, called at 1:30 p.m. on Friday, March 25, 2022.

---

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481

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Armstrong & Okey, Inc., Columbus, Ohio (614) 224-9481
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<td>IDENTIFIED ADMITTED</td>
</tr>
<tr>
<td>Kimberly Anderson</td>
<td></td>
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<td>3 Copies of the Address Portion of E-mails Sent to Persons and Organizations Pursuant to Standing Requests to be Notified When the Medical Board Proposes Rules</td>
<td>6 6</td>
</tr>
</tbody>
</table>
Friday Afternoon Session,
March 25, 2022.

---

HEARING EXAMINER: Let's go on the record.

This public hearing for the State Medical Board of Ohio is now in session. Let the record show that this public hearing is convened at 1:30 p.m. on Friday, March 25, 2022, via Go to Webinar. This public hearing was called pursuant to Section 119.03 Ohio Revised Code.

I'm Greg Porter, Hearing Examiner for the State Medical Board of Ohio. I'm conducting this public rules hearing on behalf of the Board. The members of the Board will review the report concerning this hearing including any written materials submitted as evidence and will have the transcript of today's hearing available for review.

There is currently one rule proposed as a new rule and that is Rule No. 4731-38-01 titled Licensees -- excuse me, "Licenses issued or renewed under the Interstate Medical Licensure Compact."

The purpose of this hearing today is to provide an opportunity for any person affected by the proposed rule to be heard. Any affected person may
present his or her positions, arguments, or
contentions orally or in writing and may present
evidence tending to show that the proposed adoption
of the rule as proposed will be unreasonable or
unlawful.

All persons who wish to testify orally
today are asked to raise their hand by clicking on
the hand icon on their control panel. If you have a
written copy of your testimony, submission of the
written copy will assist the Board in its review of
your comments. Written statements may also be
submitted today without testimony. Please send
electronic copies of your comment to my e-mail
address which is greg.porter, G-R-E-G, dot,
P-O-R-T-E-R, @med.ohio.gov. I'll repeat that address
again if needed.

I now recognize Kim Anderson, Chief Legal
Counsel for the Medical Board, for her presentation
of the testimony on the Board's compliance with the
legal requirements in this matter. I call Kim
Anderson and ask that the witness be sworn.

(Witness sworn.)

HEARING EXAMINER: Thank you. Please
state your name and how you are employed.

MS. ANDERSON: Kim Anderson, Chief Legal
Counsel, State Medical Board of Ohio.

HEARING EXAMINER: Are you familiar with the filings and other actions taken for purposes of the rule being considered today?

MS. ANDERSON: Yes.

HEARING EXAMINER: What part did you play in the filing of the rule?

MS. ANDERSON: I participated in its filing and the distribution of the Notice of Public Hearing.

HEARING EXAMINER: Can you identify the documents that have been marked as exhibits, please.

MS. ANDERSON: Yes. Exhibit 1 is a copy of the rule originally filed in Package 192043 with JCARR, Secretary of State, and the Legislative Services Commission via the electronic rule filing system on February 18, 2022, and a copy of the confirmation of filing.

HEARING EXAMINER: Was public notice of the rules that are the subject of this hearing given in the Register of Ohio at least 30 days prior to today?

MS. ANDERSON: Yes. Exhibit 2 is a copy of the Notice of Public Hearing for the rule in Package 192043 that was filed on February 18, 2022.
HEARING EXAMINER: Was notice of the proposed rules provided to any persons or organizations?

MS. ANDERSON: Yes. Exhibit 3 contains copies of the address portion of e-mails sent to persons and organizations pursuant to their standing requests to be notified when the Medical Board proposes rules.

HEARING EXAMINER: Were any requests for copies of the proposed rules received in the Board office?

MS. ANDERSON: No.

HEARING EXAMINER: Were any written comments of the proposed rules received in the Board office?

MS. ANDERSON: No.

HEARING EXAMINER: Okay. I will admit Exhibits 1 and -- 1, 2, and 3 to the record.

(EXHIBITS ADMITTED INTO EVIDENCE.)

HEARING EXAMINER: Thank you, Ms. Anderson.

MS. ANDERSON: Thank you.

HEARING EXAMINER: Okay. It is now time to receive testimony in the proposed rules. If any attendee wishes to provide testimony, please click
the hand icon on your control panel now.

I don't see any hands in the air, so I believe we can conclude the hearing. The record will be held open until 5 o'clock p.m. today for the sole purpose of receiving any additional written comments on the proposed rules. Please send them to my e-mail address, again, it's greg.porter@med.ohio.gov.

I thank you all for attending this public hearing. The Board will weigh the testimony and evidence presented today before considering proposed -- before considering action on the proposed rules.

Any future action by the Board on these proposed rules -- or this proposed rule, I should say, will take place at a regular monthly meeting of the Board which is open to the public. Any formal action by the Board will comply with Chapter 119 Ohio Revised Code.

And this public hearing is concluded at 1:36 p.m. Thank you very much. We can go off the record.

(Thereupon, at 1:36 p.m., the hearing was adjourned.)

---
CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Friday, March 25, 2022, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered Merit Reporter.

(KSG-7254)

---

Armstrong & Okey, Inc., Columbus, Ohio (614) 224-9481
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Armstrong & Okey, Inc., Columbus, Ohio (614) 224-9481
EXHIBITS
4731-38-01  **Licenses Issued or Renewed Under the Interstate Medical Licensure Compact.**

(A) “IMLC” means the Interstate Medical Licensure Compact

(B) “IMLCC” means the Interstate Medical Licensure Compact Commission

(C) An individual applying for a license through the IMLC, shall pay directly to the IMLCC the application fee in the amount described in Section 4731.09 of the Revised Code, and any additional fees required by the IMLCC.

(D) A license issued by the board through the IMLC shall be valid for two years, unless suspended or revoked.

(E) An individual renewing a license issued through the IMLC shall pay directly to the IMLCC the biennial renewal fee, reinstatement fee, or restoration fee, as applicable, in the amount described in Section 4731.281 of the Revised Code, and any additional fees required by the IMLCC.

(F) An individual renewing a license issued through the IMLC shall provide to the board, in the manner determined by the board, the information described in Section 4731.281 of the Revised Code.
Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4731.05, 4731.11
Rule Amplifies: 4731.09, 4731.281
It is hereby confirmed that the State Medical Board **original filed** the following rule(s) pursuant to section 119.03 of the Ohio Revised Code.

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<tr>
<th>Package Number:</th>
<th>192043</th>
</tr>
</thead>
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<td>File Date and Time:</td>
<td>02/18/2022 8:30 AM</td>
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<tr>
<td>Confirmation Number:</td>
<td>80e3d9af5d9b78dfb211ef8b4ae963</td>
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**ORIGINAL FILE**

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<th>CSI</th>
<th>JE Date</th>
<th>Eff Date</th>
<th>Next FYR</th>
<th>Tagline</th>
</tr>
</thead>
<tbody>
<tr>
<td>4731-38-01</td>
<td>New</td>
<td>N</td>
<td>Y</td>
<td>04/24/2022</td>
<td></td>
<td></td>
<td>Licenses Issued or Renewed Under the Interstate Medical Licensure Compact.</td>
</tr>
</tbody>
</table>
The State Medical Board of Ohio, pursuant to Chapter 119, Ohio Revised Code, hereby gives notice that it will conduct a public hearing to consider the adoption of rules.

The public hearing will be conducted on Friday, March 25, 2022 at 1:30 via GoToWebinar. See below for registration information. Oral or written testimony may be presented by any person affected by the proposed actions.

The following rules are proposed:

4731-38-01 Licenses Issue or Renewed Under the Interstate Medical Licensure Compact Proposed New Rule

The proposed rule will be available from:

• State Medical Board of Ohio, 30 East Broad Street, 3rd Floor, Columbus, OH 43215
  Medical Board’s website: http://med.ohio.gov under the Laws & Rules tab (click on Public Rules Hearings)
• Register of Ohio website: http://www.registerofohio.state.oh.us/rules/search (Select “4731 State Medical Board” from the drop-down list.)

All interested persons will be given the opportunity to be heard at the public hearing. Those persons who wish to provide oral testimony at the hearing should preregister. (see instructions below) Persons providing oral testimony are encouraged to also submit a copy of the testimony to Kimberly Anderson at the email address below.

All written comments received by the Board before the close of the hearing record will be considered. Written comments may be provided at the public hearing. However, persons interested in providing written comments are encouraged to do so prior to March 25, 2022.

> via e-mail to: Kimberly.Anderson@med.ohio.gov

> via mail to: Kimberly Anderson, Chief Legal Counsel
  State Medical Board of Ohio
  30 East Broad Street, 3rd Floor
  Columbus, OH 43215-6127

Registration Instructions

All interested parties may register for the hearing at https://attendee.gotowebinar.com/register/3139345811965417483

Once registered, parties will receive an email with a link that will connect them to the hearing.

