



POLICY COMMITTEE MEETING
October 16, 2019
30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Robert Giacalone Mark Bechtel, MD Betty Montgomery</p> <p>Other Board Members present: Bruce Saferin, DPM Kim Rothermel, MD Richard Edgin, MD Sherry Johnson, DO Michael Schottenstein, MD Jonathan Feibel, MD</p>	<p>Staff: AJ Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Nathan Smith, Senior Legal and Policy Counsel Joan Wehrle, Education & Outreach Program Manager Rebecca Marshall, Chief Enforcement Attorney Joe Turek, Deputy Director David Fais, Deputy Director David Henry, Senior Counsel Tessie Pollock, Chief Communications Officer Jonithon LaCross, Director of Public Policy and Government Affairs</p>
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Mr. Giacalone called the meeting to order at 9:00 a.m.

Meeting Minutes Review

Mr. Giacalone reported that the draft minutes of the September 11, 2019 meeting had been distributed to the committee and were included in the agenda materials.

Dr. Bechtel moved to approve the draft minutes of the September 11, 2019 Policy Committee meeting. Ms. Montgomery seconded the motion. Motion carried.

Rules Review Update

Ms. Anderson referred to the report included in the agenda materials. Ms. Anderson said that we continue to be on schedule and continue to make progress with the rules.

Ms. Anderson introduced David Henry, Senior Counsel, who started working in the legal department this week. He replaces Sallie Debolt who retired.

Legislative Update

Mr. LaCross reported that SB105, the MT licensure bill, may go to the senate shortly. This bill eliminates relaxation massage and requires licensure as a massage therapist. It models the regulations Westerville, Ohio put in place. He said that reflexologists want exempted out of the bill and are looking for licensure or some type of registration.

Mr. LaCross said that next month he will have a list of some potential operational matters to address legislatively.

Mr. Giacalone asked about licensure issues that would grant the board some leeway regarding approval of applications. Ms. Anderson reported that legal staff had done some research on the topic, but it needs to be further reviewed with Mr. Turek and Mr. LaCross. Mr. LaCross said that we plan to start with a comprehensive look at issues involving massage therapy and massage therapy schools. Mr. Giacalone commented that the board had recently had some issues involving physician applicants regarding equivalency of training and experience.

Dr. Schottenstein noted that the Strauss workgroup legislative items will not be discussed by the full board today.

Controlled Substance Prescribing Rules/Weight loss rules – 4731-11-04 and 4731-11-041

Ms. Anderson referred to the memoranda included in the agenda materials. Rules related to controlled substances prescribing are due for the five-year rule review on 12/31/2020 and were circulated to interested parties for comment. The only comments received were related to the weight loss rules. Those comments were provided to the Policy Committee at the September 11, 2019 meeting.

Ms. Anderson said most of the comments advocate some type of change to relax the requirements included in the rules or to eliminate the rules. A few commenters suggested that the rules did not need any changes. One of those in support of the rules as written was Steven Schierholt, Executive Director, Board of Pharmacy.

Ms. Anderson said that she listed a summary of the comments received in the memorandum and asked for feedback from the committee.

Mr. Giacalone was in favor of keeping the rules as written and he agreed with the Pharmacy Board's comments. He said there are products available for long-term weight management. Dr. Schottenstein agreed. He said we don't want to expand the drug addiction potential in this state. Phentermine is cheaper than the long term products, but he isn't comfortable with expanding the use of phentermine.

Dr. Bechtel also agreed with the Pharmacy Board's comments. He referenced a comment from a Cleveland Clinic representative about providing follow-up visits via telemedicine rather than an office visit. He questioned how an adequate weight could be obtained in order to know if the patient is losing weight. He also had concerns about obtaining accurate vital signs. He thought it would be difficult to assess a patient for drug abuse via telemedicine. Dr. Bechtel believed telemedicine would be an inadequate way to monitor these patients.

Dr. Bechtel noted that many of the comments asked to expand phentermine for more than 12 weeks. He asked if the board had physician experts weigh in on the use of these medications when we promulgated the previous rules. Dr. Bechtel commented that the board had received a remark asking if the rules are up to date based on current science and evidence based medicine.

Ms. Anderson said that she did not recall if we had experts provide input when the rules were promulgated. We had received comments from physicians who were prescribing medications to patients for weight loss.

Dr. Edgin reported that he serves on the Committee for Prescriptive Governance (CPG) for the Ohio Board of Nursing. That group had a representative from the Ohio State University (OSU) bariatric medical staff address the CPG Committee. The OSU staffer said that many prescribers in the community are not prescribing weight loss medications properly.

Mr. Giacalone said that was why the board developed the weight loss rules to help provide guidance to licensees about these medications. Dr. Schottenstein commented that doctors have been disciplined by the board due to inappropriate prescribing or inadequate monitoring of patients receiving these medications.

Mr. LaCross reported that he had attended a CPG committee when we were first putting the weight loss rules into place. At that time, they found that APRNs were not aware of our rules and patients may have been on the medications for long periods of time.

Dr. Schottenstein asked if the Nursing Board had adopted rules regarding weight loss medications. Ms. Anderson said she would try to find out that information today.

Dr. Bechtel moved to recommend to the full board that the rules be filed with CSI. Ms. Montgomery seconded the motion. Motion carried.