Exhibit 2
From: Rodriguez, Judith
To: A DiPasquale; Barry T. Doyle (tdoyle@aol.com); Beth Belward; Bruce R. Whitman (bbwhitmanlaw@aol.com); Cameron McNamee; Damien Clifford; Daniel Zinsmaster (daniel.zinsmaster@dinsmore.com); David Paragas; Deborah R. McVey (dmcvey@dinslaw.com); Flaine M. Hatt PhD; Eric Vinyard; Greg Warren; James Lee; James McGovern (jmcgovern@grafflaw.com); Jennifer Armstrong; Jessica Berti; Joe Feltes; John R. Irwin; Judi Hatcher; Kay Mavon; Lana Mullet; Lori Turk; Lori Herf; M. D. Roland; Brenton; Mike Mathy OFAMA; patrick@americanmedspa.org; Shannon Urena; Socrates Tuch; Stefanie Frank; Steven Greer; Thomas W. Hess (thess@dinslaw.com); Vicki Jenkins; (roseman@sssnet.com); Allison Poulis; amandadesine@cgglobal.net; Ann Speirs; Ann Warner; Belinda Ingersoll; (jinxs@spmlsconsulting.net); Blair Barnhart-Kinkle (barnhab@ccf.org); Bryn Hum; Carolyn Tower; Catherine Olghan Zwissler; Doug Griff; Elizabeth Collins (E-mail); Eric Pinke (eric.pinke@dinslaw.com); George Dunigan; Greg Fouche; Gregory W. Bee; Holly Dorr; Inez 617 (inez617@msn.com); J Richard Ludgin (E-mail); James Lindon; Jeffrey Fisher; Joel Selmeier (E-mail); John Boorer; Kevin Devaney; Kevin L. Miller; Larry Wolpert; Lisa Emrich; Lloyd DePew; M. D. Elliot; Mostow (emostow@akronderm.com); Matt Donnelly; McGovern Jim (jamesmcgovern@yahoo.com); Melissa Guzman; Michael Ors; Michael R. Moran; OHA - Mary Gallagher; Paul Bryson; Paul Hilderbrand; rainykgal; Ricardo del Castillo; Richard Greely; Richard Kasmer (chrislawez@yahoo.com); Rogers Carol; (cjrogers65@mtn.com); Ronald House (E-mail); Scott P. Sandrock; Sean McGone; Sharon Barnes Ph. D.; State Board of Psychology; Steve Lanier (stevelanier@yahoo.com); Teresa Lampel; Terry Guzek; Tim Cosgrove (E-mail); Tom Dilling; Victor Goodman; wfitzgibbon@cvslaw.com; Willa Ebersole; ACADEMY OF MED. OF CINCINNATI (E-mail); ACADEMY OF MEDICINE OF TOLEDO & LUCAS (E-mail); Dayton Academy of Osteopathic Medicine (daytonacadey@sbglobal.net); ljohns@amcno.org; Lorain Co. Medical Society; MAHONING COUNTY MEDICAL SOCIETY (E-mail); Pam Fairbanks; PICKAWAY COUNTY MEDICAL SOCIETY (E-mail); Sandusky County Medical Society; Stark Medical Society; Dilling, Thomas
Subject: Rule Hearing Notice
Date: Friday, February 18, 2022 2:13:00 PM
Attachments: Public Hearing notice.pdf
image001.png
image003.png
image004.png
4731-38-01 and confirmation of filing.pdf

Please see the attached Hearing Notice and Rule for a hearing scheduled March 25, 2022.

Judy Rodriguez
Subpoena Coordinator

State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215
o: 614-466-7260
Email: judith.rodriguez@med.ohio.gov
w: med.ohio.gov

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Exhibit 3
Judy Rodriguez  
Subpoena Coordinator  
State Medical Board of Ohio  
30 East Broad Street, 3rd Floor  
Columbus, Ohio 43215  
o: 614-466-7260  
Email: judith.rodriguez@med.ohio.gov  
w: med.ohio.gov  

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Subject: Rule Hearing Notice

Please see the attached Hearing Notice and Rule for a hearing scheduled March 25, 2022.

Judy Rodriguez
Subpoena Coordinator

State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215
o: 614-466-7260
Email: judith.rodriguez@med.ohio.gov
w: med.ohio.gov

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MEMORANDUM

TO: Betty Montgomery, President
    Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Chapter 4731-5, OAC-Examination Rules

DATE: May 2, 2022

The rules in Chapter 4731-5 of the Ohio Administrative Code related to examinations are due for the five-year rule review this year. With the changes in law that removed the licensure requirement for cosmetic therapists, the Board does not administer any examinations. Therefore, the rules in this chapter are proposed to be rescinded.

Rule 4731-5-01 Admission to Examinations

Rule 4731-5-02 Examination Failure; Inspection and Regrading

Rule 4731-5-03 Conduct During Examinations

Rule 4731-5-04 Termination of Examinations

**Requested Action:** Motion of the Board approving the proposed rescission of rules for initial circulation to interested parties.
Rule 4731-5-01 | Admission to examinations.

(A) Applicants shall present themselves promptly at the time set for the commencement of each examination. Tardy arrival, without reasonable explanation, may be grounds for dismissal from the examination at the discretion of the proctor in charge.

(B) No applicant shall be permitted entrance to examinations unless the applicant:

    (1) Has submitted a completed application and such other information and documentation as required by the board;

    (2) Has submitted the statutory fee;

    (3) Has in his or her possession a signed admission card issued to that applicant by the board; and

    (4) Has in his or her possession a recent color passport-type photograph substantially identical to that submitted with the application.

(C) The signed admission card and the photograph required by paragraph (B) of this rule shall be turned in at the close of the examination. Any set of answers lacking the admission card and photograph, no matter how complete and satisfactory otherwise, may be rejected.

Supplemental Information

Authorized By: 4731.15, 4731.05
Amplifies: 4731.13, 4731.16, 4731.55
Five Year Review Date: 6/9/2022
TO BE RESCINDED

Rule 4731-5-02 | Examination failure; inspection and regrading.

(A) No applicant shall be entitled to a hearing pursuant to Chapter 119. of the Revised Code on the issue of examination failure.

(B) An applicant's examination papers may be inspected by the applicant or the applicant's attorney for ninety days subsequent to the announcement of the examination results. Within ninety days of the announcement of examination results, the board may, upon receipt of a written request by the applicant or the applicant's attorney, regrade by hand the applicant's examination.

Supplemental Information

Authorized By: 4731.15, 4731.05
Amplifies: 4743.02, 119.06
Five Year Review Date: 6/9/2022
Rule 4731-5-03 | Conduct during examinations.

(A) No applicant shall, under any circumstances, communicate in any way with any other applicant, or have in his or her possession any books, notes, calculators, watches with computer or memory ability, or data of any kind, or question the proctors in reference to the meaning or interpretation of any question under consideration, but may question proctors relative to procedure.

(B) A violation of paragraph (A) of this rule shall constitute fraud in passing the examination, or fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board under division (A) of section 4731.22 of the Revised Code.

Supplemental Information

Authorized By: 4731.05, 4731.15
Amplifies: 4731.13, 4731.16, 4731.55
Five Year Review Date: 6/9/2022
Rule 4731-5-04 | Termination of examinations.

(A) If any applicant withdraws from the sight of the proctors without permission, that applicant's examination may be immediately terminated and the applicant may be ordered to leave the site of the examination at the discretion of the proctor in charge. If an applicant is permitted to withdraw from the room due to temporary illness or other just cause, that applicant shall be permitted to return only upon the knowledge and consent of a proctor.

(B) If any applicant engages in conduct that interferes with, delays, obstructs, or disrupts the due conduct of the examination, that applicant's examination may be terminated and the applicant may be ordered to leave the site of the examination at the discretion of the proctor in charge.

(C) Termination or invalidation of examination under this chapter of the Administrative Code or Chapter 4731. of the Revised Code shall not be grounds for reimbursement of examination fees.

Supplemental Information

Authorized By: 4731.05, 4731.15
Amplifies: 4731.13, 4731.16, 4731.55
Five Year Review Date: 6/9/2022
MEMORANDUM

TO: Betty Montgomery, President
    Members, State Medical Board of Ohio

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule 4731-2-01 and Rule 4731-6-04, OAC

DATE: May 2, 2022

The following rules are due for their five-year rule review in 2022, and are proposed as no change rules:

Rule 4731-2-01 Public Notice of Rules Procedures

Rule 4731-6-04 Demonstration of Proficiency in Spoken English

**Requested Action:** Motion of the Board approving the proposed no change rules for initial circulation to interested parties.
Rule 4731-2-01 | Public notice of rules procedures.

(A) Prior to proposing to adopt, amend, or rescind any rule by the state medical board, public notice shall be given at least thirty days prior to the date set for the public hearing, by publication of that notice in the register of Ohio. The notice shall include a statement of the board's intention to consider adopting, amending, or rescinding a rule; a synopsis of the proposed rule, amendment, or rule to be rescinded or a general statement of the subject matter of the proposed rule, amendment or rescission; a statement of the reason or purpose for adopting, amending, or rescinding the rule; and the date, time, and place of the public hearing on the proposed action.

(B) The board may give whatever other notice it reasonably considers necessary including, but not limited to, the following:

   (1) The board shall post the notice of the public rules hearing on the board's web site. The board may also post the full text of the proposed rules on its web site.

   (2) The board may maintain a mailing list of all persons who have made a prior written request to receive a copy of each public notice provided for in paragraph (A) of this rule, and copies of such notices shall be sent by regular mail or electronic mail to each person on the mailing list at least thirty days prior to the date set for the hearing. Upon request, the board shall also promptly send a copy of any notice provided for in paragraph (A) of this rule by regular mail or electronic mail to any person not appearing on its mailing list. The board may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices sent to persons according to this rule.

   (3) Copies of the notice of the public rules hearing and the full text of the proposed rules shall be available at the board's offices at least thirty days prior to the date of the public rules hearing.

(C) Prior to the effective date of a rule, amendment, or rescission, the board shall make a reasonable effort to inform those affected by the rule, amendment, or rescission. The method of notification may include posting the full text of the rule as adopted or amended on the board's web site, publishing the rules in the board's newsletter, and/or sending by regular mail or electronic mail a notice of the action to all persons whose name appears on the mailing list maintained by the board under paragraph (A) of this rule, or to any person or his attorney who provided evidence, oral testimony, and/or a written statement which were made part of the record of the public hearing held under section 119.03 of the Revised Code. The board may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices sent to persons in accordance with this rule.

Supplemental Information
Authorized By: 4731.05, 119.03
Amplifies: 119.03
Five Year Review Date: 12/7/2022
Demonstration of proficiency in spoken English, pursuant to section 4731.142 of the Revised Code, requires successful completion of the "Test of English as a Foreign Language, Internet-based Test" ("TOEFL iBT"). Successful completion of the TOEFL iBT requires a total score of ninety or higher and the following minimum scores or higher by section:
(A) Writing: no minimum;
(B) Speaking: twenty-six;
(C) Listening: twenty-six; and
(D) Reading: no minimum.

Supplemental Information

Authorized By: 4731.05
Amplifies: 4731.142
Five Year Review Date: 6/9/2022
To: Board Members
From: Rebecca Marshall, Chief of Quality Assurance
Date: May 5, 2022
Re: QIP Pilot Project

**Background**

On behalf of the Secretary and Supervising Member, we wanted to share information about a pilot project that has been underway targeted at reducing the backlog of minimal standards complaints by revitalizing the agency’s Quality Intervention Program and fine-tuning the expert contract process. Based on initial results since its launch in January 2022, the pilot appears to be successful and is now being fully implemented.

As a reminder, the Quality Intervention Program is established in statute. Section 4731.22(O), Ohio Revised Code, allows the Board under its investigative duties to develop and implement a quality intervention program designed to improve clinical or communication skills of licensees through remedial education. QIP is authorized to offer an education and assessment program, select a panel of case reviewers, choose providers of educational services, make referrals for education, and determine what constitutes successful completion of an individual educational program. The QIP program, previously operated as a panel of experts who would review files and then meet with the licensee, was sunset under the previous director as a process improvement effort. However, many staff members have noted the value of the previous program and have indicated that the lack of the program is increasing time to review minimal standard cases.

**Data Analysis to Determine Necessity of QIP**

Board staff began working with the S/SM in December 2021 to analyze our existing methods of processing complaints alleging substandard medical care, as well as the timelines and outcomes of those complaints in 2021 and 2020. Most were closed by the S/SM based upon Reports of Investigation and/or Nurse Review resulting in determinations that the allegations were not substantiated. However, we found that complaints warranting further review by a physician expert resulted in significant time delays, consumed substantial staff resources, and rarely progressed to subsequent assignment to Enforcement for possible formal disciplinary action.

The selection criteria for finding specialists and the contracting process to secure them were designed to satisfy the legal requirements associated with providing expert witness testimony;
however, statistical analysis of the complaints sent for outside review from the Investigations and Standards Review sections demonstrated that only 14% in 2021 and 0% in 2020 resulted in subsequent referral to Enforcement. This led us to conclude that although the existing system meets the needs of complaints assigned to Enforcement (where it has been predetermined significant violations may exist which are likely to require expert testimony at hearing), it was not efficient for processing other minimal standards complaints. In essence, all of our complaints needing outside review were in competition for a limited pool of expert witnesses when, in fact, the vast majority of non-Enforcement complaints were resolved after initial review by an appropriate specialist.

Additionally, we identified key trends contributing to the backlog: Our need for outside physician reviewers is increasing. We had 27 requests for expert review in 2020 versus 41 in 2021 (all Sections requesting expert reviews). Because the total number of complaints received by the Board has consistently grown each year, we anticipate the number of minimal standards complaints to correspondingly increase in the future. Furthermore, it is taking longer to find experts who are willing to testify. Our average time to identify a willing expert lengthened from 70 days in 2020 to 109 days in 2021.

Conversely, there was encouraging evidence demonstrating success from staff’s efforts across all Sections to focus on progressing cases over the past two years: The average number of days from identifying an expert to sending out the contract for services drastically improved from 40 to 10 days. The average period from receipt of a signed contract to sending the medical records for review significantly decreased from 70 to 26 days. The average number of days from records being sent for review until the expert submitted a written report to the board was reduced from 106 to 51 days, cutting turnaround time by more than half. Overall, the total number of days from initiating a request to find an expert until receiving a completed report from the expert decreased from an average of 286 to 196 days, a 90-day difference resulting in three full months being shaved off average complaint processing time.

Goals of the QIP Program

Based on the above analysis, we established two central objectives for our pilot project to bring back the QIP model:

- To revitalize the Quality Intervention Program (QIP) by recruiting a ready pool of physicians across multiple specialties to provide quick reviews of non-egregious minimal standards complaints, and
- To revamp the selection/contracting process by bifurcating physicians into two distinct groups (QIP Reviewers and Expert Witnesses), updating contract templates, and increasing efficiency through automation and shortened timelines.
The ultimate outcome of a QIP review can include the following:

- Close, if review determines the care was appropriate despite a poor outcome;
- Educational letter;
- Additional investigation, including possible office conference with the S/SM;
- Recommendation of targeted remedial education, with/without confirmation provided;
- Mandatory targeted remedial education with confirmation, with/without further follow-up;
- Referral to Enforcement.

From a more global perspective, creation of the QIP pool with qualified non-testifying specialists will now allow us to focus utilization of our scarce physician expert witnesses to more egregious cases likely to require formal testimony at hearing. This should help reduce the backlog of complaints in both Standards Review and Enforcement moving forward, as we will no longer be competing among ourselves for the same group of outside physician resources.

**Current status of QIP**

From January through March, we utilized eNews to begin recruitment of physicians as potential QIP Reviewers. To date, I have communicated by email or telephone with 169 physicians who expressed initial interest. Because QIP Reviewers are not expected to provide testimony at a formal hearing, we have more latitude than with the stringent legal requirements for expert witnesses. QIP candidates were vetted to verify current specialty board certification, active license status, clear disciplinary history, and either active clinical practice or recent retirement. Of this group, 50 either declined to move forward or were disqualified; 40 physicians are now fully through the contracting process and ready to receive cases, in the process of being sent records to review, or are currently reviewing complaints; and the remainder have received contracts for consideration or are progressing through the State contract process. Our first case for QIP Review was identified on 03-08-2022 and we received the specialist’s written report on 03-30-2022, a turnaround time of only 22 days. Although not every QIP case is likely to move this quickly, we are hopeful future reviews will be similarly successful.

Additionally, unlike expert witness contracts which require individual processing for each case due to the complexity and higher total cost, the QIP contract provides for smaller on-demand complaint reviews at a lower cost throughout the entire biennial fiscal cycle. As a result, we should experience significant future time savings by avoiding the delays associated with securing individual contracts before each review. We also modified the expert witness contract template to change the default due date for submission of the expert’s written opinion from 120 to 90 days, and set the QIP contract template for written report turnaround in 30 days.
Ongoing Analysis and Additional Improvements for Expert Review

As we transition from the QIP pilot project to full implementation, staff is continuing to explore and execute system improvements. Brittany Cunningham, Nurse Specialist, is evaluating the entire Standards Review work queue, which has already resulted in the identification of more than 60 complaints which are now in process for assignment to appropriate specialists in the QIP pool. When complaints require QIP review related to prescribing controlled substances for chronic pain, I will ensure the instruction letters reference the appropriate statutes/rules, as well as provide support to our QIP Reviewers for legal questions related to the care under review. Don Davis, Program Administrator, has converted the transmittal and receipt of contract documents from regular mail to email to reduce processing time. A few days ago, he also launched an electronic system to expedite the multiple approvals these contracts require, as well as to provide better documentation and tracking. Brandi Dorcy, Chief of Compliance, is coordinating development of a future electronic portal to receive subpoenaed medical records that will improve turnaround time, eliminate the need for administrative staff to scan paper records, and resolve delays caused by improper or absent certification forms. She is also working with I.T. to add a designation in Salesforce so we can more easily identify and manage complaints assigned to QIP. Staff is also in the process of creating a living electronic document in Microsoft Teams that will dynamically display whether each expert/reviewer is currently in use, in process to be assigned a case, awaiting final clearance, or available to receive a new assignment.