Adjourn

Dr. Bechtel moved to adjourn the meeting. Motion seconded by Ms. Montgomery. Motion carried. The meeting adjourned at 9:20a.m.

jkw

MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Progress

DATE: November 1, 2019

Attached please find the Rule Review Spreadsheet and status of the rules under review.

Action Requested: No Action Requested

Legal Dept. Rules Schedule

As of 11/1/19

For November Board Meeting

4759 Chapter 4731-31-01

For November Policy Committee

4731-11-04 4731-11-04.1-PAPC Comments

For November Licensure Committee

INITIAL CIRCULATION

Comment Deadline 11/15/19

4731-10-01 4731-10-02 4731-10-03
4731-10-04 4731-10-08

RULES AT CSI

4731-18 Chapter (anti-trust review)

Comment Deadline 4/10/19

4731-11-01 4731-35-01
4731-11-14 4731-35-02

Comment Deadline 7/31/19

4731-13-13

Comment deadline 8/1/19

4730 Chapters 1, 2 and 3

Approved to File with CSI

4731-33-02 4731-33-01
4761-5-01 4761-5-04 4761-5-06
4761-6-01 4761-7-04 4761-5-02
4761-9-01 4761-9-04 4761-10-03
4761-9-05 4761-9-07 4761-8-01
4761-9-02 4730-4-01 4730-4-02

Military provisions for all license types

RULES AT JCARR

No Change Rules – Jurisdiction ends 11/26/19

4759-4-02 4759-5-01

Final Filed 10/25/19

4731-1-05

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4730-1-01	Regulation of Physician Assistants - Definitions		06/12/19							09/30/18	09/30/23
4730-1-05	Quality Assurance System		06/12/19							08/07/18	08/07/23
4730-1-06	Licensure as a physician assistant	03/22/19	06/12/19							09/30/18	09/30/23
4730-1-06.1	Military provisions related to certificate to practice as a physician assistant	03/22/19	06/12/19							09/30/15	09/30/20
4730-1-07	Miscellaneous Provisions		06/12/19							09/30/18	09/30/23
4730-1-08	Physician assistant delegation of medical tasks and administration of drugs		06/12/19							07/31/16	07/31/21
4730-2-01	Physician Delegated Prescriptive Authority - Definitions		06/12/19							9/30/18	09/15/19
4730-2-04	Period of on-site supervision of physician-delegated prescriptive authority		06/12/19							11/30/18	11/15/23
4730-2-05	Addition of valid prescriber number after initial licensure		06/12/19							11/30/18	11/15/23
4730-2-06	Physician Assistant Formulary		06/12/19							06/30/14	12/27/19
4730-2-07	Standards for Prescribing		06/12/19							9/30/18	12/27/19
4730-2-10	Standards and Procedures for use of OARRS		06/12/19							09/30/18	09/30/23
4730-4-01	Definitions									04/30/19	04/30/24
4730-4-03	Office Based Treatment for Opioid addiction									04/30/19	04/30/24
4730-4-04	Medication assisted treatment using naltrexone									04/30/19	04/30/24
4731-1-01	Limited Practitioners - Definition of Terms									03/30/20	03/30/25
4731-1-02	Application of Rules Governing Limited Branches of Medicine or Surgery									07/31/19	07/31/24
4731-1-03	General Prohibitions										08/31/23
4731-1-04	Scope of Practice: Mechanotherapy									12/31/18	12/31/23

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-1-05	Scope of Practice: Massage Therapy				04/24/19	Refiled 8/20/19 4/29/19	06/05/19		10/16/19	11/05/19	11/05/24
4731-1-06	Scope of Practice: Naprapathy									08/31/18	08/31/23
4731-1-07	Eligibility of Electrologists Licensed by the Ohio State Board of Cosmetology to Obtain Licensure as Cosmetic Therapists Pursuant to Chapter 4731 ORC and Subsequent Limitations									12/31/18	12/31/23
4731-1-08	Continuing Cosmetic Therapy Education Requirements for Registration or Reinstatement of a License to Practice Cosmetic Therapy									09/30/19	09/30/24
4731-1-09	Cosmetic Therapy Curriculum Requirements										08/31/23
4731-1-10	Distance Education									01/31/19	01/31/24
4731-1-11	Application and Certification for certificate to practice cosmetic therapy									03/30/20	03/30/25
4731-1-12	Examination									11/30/16	11/30/21
4731-1-15	Determination of Standing of School, College or Institution									12/31/18	12/31/23
4731-1-16	Massage Therapy curriculum rule (Five year review)									01/31/19	11/30/21
4731-1-17	Instructional Staff									05/31/19	05/31/24
4731-1-18	Grounds for Suspension, Revocation or Denial of Certificate of Good Standing, Hearing Rights									03/30/20	03/30/25
4731-1-19	Probationary Status of a limited branch school									03/30/20	03/30/25
4731-1-24	Massage Therapy Continuing Education	03/09/16		10/26/16	04/24/19	04/29/19	06/05/19			Withdrawn 8/30/19	
4731-1-25	Determination of Equiv. Military Educ. For CT/MT	03/22/19	06/12/19							12/31/15	12/31/20
4731-2-01	Public Notice of Rules Procedure									12/07/17	12/07/22
4731-4-01	Criminal Records Checks - Definitions									09/30/19	09/30/24
4731-4-02	Criminal Records Checks									09/30/19	09/30/24
4731-5-01	Admission to Examinations									06/09/17	06/09/22
4731-5-02	Examination Failure; Inspection and Regrading									06/09/17	06/09/22
4731-5-03	Conduct During Examinations									06/09/17	06/09/22

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-5-04	Termination of Examinations									06/09/17	06/09/22
4731-6-01	Medical or Osteopathic Licensure: Definitions									07/31/19	07/31/24
4731-6-02	Preliminary Education for Medical and Osteopathic Licensure									07/31/19	07/31/24
4731-6-04	Demonstration of proficiency in spoken English									06/09/17	06/09/22
4731-6-05	Format of Medical and Osteopathic Examination									07/31/19	07/31/24
4731-6-14	Examination for physician licensure									07/31/19	07/31/24
4731-6-15	Eligibility for Licensure of National Board Diplomats and Medical Council of Canada Licentiates									07/31/19	07/31/24
4731-6-21	Application Procedures for Certificate Issuance; Investigation; Notice of Hearing Rights									07/31/19	07/31/24
4731-6-22	Abandonment and Withdrawal of Medical and Osteopathic Licensure Applications									07/31/19	07/31/24
4731-6-30	Training Certificates									07/31/19	07/31/24
4731-6-31	Limited Preexamination Registration and Limited Certification									07/31/19	07/31/24
4731-6-33	Special Activity Certificates									07/31/19	07/31/24
4731-6-34	Volunteer's Certificates									07/31/19	07/31/24
4731-6-35	Processing applications from service members, veterans, or spouses of service members or veterans.									07/31/19	07/31/24
4731-7-01	Method of Notice of Meetings									07/31/19	07/31/24
4731-8-01	Personal Information Systems	02/20/19								04/21/16	04/21/21
4731-8-02	Definitions									04/21/16	04/21/21
4731-8-03	Procedures for accessing confidential personal information									04/21/16	04/21/21
4731-8-04	Valid reasons for accessing confidential personal information									04/21/16	04/21/21
4731-8-05	Confidentiality Statutes									07/31/16	07/31/21
4731-8-06	Restricting & Logging access to confidential personal information									04/21/16	04/21/21

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-9-01	Record of Board Meetings; Recording, Filming, and Photographing of Meetings									09/15/19	06/17/24
4731-10-01	Definitions									02/02/18	02/02/23
4731-10-02	Requisite Hours of Continuing Medical Education for License Renewal or Reinstatement									05/31/18	05/31/23
4731-10-03	CME Waiver									05/31/18	05/31/23
4731-10-04	Continuing Medical Education Requirements for Restoration of a License									05/31/18	05/31/23
4731-10-05	Out-of-State Licensees									05/31/18	05/31/23
4731-10-06	Licensure After Cutoff for Preparation of Registration Notices									05/31/18	05/31/23
4371-10-07	Internships, Residencies and Fellowships									05/31/18	05/31/23
4371-10-08	Evidence of Continuing Medical Education									05/31/18	05/31/23
4731-10-09	Continuing Medical Education Requirement for Mid-term Licensees									05/31/18	05/31/23
4731-10-10	Continuing Medical Education Requirements Following License Restoration									05/31/18	05/31/23
4731-10-11	Telemedicine Certificates									05/31/18	05/31/23
4731-11-01	Controlled substances; General Provisions Definitions									12/23/18	12/07/22
4731-11-02	Controlled Substances - General Provisions	07/26/19								04/30/19	12/31/20
4731-11-03	Schedule II Controlled Substance Stimulants	07/26/19								12/31/15	12/31/20
4731-11-04	Controlled Substances: Utilization for Weight Reduction	07/26/19								02/29/16	02/28/21
4731-11-04.1	Controlled substances: Utilization for chronic weight management	07/26/19								12/31/15	12/31/20
4731-11-07	Research Utilizing Controlled Substances	07/26/19								09/30/15	09/30/20
4731-11-08	Utilizing Controlled Substances for Self and Family Members									08/17/16	08/17/21

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-11-09	Prescribing to persons the physician has never personally examined.									03/23/17	03/23/22
4731-11-11	Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).	07/26/19								12/31/15	12/31/20
4731-11-13	Prescribing of Opioid Analgesics for Acute Pain									08/31/17	08/31/22
4731-11-14	Prescribing for subacute and chronic pain			3/21/19						12/23/18	12/23/23
4731-12-01	Preliminary Education for Licensure in Podiatric Medicine and Surgery									06/30/17	06/30/22
4731-12-02	Standing of Colleges of Podiatric Surgery and Medicine									06/30/17	06/30/22
4731-12-03	Eligibility for the Examination in Podiatric Surgery and Medicine (see note below)									04/19/17	04/19/22
4731-12-04	Eligibility of Licensure in Podiatric Medicine and Surgery by Endorsement from Another State									06/30/17	06/30/22
4731-12-05	Application Procedures for Licensure in Podiatric Medicine and Surgery, Investigation, Notice of Hearing Rights.									06/30/17	06/30/22
4731-12-06	Visiting Podiatric Faculty Certificates									06/30/17	06/30/22
4731-12-07	Podiatric Training Certificates									06/30/17	06/30/22
4731-13-01	Conduct of Hearings - Representative; Appearances									07/31/16	07/31/21
4731-13-02	Filing Request for Hearing									07/31/16	07/31/21
4731-13-03	Authority and Duties of Hearing Examiners									09/30/18	07/31/21
4731-13-04	Consolidation										04/21/21
4731-13-05	Intervention										04/21/21
4731-13-06	Continuance of Hearing									09/30/16	09/30/21
4731-13-07	Motions									09/30/18	04/21/21
4731-13-07.1	Form and page limitations for briefs and memoranda									09/30/18	09/30/23
4731-13-08	Filing									07/31/16	07/31/21
4731-13-09	Service									07/31/16	07/31/21
4731-13-10	Computation and Extension of Time									07/31/16	07/31/21
4731-13-11	Notice of Hearings									07/31/16	07/31/21