We will be happy to address any questions you have about the pilot project at the upcoming board meeting.
MEMORANDUM

TO: Betty Montgomery, President, State Medical Board of Ohio
    Members, State Medical Board of Ohio

FROM: Nathan T. Smith, Senior Legal and Policy Counsel

DATE: May 9, 2022

RE: Recommended changes for telehealth rules after consideration of new stakeholder input

At its April 13, 2022 meeting, the Medical Board approved the telehealth rules for filing with the Common Sense Initiative (CSI). Shortly before the rules were to be filed with CSI, the Medical Board received a detailed comment from the Ohio Hospital Association (OHA). Due to the timing of the comment and as part of our continuing efforts to consider stakeholder input on these important rules, Board staff met with representatives from OHA on May 5, 2022 to discuss their concerns. On May 6, 2022, Board staff received a follow-up written comment specific to controlled substance prescribing provided through telehealth. This memo analyzes the questions and comments provided by OHA. The questions are quoted below and responses and/or recommendations for changes to the rules before filing with CSI are in bold.

OHA comment on definition of formal consultation

1) Definition of “formal consultation” in 4731-37-01(A)(7) – We appreciate that the rule incorporates much of a proposed definition from OHA, but it did not include the reference to the consulting physician billing for the service. We would like to understand why this piece was excluded from the definition.

No change recommended – the Board does not have jurisdiction over billing and insurance issues. Other entities such as the Ohio Department of Insurance, Ohio Department of Medicaid, and Medicare have jurisdiction of those issues. By remaining silent on the topic, the rules are consistent with the Board’s jurisdiction.

OHA comment on referral provisions in 4731-37-01(B)(4)

2) Section 4731-37-01(B)(4)(a) refers to patients who must be seen “immediately but not in an emergency department.” This reference is confusing because either a patient’s condition is emergent and needs to be addressed immediately, or it is non-emergent and does not need to be addressed immediately. The condition can’t be both “immediate” and “non-emergent.” This category of patient (immediate/non-emergent) is confusing to providers, who would either refer a patient to an emergency department if it is an emergency, or schedule the patient for a in-person appointment at a convenient time for the patient.
• Furthermore, as we stated in our initial comment letter, this provision establishes a standard that is different than what would be required for an in-person visit, as it may not be necessary for the in-person visit to be “immediate” in order to meet the standard of care.

• In addition, (B)(4)(i) is still overly prescriptive in terms of the type of provider to whom a patient can be referred. For example, what if the physician providing the telehealth service does not have a cross-coverage arrangement with a specialist needed to treat the patient? Can the telehealth provider not refer the patient to an appropriate provider? Or what if the patient identifies a particular specialist to whom they would like to be referred. This is a confusing limitation and one that does not exist regarding in-person visits.

• Given the above, we recommend just deleting B(4)(a) altogether, as it relates to a category of patients that don’t really exist – “immediate but non-emergent.” We believe the rest of section (B) captures the universe of patients – those in need of care from the same specialty (subsection (b)); those in need of care from a different specialty (subsection (c)); and those in need of emergency care (subsection (d)).

Response and recommendation: There are health issues and conditions that could be non-emergent, but in need of immediate evaluation. One example is a tumor that could be cancerous. In this situation, the patient does not need to go to an emergency department, but should be seen by an oncologist immediately. There are a small number of patients and their associated medical conditions that will fit into this category. Fortunately, the perceived burden of this referral provision in 4731-37-01(B)(4)(a) should then also be quite small.

Paragraph 4731-37-01(B)(4)(a) prioritizes the health and safety of Ohio patients by providing a level of continuing care commensurate with the risk to the patient in leaving the medical condition untreated. We are aware through stakeholder outreach that there are telehealth platforms where the patient does not know or know of the provider before the actual telehealth encounter starts. The provider may be based in another state, but is licensed in Ohio. The platforms are designed to offer singular episodic care in which the patient is unable to return to that provider for follow-up care or consultation. There is no establishment of a continuing relationship in which the provider could monitor the patient’s efforts to follow-up on a serious medical issue discovered during a telehealth encounter.

We have heard support from stakeholders, including those within the hospital community, for the concept of expansive telehealth in which providers whose primary focus is telehealth are linked with in-person providers through cross coverage agreements so that if escalation of care is needed for a serious medical condition it can be provided seamlessly.

In an effort to be responsive to OHA’s concerns and provide more options for patients, the following additional referral option is recommended as an addition to 4731-37-01 (B)(4)(a):

(iv) any health care professional requested by the patient who is appropriate for the condition with which the patient presents”

OHA additional comments to 4731-37-01(B)(4)

We believe the following clarifying language would make (B)(4)(b) and (B)(4)(c) less confusing:
No change recommended. The comments are requesting stylistic changes. The language used in these paragraphs was based on feedback provided from the Ohio State Medical Association and the Ohio Psychiatric Physicians Association.

OHA comments on 4731-37-01(D) Formal Consultation

3) Subsection (D) continues to be confusing. This section seems to user “referring” and “consulting” interchangeably, but they are different. A “referral” results in one provider passing a patient off to another provider to deliver care and a new patient-provider relationship occurs. In a “consult” the primary treating provider maintains the relationship with the patient and asks another provider for their opinion on a patient’s condition or course of treatment – but the physician being consulted does not establish a relationship with the patient.

• First, in (D)(1) we recommend deleting “referring” in “referring health care professional who seeks a formal consultation . . .”

• Second, it is unclear to us whether the Board views the consultations contemplated by this rule as occurring within the telehealth visit or subsequent to the telehealth visit. For example, does the Board envision Telehealth Provider A consulting with Telehealth Provider B during the telehealth interaction with the patient? Or, does the Board envision Telehealth Provider A consulting with Provider B after the telehealth interaction with the patient? We think a conversation around this issue would be helpful.

• We remain very confused about how the Board envisions a “consent for treatment” to a consultation to occur. For in-person visits, a patient usually does not consent to a physician consulting with another physician. Why should a telehealth visit be treated differently in this regard, and if it is different, what does the Board expect such “consent” to consist of?

Response: OHA voiced concern about the use of the legal term “consent for treatment” for formal consultations. They are amenable to substituting the term “acknowledgement”. This change does not alter the intended effect of the language to ensure that the patient is aware that a formal consultation is going to occur. Further, the suggested change to delete the term “referring” helps to clarify the language. Recommended changes to paragraph (D)(1):

The referring health care professional who seeks a formal consultation shall document the consent for treatment acknowledgement of the patient or if
applicable, the patient's legal representative, before seeking the telehealth services
formal consultation with the consulting health care professional;

OHA comment on 4731-37-01(F) remote monitoring devices

4) Subsection (F)(1) uses the phrase “consent to treatment to the use of remote monitoring
devices.” We do not believe this is an appropriate use of the term “consent to treatment,”
which is defined in the rule. If you read that definition, it does not make sense for
“consent to treatment” to be followed by “to the use of remote monitoring devices.” We
believe the phrase should be “consent to treatment to the use of remote monitoring
devices.”

Response: OHA was concerned about the use of the legal term “consent for treatment.”
The following change to paragraph (F)(1) is recommended:

The patient or, if applicable, the patient’s legal representative, gives consent for
treatment to the use of remote monitoring devices;

OHA comment on 4731-11-09

5) In 4731-11-09 we need to better understand the Board’s rationale for not including the
numerous exceptions OHA recommended keeping that exist in the current rule but are
not provided in the proposed rule. The memo to the Board seems to suggest that the
Board does not have the statutory authority to include these exceptions. We do not
agree with that conclusion and believe it would be detrimental to the use of telemedicine
as intended by the legislature for at least a couple of those current exceptions to not be
included going forward. We would like to discuss.

In its May 6th email following up on the May 5th meeting in which this rule was discussed, OHA
states: “This list of exceptions [in 4731-11-09(E)] does not reference any exceptions currently
permitted by Federal law (most importantly the Ryan Haight Act exception for when the patient
is in a hospital).