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-13-12	Transcripts									07/31/16	07/31/21
4731-13-13	Subpoenas for Purposes of Hearing	05/09/19	06/12/19							07/31/16	07/31/21
4731-13-14	Mileage Reimbursement and Witness Fees										04/21/21
4731-13-15	Reports and Recommendations									07/31/16	07/31/21
4731-13-16	Reinstatement or Restoration of Certificate									07/31/16	07/31/21
4731-13-17	Settlements, Dismissals, and Voluntary Surrenders									04/21/16	04/21/21
4731-13-18	Exchange of Documents and Witness Lists									07/31/16	07/31/21
4731-13-20	Depositions in Lieu of Live Testimony and Transcripts in place of Prior Testimony									07/31/16	07/31/21
4731-13-20.1	Electronic Testimony									07/31/16	07/31/21
4731-13-21	Prior Action by the State Medical Board									04/21/16	04/21/21
4731-13-22	Stipulation of Facts									04/21/16	04/21/21
4731-13-23	Witnesses									09/14/16	09/30/21
4731-13-24	Conviction of a Crime									04/21/16	04/21/21
4731-13-25	Evidence									07/31/16	07/31/21
4731-13-26	Broadcasting and Photographing Administrative Hearings									04/21/16	04/21/21
4731-13-27	Sexual Misconduct Evidence									04/21/16	04/21/21
4731-13-28	Supervision of Hearing Examiners									04/21/16	04/21/21
4731-13-30	Prehearing Conference									04/21/16	04/21/21
4731-13-31	Transcripts of Prior Testimony									04/21/16	04/21/21
4731-13-32	Prior Statements of the Respondent									04/21/16	04/21/21
4731-13-33	Physician's Desk Physician									04/21/16	04/21/21
4731-13-34	Ex Parte Communication									07/31/16	07/31/21
4731-13-35	Severability									04/21/16	04/21/21
4731-13-36	Disciplinary Actions									07/31/16	07/31/21
4731-14-01	Pronouncement of Death									06/30/16	06/30/21
4731-15-01	Licensee Reporting Requirement; Exceptions									11/17/17	11/17/22
4731-15-02	Healthcare Facility Reporting Requirement									11/17/17	11/17/22
4731-15-03	Malpractice Reporting Requirement									11/17/17	11/17/22
4731-15-04	Professional Society Reporting									11/17/17	11/17/22

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4731-17-06	Barrier Techniques										08/17/21
4731-17-07	Violations									11/09/16	11/30/21
4731-18-02	Use of Light Based Medical Devices	01/17/18	03/14/18							05/31/02	06/30/05
4731-18-03	Delegation of the Use of Light Based Medical Devices	01/17/18	03/14/18							06/30/00	06/30/05
4731-18-04	Delegation of the Use of Light Based Medical Devices; Exceptions	01/17/18	03/14/18							05/31/02	05/31/07
4731-20-01	Surgery Privileges of Podiatrist - Definition of Foot									05/31/18	05/31/23
4731-20-02	Surgery: Ankle Joint									05/31/18	05/31/23
4731-22-01	Emeritus Registration - Definitions									08/31/17	08/31/22
4731-22-02	Application									08/31/17	08/31/22
4731-22-03	Status of Registrant									05/12/17	05/12/22
4731-22-04	Continuing Education Requirements									05/12/17	05/12/22
4731-22-06	Renewal of Cycle of Fees									05/12/17	05/12/22
4731-22-07	Change to Active Status									08/31/17	08/31/22
4731-22-08	Cancellation of or Refusal to Issue an Emeritus Registration									05/12/17	05/12/22
4731-23-01	Delegation of Medical Tasks - Definitions									11/30/16	11/30/21
4731-23-02	Delegation of Medical Tasks									11/30/16	11/30/21
4731-23-03	Delegation of Medical Tasks: Prohibitions									08/17/16	08/17/21
4731-23-04	Violations									08/17/16	08/17/21
4731-24-01	Anesthesiologist Assistants - Definitions									07/31/19	07/31/24
4731-24-02	Anesthesiologist Assistants; Supervision									07/31/19	07/31/24
4731-24-03	Anesthesiologist Assistants; Enhanced Supervision									07/31/19	07/31/24
4731-24-05	Military Provisions Related to Certificate to Practice as an Anesthesiologist Assistant									07/31/19	07/31/24
4731-25-01	Office-Based Surgery - Definition of Terms										03/01/23
4731-25-02	General Provisions									05/31/18	05/31/23
4731-25-03	Standards for Surgery Using Moderate Sedation/Analgesia									05/31/18	08/31/23