On our call yesterday, Board staff made references to the fact that the rule requires the
prescriber to comply with Federal law. The relevant provision is 4731-11-09(B) of the proposed
rule, which states: “A physician or a physician assistant who holds a valid prescriber number
issued by the state medical board and who has been granted physician-delegated prescriptive
authority must comply with federal law governing prescription drugs that are controlled
substances to prescribe, personally furnish, otherwise provide, or cause to be provided a
prescription drug that is a controlled substance to a person.” This section does not reference (D)
or is it listed as an exception in (E). Requiring a provider to comply with Federal law alone
does not grant them the ability to use all exceptions available under Federal law if it would
contradict the more stringent state law. As written, the Ohio law is more stringent.

Our proposed revision would be to add a 5th exception under (E): “The telehealth services are
being provided under an exception permitted by Federal law.”

Response: After consideration of OHA’s comments, the following changes to further
clarify the rule for prescribers are recommended:
(B) A physician or a physician assistant who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority must comply with the requirements of federal law governing prescription drugs that are controlled substances to prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is a controlled substance to a person.

(C) When the physician or physician assistant, who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority, prescribes, personally furnishes, otherwise provides, or causes to be provided a prescription drug that is a controlled substance during the provision of telehealth services, the physician or physician assistant must comply with all requirements in rule 4731-37-01 of the Administrative Code.

(D) The physician or physician assistant, who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority, shall conduct a physical examination of a new patient as part of an initial in-person visit before prescribing a schedule II controlled substance to the patient except as provided in paragraph (E) of this rule.

(E) As an exception to paragraph (D) of this rule, a physician or physician assistant may prescribe a controlled substance to a new patient as part of the provision of telehealth services for any of the following patient medical conditions and situations:

(1) The medical record of a new patient indicates that the patient is receiving hospice or palliative care;
(2) The patient has a substance use disorder, and the controlled substance is FDA approved for and prescribed for medication assisted treatment or to treat opioid use disorder.
(3) The patient has a mental health condition and the controlled substance prescribed is prescribed to treat that mental health condition; or
(4) The physician or physician assistant determines in their clinical judgment that the new patient is in an emergency situation provided that the following occurs:
(a) The physician or physician assistant prescribes only the amount of a schedule II controlled substance to cover the duration of the emergency or an amount not to exceed a three-day supply whichever is shorter;
(b) After the emergency situation ends, the physician or physician assistant conducts the physical examination as part of an initial in-person visit before any further prescribing of a drug that is a schedule II controlled substance; or

(5) The prescribing of a controlled substance through telehealth services is being done under an exception permitted by federal law governing prescription drugs that are controlled substances.

Action Requested: Approve recommended changes to proposed rules 4731-37-01 and 4731-11-09 and approve revised proposed telehealth rules for filing with CSI.
(A) As used in Chapters 4730, 4731, 4759, 4761, and 4778 of the Administrative Code:

(1) "Telehealth services" means health care services provided through the use of information and communication technology by a health care professional licensed in Ohio, within the professional's scope of practice, who is located at a site other than the site where the patient is receiving the services or the site where another health care professional with whom the provider of the services is formally consulting regarding the patient is located.

(2) "Synchronous communication technology" means audio and/or video technology that permits two-way, interactive, real-time electronic communication between the health care professional and the patient or between the health care professional and the consulting health care professional regarding the patient.

(3) "Asynchronous communication technology", also called store and forward technology, has the same meaning as asynchronous store and forward technologies as that term is defined in 42 C.F.R. 410.78 (effective January 1, 2022).

(4) "Remote monitoring device" means a medical device cleared, approved, or authorized by the United States food and drug administration for the specific purpose which the health care professional is using it and which reliably transmits data electronically and automatically.

(5) "Health care professional" means any of the following:

(a) A physician assistant licensed under Chapter 4730. of the Revised Code;

(b) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(c) A dietitian licensed under Chapter 4759. of the Revised Code;

(d) A respiratory care professional licensed under Chapter 4761. of the Revised Code; or

(e) A genetic counselor licensed under Chapter 4778. of the Revised Code.

(6) "Consent for telehealth treatment" means a process of communication between a patient or, if applicable, the patient's legal representative and the health care professional discussing the risks and benefits of, and alternatives to, treatment through a remote evaluation that results in the agreement to treatment that is documented in the medical record or signed authorization for the patient to be treated through an evaluation conducted through appropriate technology, as
specified in this rule, when the health care professional is in a location remote from the patient.

(7) "Formal consultation" means when a health care professional seeks the professional opinion of another health care professional regarding the diagnosis or treatment recommended for the patient’s medical condition presented, transfers the relevant portions of the patient’s medical record to the consulting health care professional, and documents the formal consultation in the patient's medical record.

(8) As used in this rule, "advanced practice registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as an advanced practice registered nurse and is designated as any of the following: clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(B) A health care professional may provide telehealth services to a patient located in this state. The health care professional shall comply with all of the following requirements:

(1) The standard of care for a telehealth visit is the same as the standard of care for an in-person visit.

(2) The health care professional shall follow all standard of care requirements which include but are not limited to the standard of care requirements in paragraph (C) of this rule.

(3) The health care professional may provide the telehealth services through the use of synchronous or asynchronous communication technology provided that the standard of care for an in-person visit can be met for the patient and the patient’s medical condition through the use of the technology selected. Telephone calls, as a synchronous communication technology, may only be used for telehealth services when all of the elements of a bona fide health care visit meeting the standard of care are performed. Telephone calls that are routine or simply involve communication of information do not constitute a telehealth service.

(4) If a health care professional determines at any time during the provision of telehealth services that a telehealth visit will not meet the standard of care for the medical condition of the patient or if additional in-person care is necessary, the health care professional shall do the following:

(a) If the patient must be seen immediately but not in an emergency department, the health care professional shall immediately schedule the patient for an in-person visit with the health care professional and promptly conduct that visit or refer the patient for an in-person visit with one of the following licensed health care professionals who can
provide the services in-person that are appropriate for the patient and the condition for which the patient presents:

(i) Another health care professional or an advanced practice registered nurse with whom the health care professional has a cross-coverage agreement.

(ii) In the case of a physician, a physician assistant with whom the physician has a supervision agreement or an advanced practice registered nurse with whom the physician has a standard care arrangement;

(iii) In the case of a physician assistant, a physician with whom the physician assistant has a supervision agreement; or

(iv) Any health care professional requested by the patient who is appropriate for the condition with which the patient presents.

(b) If the patient does not need to be seen immediately, the health care professional shall do one of the following:

(i) Schedule the patient for an in-person visit and conduct that visit within an amount of time that is appropriate for that patient and their condition presented; or

(ii) Refer the patient to a health care professional in the same specialty to conduct an in-person visit within an amount of time that is appropriate for the patient and their condition.

(c) If the patient must be seen by a specialist other than the health care professional, the health care professional shall make a referral to a specialist, licensed in this state, whom the healthcare professional knows has an appropriate scope of practice for the medical condition of the patient.

(d) If the patient needs emergency care, the health care professional shall help the patient identify the closest emergency department and, if necessary, in the health care professional's discretion, provide notification to the emergency department of the patient’s potential arrival.

(e) The health care professional shall document the in-person visit or the referral in the patient's medical record.

(f) All referrals must be made in an amount of time that is appropriate for that patient and their condition presented.

(C) A health care professional must comply with all standard of care requirements to
provide telehealth services to a patient including but not limited to:

(1) The health care professional shall verify the patient's identity and physical location in Ohio, and communicate the health care professional's name and type of active Ohio license held to the patient if the health care professional has not previously treated the patient. This may be done verbally as long as it is documented by the health care professional in the patient's medical record;

(2) The health care professional shall document the consent for telehealth treatment of the patient or, if applicable, the patient's legal representative;

(3) The health care professional shall provide the telehealth services in a manner that complies with the privacy and security requirements for the patient and their protected health information required by the law of this state and federal law. Also, the health care professional shall ensure that any username or password information and any electronic communications between the health care professional and the patient are securely transmitted and stored;

(4) If applicable, the health care professional shall forward the medical record to the patient's primary care provider, other health care provider, or to an appropriate health care provider to whom the patient is referred as provided in paragraph (B)(4) of this rule;

(5) The health care professional shall, through interaction with the patient, complete a medical evaluation that is appropriate for the patient and the condition with which the patient presents and that meets the minimal standards of care for an in-person visit, which may include portions of the evaluation having been conducted by other Ohio licensed healthcare providers acting within the scope of their professional license;

(6) The health care professional shall establish or confirm, as applicable, a diagnosis and treatment plan, which for those health care professionals designated as prescribers in section 4729.01 of the Revised Code, includes documentation of the necessity for the utilization of a prescription drug. The diagnosis and treatment plan shall include the identification of any underlying conditions or contraindications to the recommended treatment;

(7) The health care professional shall promptly document in the patient's medical record the patient's or, if applicable, the patient's legal representative, consent for telehealth treatment, pertinent history, evaluation, diagnosis, treatment plan, underlying conditions, any contraindications, and any referrals to appropriate health care providers, including primary care providers or health care facilities;

(8) The health care professional shall provide appropriate follow-up care or recommend follow-up care with the patient's primary care provider, other appropriate health care provider, or health care facility in accordance with the
minimal standards of care;

(9) The health care professional shall make the medical record of the visit available to the patient or if applicable, the patient's legal representative, upon request.