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4731-25-04	Standards for Surgery Using Anesthesia Services									05/31/18	05/31/23
4731-25-05	Liposuction in the Office Setting									03/01/18	03/01/23
4731-25-07	Accreditation of Office Settings									05/31/18	05/31/23
4731-25-08	Standards for Surgery									09/30/19	09/30/24
4731-26-01	Sexual Misconduct - Definitions									06/30/16	06/30/21
4731-26-02	Prohibitions									06/14/16	06/14/21
4731-26-03	Violations; Miscellaneous									06/30/16	06/30/21
4731-27-01	Definitions									02/04/19	02/02/24
4731-27-02	Dismissing a patient from the medical practice									05/31/19	05/31/24
4731-27-03	Notice of termination of physician employment or physician leaving a practice, selling a practice, or retiring from the practice of medicine									05/31/19	05/31/24
4731-28-01	Mental or Physical Impairment									08/31/17	08/31/22
4731-28-02	Eligibility for confidential monitoring program									08/31/18	08/31/23
4731-28-03	Participation in the confidential monitoring program									08/31/18	08/31/23
4731-28-04	Disqualification from continued participation in the confidential monitoring program									08/31/18	08/31/23
4731-28-05	Termination of the participation agreement for the confidential monitoring program									08/31/18	08/31/23
4731-29-01	Standards and procedures for operation of a pain management clinic.									06/30/17	06/30/22
4731-30-01	Internal Management Definitions									09/23/18	09/23/23
4731-30-02	Internal Management Board Metrics	07/26/19								09/23/18	09/23/23
4731-30-03	Approval of Licensure Applications									10/17/19	10/17/24
4731-31-01	Requirements for assessing and granting clearance for return to practice or competition. (concussion rule)					04/10/19	05/13/19			09/18/15	09/18/20
4731-32-01	Definition of Terms									09/08/17	09/08/22
4731-32-02	Certificate to Recommend Medical Marijuana									09/08/17	09/08/22
4731-32-03	Standard of Care									09/08/17	09/08/22

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4759-8-11	<i>Computation and Extension of Time</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-12	<i>Transcripts</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-13	<i>Subpoenas for Purposes of Hearing</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-14	<i>Mileage Reimbursement and Witness Fees</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-15	<i>Reports and Recommendations</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-16	<i>Exchange of Documents and Witness Lists</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-17	<i>Pre-hearing conference</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-18	<i>Requirements for pre-hearing exchange of information</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-19	<i>Status conference</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-20	<i>Depositions and transcripts of prior testimony</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-21	<i>Prior action by the board</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-22	<i>Stipulation of Facts</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-23	<i>Witnesses</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-24	<i>Conviction of a Crime</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-25	<i>Rules of evidence</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-26	<i>Broadcasting and Photographing Administrative Hearings</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-27	<i>Sexual misconduct evidence</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-28	<i>Reinstatement of license</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-8-29	<i>Settlements, Dismissals, and Voluntary Surrenders</i>	04/19/18	07/11/18	09/25/18							12/20/17
4759-9-01	<i>Severability</i>	04/19/18	07/11/18	09/25/18							12/18/17
4759-10-01	<i>Definitions</i>	04/19/18	07/11/18	09/25/18							12/18/17
4759-10-02	<i>Procedures for accessing confidential personal information</i>	04/19/18	07/11/18	09/25/18							12/18/17
4759-10-03	<i>Valid reasons for accessing confidential personal information</i>	04/19/18	07/11/18	09/25/18							12/18/17
4759-10-04	<i>Confidentiality Statutes</i>	04/19/18	07/11/18	09/25/18							12/18/17
4759-10-05	<i>Restricting & Logging access to confidential personal information in computerized personal information systems</i>	04/19/18	07/11/18	09/25/18							12/18/17
4759-11-01	<i>Miscellaneous Provisions</i>	04/19/18	07/11/18	09/25/18							
4761-2-03	<i>Board Records</i>									02/28/19	02/28/24
4761-3-01	<i>Definition of terms</i>									02/28/19	02/28/24

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date
4761-4-01	Approval of educational programs									02/28/19	02/28/24
4761-4-02	Monitoring of Ohio respiratory care educational programs									02/28/19	02/28/24
4761-4-03	Recognition of military educational programs for active duty military members and/or military veterans									11/15/18	11/15/23
4761-5-01	Waiver of licensing requirements pursuant to division (B) of section 4761.04 or the Revised Code	04/23/19	06/12/19							04/24/13	04/24/18
4761-5-02	Admission to the Ohio credentialing examination	04/23/19	06/12/19							05/06/10	05/06/15
4761-5-04	License application procedure	04/23/19	06/12/19							08/12/13	08/15/18
4761-5-06	Respiratory care practice by polysomnographic technologists	04/23/19	06/12/19							12/31/16	12/31/17
4761-6-01	Limited permit application procedure	04/23/19	06/12/19							02/28/19	02/28/24
4761-7-01	Original license or permit, identification card or electronic license verification									02/28/19	02/28/24
4761-7-03	Scope of respiratory care defined										11/15/23
4761-7-04	Supervision										11/15/23
4761-7-05	Administration of medicines										11/15/23
4761-8-01	Renewal of license or permits	03/22/19	06/12/19								08/15/18
4761-9-01	Definition of respiratory care continuing education										02/28/24
4761-9-02	General RCCE requirements and reporting mechanism	03/22/19	06/12/19								05/06/15
4761-9-03	Activities which do not meet the Ohio RCCE requirements									02/28/19	02/28/24
4761-9-04	Ohio respiratory care law and professional ethics course criteria										02/28/24
4761-9-05	Approved sources of RCCE										02/28/24
4761-9-07	Auditing for compliance with RCCE requirements										05/06/15
4761-10-01	Ethical and professional conduct									02/28/19	02/28/24
4761-10-02	Proper use of credentials										11/15/23
4761-10-03	Providing information to the Board	04/23/19	06/12/19								05/06/15
4761-12-01	Initial application fee									06/04/14	05/06/15
4761-15-01	Miscellaneous Provisions									02/28/19	02/28/24