(D) A health care professional must comply with the following requirements to provide telehealth services that involve a formal consultation with another health care professional:

(1) The health care professional who seeks a formal consultation shall document the acknowledgement of the patient or if applicable, the patient's legal representative, before seeking the telehealth services formal consultation with the consulting health care professional;

(2) The consulting health care professional must meet the licensure or certification requirements in division (C) of section 4743.09 of the Revised Code; and

(3) The health care professionals involved in the formal consultation must have received and reviewed all medical records of the patient relevant to the medical condition which is the subject of the consultation before the formal consultation occurs, unless this is not possible due to an emergency situation.

(E) While providing telehealth services, a health care professional that is a physician or a physician assistant who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority shall comply with the following requirements regarding prescription drugs:

(1) The physician or physician assistant may only prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is not a controlled substance to a patient through the provision of telehealth services by complying with all requirements of this rule;

(2) The physician or physician assistant may only prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug to a patient that is a controlled substance through the provision of telehealth services by complying with the following requirements:

(a) Federal law governing prescription drugs that are controlled substances;

(b) The requirements of this rule; and

(c) The requirements in rule 4731-11-09 of the Administrative Code.

(F) A physician or physician assistant may provide telehealth services through the use of remote monitoring devices provided that:

(1) The patient or, if applicable, the patient's legal representative, gives consent to
the use of remote monitoring devices;

(2) The medical devices that enable remote monitoring have been cleared, approved, or authorized by the United States food and drug administration for the specific purpose for which the physician or physician assistant are using it for the patient, and the remote monitoring devices otherwise comply with all federal requirements.

(G) A violation of any provision of this rule, as determined by the board, shall constitute any or all of the following:

(1) For a physician:

(a) "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;

(b) "Selling, giving away, personally furnishing, prescribing, 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; or

(c) "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.

(2) For a physician assistant:

(a) "A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established," as that clause is used in division (B)(19) of section 4730.25 of the Revised Code;

(b) "Failure to comply with the requirements of this chapter, Chapter 4731, of the Revised Code, or any rules adopted by the board," as that clause is used in division (B)(2) of section 4730.25 of the Revised Code; or

(c) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731, of the Revised Code, or the rules adopted by the board," as that clause is used in division (B)(3) of section 4730.25 of the Revised Code.

(3) For a dietitian:
(a) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the rules adopted by the board," as that clause is used in division (A)(1) of section 4759.07 of the Revised Code; or

(b) "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 a patient is established," as that clause is used in division (A)(11) of section 4759.07 of the Revised Code.

(4) For a respiratory care professional:

(a) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the rules adopted by the board," as that clause is used in division (A)(7) of section 4761.09 of the Revised Code; or

(b) "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 a patient is established," as that clause is used in division (A)(10) of section 4761.09 of the Revised Code.

(5) For a genetic counselor:

(a) "Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board," as that clause is used in division (B)(2) of section 4778.14 of the Revised Code;

(b) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board," as that clause is used in division (B)(3) of section 4778.14 of the Revised Code; or

(c) "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 clause is used in division (B)(4) of section 4778.14 of the Revised Code.
Controlled substance and telehealth prescribing.

(A) As used in this rule:

1. "Hospice care" means the care of a hospice patient as that term is defined in section 3712.01 of the Revised Code.

2. "Palliative care" has the same meaning as in section 3712.01 of the Revised Code.

3. "Medication assisted treatment" and "substance use disorder" have the same meanings as in rule 4731-33-01 of the Administrative Code.

4. "Mental health condition" means any mental health condition, illness, or disorder as determined by the diagnostic criteria in the "Diagnostic and Statistical Manual of Mental Disorders Fifth Edition Text Revision" (DSM-5-TR). This is a well-known and readily available text. It may be found at libraries, bookstores, or on the internet at www.psychiatry.org.

5. "Emergency situation" means a situation involving an "emergency medical condition" as that term is defined in section 1753.28 of the Revised Code.

(B) A physician or a physician assistant who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority shall comply with the requirements of federal law governing prescription drugs that are controlled substances to prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is a controlled substance to a person.

(C) When the physician or physician assistant, who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority, prescribes, personally furnishes, otherwise provides, or causes to be provided a prescription drug that is a controlled substance during the provision of telehealth services, the physician or physician assistant shall comply with all requirements in rule 4731-37-01 of the Administrative Code.

(D) The physician or physician assistant, who holds a valid prescriber number issued by the state medical board and who has been granted physician-delegated prescriptive authority, shall conduct a physical examination of a new patient as part of an initial in-person visit before prescribing a schedule II controlled substance to the patient except as provided in paragraph (E) of this rule.

(E) As an exception to paragraph (D) of this rule, a physician or physician assistant may prescribe a controlled substance to a new patient as part of the provision of telehealth services for any of the following patient medical conditions and situations:

1. The medical record of a new patient indicates that the patient is receiving
hospice or palliative care;

(2) The patient has a substance use disorder, and the controlled substance is FDA approved for and prescribed for medication assisted treatment or to treat opioid use disorder.

(3) The patient has a mental health condition and the controlled substance prescribed is prescribed to treat that mental health condition;

(4) The physician or physician assistant determines in their clinical judgment that the new patient is in an emergency situation provided that the following occurs:

(a) The physician or physician assistant prescribes only the amount of a schedule II controlled substance to cover the duration of the emergency or an amount not to exceed a three-day supply whichever is shorter;

(b) After the emergency situation ends, the physician or physician assistant conducts the physical examination as part of an initial in-person visit before any further prescribing of a drug that is a schedule II controlled substance; or

(5) The prescribing of a controlled substance through telehealth services is being done under an exception permitted by federal law governing prescription drugs that are controlled substances.

(F) When prescribing a controlled substance through the provision of telehealth services under one of the exceptions in paragraph (E) of this rule, the physician or physician assistant shall document one of the reasons listed in paragraph (E) for the prescribing in the medical record of the new patient in addition to the documentation already required to meet the standard of care in rule 4731-37-01 of the Administrative Code.

(G) Nothing in this rule shall be construed to imply that one in-person physician examination demonstrates that a prescription has been issued for a legitimate medical purpose within the course of professional practice.

(H) A violation of any provision of this rule, as determined by the board, shall constitute any or all of the following:

(1) For a physician:

(a) "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;

(b) "Selling, giving away, personally furnishing, prescribing, 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; or

(c) "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.

(2) For a physician assistant:

(a) "A departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established," as that clause is used in division (B)(19) of section 4730.25 of the Revised Code;

(b) "Failure to comply with the requirements of this chapter, Chapter 4731. of the Revised Code, or any rules adopted by the board," as that clause is used in division (B)(2) of section 4730.25 of the Revised Code; or

(c) "Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, Chapter 4731. of the Revised Code, or the rules adopted by the board," as that clause is used in division (B)(3) of section 4730.25 of the Revised Code.

(I) This rule shall not apply to any prescribing situations specifically authorized by the Revised Code or Administrative Code.
SMBO Legislative Update:
May 2022

Recent activity:

SB 261- Changes to Medical Marijuana law (Sen. S. Huffman)

Of Note:
- Transfers portions of the Medical Marijuana Program from the Board of Pharmacy to the Department of Commerce; Expands the types of qualifying medical conditions; Adds a telehealth provision; Modifies the requirement that a CTR applicant demonstrate they don’t have ownership or investment interest with an entity licensed as a dispensary; Allows the medical director of a dispensary who is a licensed CTR to recommend medical marijuana.


HB 203 – Occupational Licenses (Rep. Powell) (companion SB 131)
To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

Of Note:
- Requires automatic licensure of out of state applicants that meet certain criteria.


SB 131 – Occupational Licensing (Reciprocity) (Sen. Roegner and Sen. McColley) (companion HB 203)
To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

Of note:
- Requires automatic licensure of out of state applicants that meet certain criteria.
- Allows for the licensing authority to take disciplinary action against an applicant, deny an application and determine fitness to practice of an applicant.

**Status:** Introduced in the Senate 3/16/2021. 1st Senate Workforce & Higher Education hearing 5/19/2021. 2nd Senate Workforce & Higher Education hearing 5/26/2021. 3rd Senate Workforce & Higher Education hearing 3/22/2022


**Of Note:**
- Allows Autism Spectrum Disorder to be included in qualifying conditions.

**Status:** Passed House 3/2/2022. 1st Senate Health Hearing 3/30/2022

**HB 286 – Court of Common Pleas (Rep. Bill Seitz) (companion SB 189)**

To generally change the venue in which appeal from an agency order is proper to the local court of common pleas.

**Of note:**
- Modifies the current Administrative Procedure Act by generally providing that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident.
- Removes the current provision that any party adversely affected by an order of an agency issued pursuant to any other adjudication may appeal, with certain exceptions, to the Franklin County Court of Common Pleas.


**SB 189 – Change venue for appeal from an agency order (Sen. Lang and Sen. McColley) (companion SB 286)**

**Of Note:**
- To generally change the venue in which appeal from an agency order is proper to the local court of common pleas.
- Modifies the current Administrative Procedure Act by generally providing that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business of the party is located or the county in which the party is a resident.
- Removes the current provision that any party adversely affected by an order of an agency issued pursuant to any other adjudication may appeal, with certain exceptions, to the Franklin County Court of Common Pleas.

**Actively Monitoring**

**SB 322 – Sex Offenses**
Regarding sex offenses and individuals regulated by the State Medical Board

**Of Note:**
- Modifies the law governing sex offenses and medical professionals
- Increasing reporting requirements of suspected sexual activity by medical professionals; Allowing the board to suspend a license upon an indictment, as well as permitting an automatic 90 day suspension of a license of an individual whose license was suspended, revoked or surrendered in another jurisdiction; Requiring licensees to provide notification of their probationary status to their patients; Allowing the board to share the confidential investigation status of a licensee with the complainant; Adding a public member of the board to the internal investigatory process, to allow additional board insight into the handling of sexual misconduct

To Regulate the practice of surgical assistants.

**Of Note:**
- Creates a new license type for surgical assistants to be overseen by the Medical Board.

**Status:**

To revise the law governing the practice of anesthesiologist assistants.

**Of Note:**
- Adds anesthesiologist assistants to the list of individuals authorized to prescribe drugs or dangerous drugs or drug therapy related devices during professional practice.
- Adds anesthesiologist assistant list of practitioners from which a respiratory care therapist may receive orders or prescriptions.

**Status:**

Of Note:
- Requires each occupational licensing board to prepare a report including fee structure for each license issued by the board, whether the fee structure can competitively align with neighboring states, whether the fee structure is a financial barrier for license holders.
- Requires the report be submitted to the Senate President, Speaker of the House and chairpersons of committees responsible for reviewing occupational licensing boards.


To make changes to the laws governing massage establishments and massage therapy.

Of note:
- Requires any individual practicing massage within the state to obtain the current massage therapy license issued by the State Medical Board.


SB 55 – Massage Therapy (Sen. Brenner) (companion bill HB 81)
To make changes to the laws governing massage establishments and massage therapy.

Of Note:
- Requires any individual practicing massage within the state to obtain the current massage therapy license issued by the State Medical Board.


Regarding drug offenses and treatment.

Of Note:
- Proposes to reduce the abuse of prescription opioids, establish addiction treatment facilities, increase penalties for drug trafficking violations, modify penalties for drug possession, require an offender convicted of a drug possession or drug trafficking offense involving certain drugs to be subject to ten years of post-release control, allow a criminal defendant who has a severe substance use disorder involving certain drugs to be confined by a state detoxification provider while awaiting trial, create restitution work programs, and make an appropriation.
- Limits opioid prescriptions for acute pain to three days. Then, re-examination of the patient is required, and the prescriber may issue a new prescription for more than 3 days.
- Allows health related licensing board to adopt rules specifying circumstances under which a prescriber may issue an initial prescription for an opioid to treat acute pain in an amount that exceeds three days.


Establish a Parkinson’s disease registry and to change the observance of “Parkinson’s Disease Awareness Month” from September to April

**Of Note:**
- Requires that each individual case of Parkinson’s disease be reported to the registry by the physician, physician assistant, group practice, hospital or health care facility that employs the professional who diagnosed or treated the patients Parkinson’s disease
- A health care provider may be disciplined by the provider’s licensing board for failure to comply with the bill’s reporting requirements


To protect the health care professional-patient relationship, to promote alternative drugs and therapies for the treatment of SARS-CoV-2, including its variants, and COVID-19.

**Of Note:**
- Allows for off label drug use for patients diagnosed with COVID-19 or its variants
- Requires each health board and department to promote and increase distribution of these drugs
- Denies the department of health, state medical board or board of nursing from suppressing the promotion or access to these drugs
- Denies reprimand of health care professionals for prescribing or promoting these drugs

**Status:** Introduced in House 4/21/2022

**SB 296 – Narcotics (Sen. Manning and Sen. S. Huffman)**
Regards access to naloxone and certain narcotics testing products

**Of Note:**
- Adds physician assistants and advanced practice registered nurses to those who may authorize a pharmacist or pharmacy intern to dispense naloxone without a prescription.
**Status:** Introduced in the Senate 2/15/2022. 1st Senate Health hearing 3/16/2022. 2nd Senate Health hearing 3/23/22. 3rd Senate Health hearing 3/30/2022. 4th Senate Health hearing 4/6/2022

Regarding electronic prescriptions and schedule II-controlled substances.

**Of Note:**
- Requires that all schedule II drugs be prescribed electronically.

**Status:** Passed out of the House 6/23/2021. 1st Senate Health hearing 10/20/2021. 2nd Senate Health hearing 11/17/21. 3rd Senate Health hearing 1/26/2022

**SB 311 – Coroners and Death Certificates (Sen. S. Huffman and Sen. Johnson)**
Revise the law governing coroners and death certificates

**Of Note:**
- Requires that collaboration agreements between APRN’s and collaborating physicians, and supervision agreements between physician assistants and supervising physicians, contain an agreement that the physician must complete and sign the medical certificate of death, regardless of coroner jurisdiction

**Status:** Introduced in the Senate 3/10/2022. 1st Senate Health hearing 3/30/2022. 2nd Senate Health hearing 4/6/2022

**HB 64 – Regards fraudulent assisted reproduction (Rep. Powell)**
To create the crime of fraudulent assisted reproduction and civil actions for an assisted reproduction procedure without consent.

**Of Note:**
- Prohibits a health care professional from purposely or knowingly using human reproductive material from a donor while performing an assisted reproduction procedure if the person receiving the procedure has not expressly consented to the use of that donor’s material.
- Creates the crime of fraudulent assisted reproduction, making it a third-degree felony and allows for civil action against a fertility doctor within ten years of the offense.


To amend the law related to physician-administered drugs

**Of Note:**
- Prohibits a health benefit plan from requiring that physician-administered drugs be dispensed by a pharmacy, limiting coverage when such drugs are not dispensed by
a pharmacy or affiliated pharmacy, or covering such drugs with higher cost-sharing if dispensed in a setting other than a pharmacy


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**HB 50 – Medical Devices (Rep. Miranda)**
Enact Paige’s Law re: medical identifying devices

**Of Note:**
- Modifies the law governing the use of medical identifying devices, including by recognizing devices containing bar or quick response codes that may be scanned to obtain medical information in an emergency.


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Regarding pretreatment notice about the possibility of reversing a mifepristone abortion.

**Of Note:**
- Prohibits a physician from performing a mifepristone abortion without both informing the patient of the possibility to reverse the mifepristone abortion if she changes her mind and providing information from the Department of Health website on assistance with reversing the effects of the mifepristone abortion.
- Criminalizes violations of the previous requirements as a misdemeanor of the first degree.
- Allows a patient who a mifepristone abortion is performed on to file a wrongful death suit against an individual who fails to inform the patient of the possibility of reversal.


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**Closely monitoring**

To exempt certain mental health care providers’ residential and familial information from disclosure under the Public Records Law.

**Of Note:**
• Adds forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees to the list of professions, consolidated in continuing law into the term “designated public service worker,” whose residential and familial information is exempted from disclosure under the Public Records Law.

**Status:** Passed out the House 2/4/2021. 1st Senate Health hearing 3/24/2021. 2nd Senate Health hearing 10/6/2021

To extend certain timelines for qualified civil immunity and expand immunity to include hearing aid dealers and hearing aid fitters; to authorize emergency medical technicians to administer COVID-19 tests; to expressly cover COVID-19 vaccine injuries under the workers’ compensation system.

**Of Note:**
• Sunsets June 30, 2023
• Provides vaccine mandate exemption for vaccines that have not received an FDA biologics license.
• Most public and private sector would be able to receive exemptions:
  a) Medical contraindications; - shall provide a written statement from primary care provider
  b) Natural immunity: - responsible for any costs or fees associated with demonstrating natural immunity to the employer.
  c) Reasons of conscience, including religious convictions. -shall provide a written statement


**SB 150 – Physician Contracts (Sen. Johnson and Sen. Williams)**
To prohibit the use of noncompete provisions in physician employment contracts.