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H.B. 263
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Koehler

Paul Luzzi, Attorney

SUMMARY

- Requires, within 180 days after the bill's effective date, a state licensing authority to adopt a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining a license.
- Allows a state licensing authority to consider a listed offense when deciding whether an individual is disqualified from receiving an initial license, provided the state licensing authority considers the offense in light of specific factors supported by clear and convincing evidence.
- Prohibits a state licensing authority from considering a listed disqualifying offense when the offense occurred outside of time periods specified in the bill.
- Prohibits a state licensing authority from refusing to issue an initial license to an individual based solely on being charged with or convicted of a criminal offense or a nonspecific qualification such as "moral turpitude" or lack of "moral character."
- Requires a state licensing authority that refuses to issue an initial license because of a specific disqualifying offense to notify the applicant of the reason for the refusal, the applicant's right to an administrative hearing, the earliest date the applicant may reapply, and the individual's ability to offer evidence of rehabilitation upon reapplication.
- Places the burden of proving the relationship between a disqualifying offense and the licensed occupation on the state licensing authority in any proceeding reviewing the authority's denial of an initial license based on a disqualifying offense.

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DETAILED ANALYSIS

Limitations on initial license refusal

The bill enacts the “Fresh Start Act of 2019.” Except as described below, the bill prohibits any state licensing authority from refusing to issue to an individual an initial license or other authorization allowing the individual to engage in any profession, occupation, or occupational activity regulated by the licensing authority based on any of the following:

- Solely or in part on a conviction of, judicial finding of guilt of, or plea of guilty to an offense;
- A criminal charge that does not result in a conviction, judicial finding of guilt, or plea of guilty;
- A nonspecific qualification such as “moral turpitude” or lack of “moral character”:
- A disqualifying offense included on the authority’s list of specific offenses adopted under the bill, if consideration of that offense occurs after the time periods allowed under the bill.¹

The bill applies to initial licensure only. It does not affect any law related to renewing a license.

Specific disqualifying offenses

The bill requires, within 180 days after its effective date, every state licensing authority to establish a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining a license. The state licensing authority must make the list available to the public on its website in accordance with the continuing law requirement that a state or local licensing authority establish a list of all criminal offenses of which conviction of that offense disqualifies an individual from obtaining a license. In adopting the bill’s list, the state licensing authority must do both of the following:

¹ R.C. 9.79(A) and (C); Section 5.

- Identify each disqualifying offense either by name or by the Ohio Revised Code section number that creates the offense;
- Include in the list only criminal offenses that are directly related to the duties and responsibilities of the licensed occupation.

A state licensing authority may include in the list an existing or former municipal ordinance or an Ohio, other state's, or federal law that is substantially equivalent to any offense included in the list.²

If an individual has been convicted of, found guilty pursuant to a judicial finding of, or pleaded guilty to a disqualifying offense included in the list adopted by the state licensing authority, the state licensing authority may consider the conviction, plea, or finding when deciding whether the individual is disqualified from receiving an initial license. However, the state licensing authority must consider the offense using all of the following factors under a clear and convincing evidentiary standard:

- The nature and seriousness of the offense;
- The passage of time since the individual committed the offense;
- The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation;
- Any evidence of mitigating rehabilitation or treatment undertaken by the individual.

The state licensing authority may consider a listed disqualifying offense only if the conviction, judicial finding of guilt, or guilty plea occurred during one of the following time periods, as applicable:

- For a disqualifying offense that is not an offense of violence or a sexually oriented offense (see, "**Definitions**," below), five years from the date of conviction, judicial finding of guilt, plea of guilty, or release from incarceration, whichever is later, provided the individual was not convicted of, found guilty pursuant to a judicial finding of, and did not enter a plea of guilty to any other offense during the applicable five-year period;
- For a disqualifying offense that is an offense of violence or a sexually oriented offense, any time.³

If a state licensing authority refuses to issue an initial license to an individual because of a specific disqualifying offense, the licensing authority must notify the individual in writing of all of the following:

² R.C. 9.79(B), by reference to R.C. 9.78, not in the bill, and with conforming changes throughout the bill.

³ R.C. 9.79(D).

- The grounds and reasons for the refusal, including an explanation of the state licensing authority's application of the factors described above to the evidence used to reach its decision;
- The individual's right under the Administrative Procedure Act⁴ to a hearing regarding the state licensing authority's decision;
- The earliest date the individual may reapply for a license;
- Notice that evidence of rehabilitation may be considered on reapplication.