**Of Note:**
• Would prohibit the use of noncompete provisions in physician employment contracts.


**SB 151 – Infant Medical Treatment (Sen. Johnson)**
To establish standards for the medical treatment of certain infants and to name the act Emery and Elliot's Law.

**Of Note:**
• Outlines medical treatment for mothers and infants in emergency situations or infants with a disability.

**Status:** Introduced in the Senate 3/31/2021. 1st Senate Health hearing 6/2/2021. 2nd Senate Health hearing 9/15/2021
**SB 48 – Cultural Competency (Sen. Maharath and Sen. Antonio)**
To require certain health care professionals to complete instruction in cultural competency.

**Of Note:**
- Requires certain health care professionals to complete instruction in cultural competency and provide proof of completion at initial application for licensure and at renewal.
- Includes: dentists, nurses, pharmacists, physicians, psychologists, and social workers.

**Status:** Introduced in the Senate 2/3/2021. 1st Senate Health hearing 6/16/2021.

**HB 160 – Health Estimates (Health care price transparency) (Rep. Holmes)**
Regarding the provision of health care cost estimates.

**Of Note:**
- Authorizes the relevant regulatory boards to impose administrative remedies on a health plan issuer or health care provider who fails to comply with the bill’s health care price transparency provisions.

**Status:** Introduced in the House 2/18/2021. 1st House Insurance Hearing 3/10/2021.

To authorize public bodies to meet via teleconference and video conference.

**Of Note:**
- Allows public bodies to meet and hold hearings via teleconference or video conference.
- Requires public bodies to provide the public with access to meetings and hearings commensurate with the method in which the meeting is being conducted.

**Status:** 1st House Government Oversight hearing 2/11/2021.

To enact the Human Life Protection Act to prohibit abortions based upon a condition precedent.

**Of Note:**
- Prohibits, as the crime of criminal abortion, a person from purposely causing or inducing an abortion by using a drug or substance or an instrument or other means.
- Provides that criminal abortion is a felony of the fourth degree.
- Provides an affirmative defense to a criminal abortion charge if the physician performed or induced the abortion, or attempted to do so, under the determination that it was necessary to prevent the woman’s death or a serious risk of the substantial and irreversible impairment of a major bodily function.
- Requires the State Medical Board to revoke a physician’s license to practice if the physician is guilty of abortion manslaughter, criminal abortion, or promoting abortion.

**HB 598 – Abortion (Rep. Schmidt) (companion SB 123)**
To enact the Human Life Protection Act to prohibit abortions based upon a condition precedent

**Of Note:**
- Prohibits, as the crime of criminal abortion, a person from purposely causing or inducing an abortion by using a drug or substance or an instrument or other means.
- Provides that criminal abortion is a felony of the fourth degree.
- Provides an affirmative defense to a criminal abortion charge if the physician performed or induced the abortion, or attempted to do so, under the determination that it was necessary to prevent the woman’s death or a serious risk of the substantial and irreversible impairment of a major bodily function.
- Requires the State Medical Board to revoke a physician’s license to practice if the physician is guilty of abortion manslaughter, criminal abortion, or promoting abortion.

**Status:** Introduced in the House 3/15/2022. Referred to House Government Oversight 3/22/2022

**SB 161 – Surgical Smoke (Sen. Brenner)**
Regards surgical smoke.

**Of Note:**
- Requires that not later than one year after the effective date of enactment, each ambulatory surgical facility shall adopt and implement a policy designed to prevent human exposure to surgical smoke during any planned surgical procedure that is likely to generate surgical smoke.
- The policy shall include the use of a surgical smoke evacuation system.


To license and regulate art therapists and music therapists.

**Of Note:**
- Creates a new license type for music therapists to be regulated under the Medical Board

**Status:** Introduced in the Senate 7/1/2021. Assigned to Senate Health 9/8/2021.

To modify the laws governing the practice of advanced practice registered nurses and to designate these provisions as the Better Access, Better Care Act.

**Of Note:**
- Would allow an APRN who has completed 2,000 clinical practice hours under a standard care arrangement the option to practice without a collaboration agreement.
- Allows an APRN who has not completed the required hours to enter into a standard care arrangement with an APRN who has completed 2,000 clinical practice hours.


To authorize a pregnant minor to consent to receive health care to maintain or improve her life or the life of the unborn child she is carrying.

Of Note:
- Allows a pregnant minor to consent to receive health care, such as prenatal health care, health care during delivery, post-delivery health care, and family planning services, to maintain or improve her life or the life of the unborn child she is carrying.
- States that the bill does not remove or limit any person’s responsibility under Ohio law to report child abuse or neglect.


To license and regulate art therapists and music therapists.

Of Note:
- Creates a new license type for music therapists to be regulated under the Medical Board


HB 388 – Vaccine Refusal (Rep. Jordan)
To prohibit taking certain actions against an individual because the individual refuses to be vaccinated against a disease.

Of Note:
- Prohibits certain discriminatory actions against unvaccinated people

Status: Introduced in the House 8/12/2021.

To regulate the practice of certified professional midwives and to name this act the Ohio Midwife Practice Act.

Of Note:
- Regulates the practice of certified professional midwives

HB 495- Create Patient Protection Act (Representative Gross)

Of Note:
- Requires specified health care professionals (including physicians, PA’s, anesthesiology assistants, limited branch licensees, acupuncturists and genetic counselors) to offer patients medical chaperones and to establish certain mandatory reporting requirements for health care professionals.
- The health care professional may refuse to conduct an exam if the patient or patient’s representative declines to have a medical chaperone present during the exam

Status: Introduced in the House 11/23/2021. Referred to the House Families Aging and Human Services 12/7/2021

HB 496 – Regulate the Practice of Certified Midwives (Rep. Koehler)
To regulate the practice of certified nurse-midwives, certified midwives, and certified professional midwives

Of Note:
- Regulates the practice of certified professional midwives


Enact the Save Adolescents from Experimentation (SAFE) Act

Of Note:
- Bans physicians, mental health providers, or other medical health care professionals from preforming gender transition procedures or referring to a medical health care professional for gender transition procedures if the individual is under 18 years old
- Any violation will be considered unprofessional conduct and subject to disciplinary action from the licensing body

Operationalizing

SB 6 – Join Interstate Medical Licensure Compact (Sen. Roegner and Sen. Steve Huffman)

Of Note:
- Actively working through implementation


HB 110 – State Operating Budget (Rep. Oelslager)
Creates appropriations for FY 2022-2023.

Of Note:
- The Medical Board budget request was granted in the first version of the bill and remained in the final version.


Sub HB 51- Valuation determinations for property damage from natural events with language to reauthorize remote hearing authority for Ohio public entities. Contains emergency clause.

Of Note:
- Public bodies could choose to meet remotely through June 30 under legislation passed by the Senate on Wednesday with an emergency clause. House concurred in Senate Amendments 2/9/2022. Signed by Governor DeWine (2/17/2022). Effective date 2/17/2022

SB 9 – Regulations (Sen. McColley and Sen. Roegner)
To reduce regulatory restrictions in administrative rules.

Of Note:
- Requires certain agencies to reduce the number of regulatory restrictions in their administrative rules.
- Changes the criteria that all agencies must use when conducting a five-year review of an existing rule to match the act’s criteria for elimination of regulatory restrictions

Enacted but no operational changes needed

HB 6 – Modify laws governing certain professions due to COVID-19 (Rep. Roemer)
To modify the laws governing certain health professionals and educator preparation programs due to COVID-19.

Of Note:
- Allows pharmacists to administer immunization for influenza, COVID-19, and any other disease but only pursuant to prescription for persons seven or older.
- Allows pharmacists to administer immunizations for a disease to those 13 and older.
- Allows podiatrists to administer vaccinations for individuals seven and older for influenza and COVID-1.


To revise the law governing the practice of athletic training.

Of note:
- Makes changes to the law governing the practice of athletic training, including by requiring an athletic trainer to practice under a collaboration agreement with a physician or podiatrist.
- Amendment was included in the final version to prohibit an athletic trainer from administering intratendinous and intra-articular injections.


Regards emergency prescription refills.

Of Note:
- Increases from one to three the number of times that a pharmacist may dispense, without a prescription, certain drugs (dangerous drugs, other than a schedule II controlled substance) to a specific patient within a 12-month period.


HB 138 – Emergency Medical Services (Rep. Baldridge)
Regarding the scope of emergency medical services provided by emergency medical service personnel.
Of Note:

- Eliminates the enumeration of specific services that may be provided by emergency medical services (EMS) personnel.
- Requires the State Board of Emergency Medical, Fire, and Transportation Services to establish the scope of practice for EMS personnel through rulemaking.
- Permits EMS personnel to comply with a do-not-resuscitate order issued by a physician assistant or advanced practice registered nurse.
- Requires the medical director or cooperating physician advisory board of each EMS organization to establish protocols for EMS personnel to follow when providing services at all times.