In any administrative hearing or lawsuit reviewing a state licensing authority's refusal to issue an initial license due to a specific disqualifying offense, the state licensing authority bears the burden of proving that the individual's conviction, judicial finding of guilt, or guilty plea directly relates to the individual's ability to engage in the licensed occupation.⁵

Exempt occupations

The bill's limitations on a state licensing authority's ability to refuse to issue an initial license do not apply to any of the following positions:

- Any position for which appointment requires a peace officer basic training certificate issued by the Ohio Attorney General under continuing law;
- Any position for which an individual may satisfy the requirements for appointment or election to the position by obtaining a peace officer basic training certificate;
- Any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense.⁶

Administrative rules

Each state licensing authority must adopt any rules that it determines are necessary to implement the bill.⁷

Affected occupations

Notwithstanding any other provision of the Revised Code, and with the exception of any position described under "**Exempt occupations**," above, the bill applies to every profession or occupation for which a license issued or conferred by a state licensing authority is required. The bill explicitly applies to all of the following professions and occupations that require a state-issued license:

⁴ R.C. Chapter 119.

⁵ R.C. 9.79(E) and (F).

⁶ R.C. 9.79(H), by reference to R.C. 109.77, not in the bill.

⁷ R.C. 9.79(G).

Occupations and professions expressly affected by the bill's requirements			
Acupuncturist or oriental medicine practitioner	Agent employed by a career school to solicit students	Agricultural commodity handler	Anesthesiologist assistant
Architect	Asbestos hazard abatement contractor	Athlete agent	Athletic trainer
Auction firm, auctioneer, apprentice auctioneer, or special auctioneer	Barber or barber school student	Bingo supplies distributor	Bingo supplies manufacturer
Blind operator of a suitable vending facility	Boutique services provider	Career school owner/operator	Casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor
Certificate of authority to establish and operate a health insuring corporation	Certified behavior analyst	Charitable organization fund-raising counsel	Check cashing business operator
Chemical dependency professional	Chiropractor	Commercial fisher	Community-based long-term care services provider
Concentrated animal feeding facility installer or operator	Consumer installment loan lender	Contractor – heating, ventilating, and air conditioner; refrigeration; electrical; plumbing; or hydronics	Controlling person, director, or executive officer of a foreign bank
Cosmetologist, esthetician, hair designer, manicurist, natural hair stylist, or instructor of any branch of cosmetology	Crematory operator	Dentist	Dental hygienist

Occupations and professions expressly affected by the bill's requirements

Department of Developmental Disabilities personnel who administer medications	Deputy mine inspector of underground mines, deputy mine inspector of surface mines, electrical inspector of mines, superintendent or assistant superintendent of rescue stations, or mine chemist	Dialysis technician or dialysis technician intern	Dietitian
Dispensing optician or dispensing optician apprentice	Driver training school operator	Driver training instructor	Educational assistant – educational aide permit or educational paraprofessional license
Educator license	Electrical safety inspector	Embalmer or funeral director	Executive agency lobbyist
Fireworks exhibitor	Fireworks manufacturer	Fireworks wholesaler	First responder, emergency medical technician (EMT), or paramedic; continuing education provider for first responders, EMTs, or paramedics; or firefighter
Foreign real estate dealer or salesperson	Gas storage well inspector	General x-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist	Genetic counselor
Hearing aid dealer, fitter, or trainee	High volume dog breeder or dog retailer	Home inspector	Home medical equipment provider

Occupations and professions expressly affected by the bill's requirements			
Independent social worker, social worker, or social work assistant	Instructional assistant providing special education services to a child with autism	Insurance agent or managing general agent	Landscape architect
Legislative agent (lobbyist)	Livestock dealer or broker	Livestock weigher	Loan originator
Lottery sales agent	Manufactured home installer	Manufactured housing dealer, broker, or salesperson	Marriage and family therapist
Medical marijuana cultivator, processor, or laboratory tester	Medical marijuana retail dispensary	Medication aide or community health worker	Mine foreperson of gaseous mines, mine foreperson of nongaseous mines, mine foreperson of surface mines, foreperson of gaseous mines, foreperson of nongaseous mines, foreperson of surface maintenance facilities of underground or surface mines, or foreperson of surface mines, fire boss, mine electrician, surface mine blaster, or shot firer
Money transmitter	Mortgage broker	Mortgage loan originator	Motor vehicle dealer or salesperson, vehicle leasing dealer, distributor, construction equipment auction, or auction owner
Motor vehicle salvage dealer, auctioneer, or pool	Notary public	Nursing home administrator	Occupational therapist or occupational therapy assistant

Occupations and professions expressly affected by the bill's requirements			
Operator of a vehicle for pupil transportation	Optometrist	Owner or operator of a solid waste facility, infectious waste treatment facility, or hazardous waste facility	Orthotist, prosthetist, or pedorthist
Pawnbroker	Pesticide applicator or dealer	Pharmacist, pharmacy intern, or pharmacy technician	Physical therapist or physical therapist assistant
Physician, osteopathic physician, podiatrist, massage therapist, or cosmetic therapist	Physician assistant	Pilot or engineer for a boat carrying passengers for hire	Precious metals dealer
Premium insurance company	Private investigator or security guard	Professional clinical counselor or professional counselor	Professional engineer or surveyor
Professional solicitor or member, officer, employee, or agent of a professional solicitor	Provider of supported living services	Psychologist or school psychologist	Public accountant or certified public accountant
Public insurance adjuster	Radiologist assistant	Real estate appraiser or real estate appraiser assistant	Real estate broker or salesperson
Referee, judge, matchmaker, timekeeper, promoter, manager, trainer, contestant, or second of a boxing match or other unarmed combat sport	Registered nurse, advanced practice registered nurse, or licensed practical nurse	Respiratory care professional	Retirement system lobbyist
Sanitarian	School bus or motor van driver	Second mortgage lender	Securities dealer or salesperson, investment adviser, investment adviser representative, Bureau of Workers' Compensation Chief

Occupations and professions expressly affected by the bill's requirements			
			Investment Officer, or state retirement system investment officers
Short-term lender	Small loan lender	Special regional heavy hauling permit	Speech-language pathologist or audiologist
Steam engineer, high pressure boiler operator, or low pressure boiler operator	Surety bail bond agent	Telephone solicitor	Traveling full time salaried noncommission employee of an attorney authorized to solicit powers of attorney or applications for contracts of indemnity and who is primarily engaged in underwriting or loss prevention engineering and claim services
Unclaimed funds finder	Veterinarian or veterinary technician	Viatical settlement provider or broker	Wholesale fish handler
Wildlife shelter permit			

Changes to criminal records checks

Under continuing law, the Superintendent of the Bureau of Criminal Identification and Investigation conducts criminal records checks to determine whether an applicant for a state-issued license has a criminal record. The scope of a criminal records check conducted by the Superintendent varies depending on the license sought by the applicant.⁸ The table below summarizes the current scope of the records check for certain licensed occupations and identifies the changes to the scope made by the bill:

⁸ R.C. 109.572

Changes to scope of criminal records check for certain licenses		
Occupation	Current criminal records check	Criminal records check under the bill
Community based long-term care services provider	Requires check for any offense on a list of offenses in the law governing background checks performed by the Superintendent (R.C. 109.572(A)(3)).	Requires check for any criminal offense under any existing or former Ohio law, law of any other state, or law of the United States (R.C. 109.572(A)(10)).
Home inspector	Requires check for any crime of moral turpitude, felony, or any equivalent offense (R.C. 109.572(A)(16)).	Requires check for any criminal offense (R.C. 109.572(A)(16)).
Notary public	Requires check for specific theft and fraud offenses and any crime of moral turpitude (R.C. 109.572(A)(17)).	Requires check for any criminal offense (R.C. 109.572(A)(17)).
Private investigator or security guard	Requires check for any felony (R.C. 109.572(A)(7)).	Requires check for any criminal offense (R.C. 109.572(A)(7)).
Short-term lender, second mortgage lender, real estate appraiser, or real estate appraiser assistant	Requires check for any offense specified in the law governing background checks performed by the Superintendent (R.C. 109.572(A)(8)).	Requires check for any criminal offense (R.C. 109.572(A)(8)).
Supported living services provider	Requires check for any offense on a list of offenses in the law governing background checks performed by the Superintendent (R.C. 109.572(A)(3)).	Requires check for any criminal offense under any existing or former Ohio law, law of any other state, or law of the United States (R.C. 109.572(A)(10)).
Teacher	Requires check for any offense on a list of offenses specified in the law governing educators' licenses (R.C. 109.572(A)(1)).	Requires check for any offense on a list of offenses specified in the law governing educators' licenses and for any offense specified on the list adopted by the licensing authority under the bill (R.C. 109.572(A)(1)).

Definitions

The following table defines “offense of violence” as used in continuing law:⁹

Offenses of violence	
Name of offense	Citation
Aggravated murder	R.C. 2903.01
Murder	R.C. 2903.02
Voluntary manslaughter	R.C. 2903.03
Involuntary manslaughter	R.C. 2903.04
Felonious assault	R.C. 2903.11
Aggravated assault	R.C. 2903.12
Assault	R.C. 2903.13
Permitting child abuse	R.C. 2903.15
Aggravated menacing	R.C. 2903.21
Menacing by stalking	R.C. 2903.211
Menacing	R.C. 2903.22
Kidnapping	R.C. 2905.01
Abduction	R.C. 2905.02
Extortion	R.C. 2905.11
Trafficking in persons	R.C. 2905.32
Rape	R.C. 2907.02
Sexual battery	R.C. 2907.03
Gross sexual imposition	R.C. 2907.05
Aggravated arson	R.C. 2909.02

⁹ R.C. 2901.01.

Offenses of violence	
Name of offense	Citation
Arson	R.C. 2909.03
Terrorism	R.C. 2909.24
Aggravated robbery	R.C. 2911.01
Robbery	R.C. 2911.02
Aggravated burglary	R.C. 2911.11
Inciting to violence	R.C. 2917.01
Aggravated riot	R.C. 2917.02
Riot	R.C. 2917.03
Inducing panic	R.C. 2917.31
Domestic violence	R.C. 2919.25
Intimidation	R.C. 2921.03
Intimidation of an attorney, victim, or witness in a criminal case	R.C. 2921.04
Escape	R.C. 2921.34
Improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function	R.C. 2923.161
Patient abuse	R.C. 2903.34(A)(1)
Burglary	R.C. 2911.12(A)
Endangering children via abuse	R.C. 2919.22(B)(1) to (4)
Felonious sexual penetration (former offense)	Former R.C. 2907.12
A violation of an existing or former municipal ordinance or state or federal law, substantially equivalent to any offense listed above	R.C. 2901.01(A)(9)(b)

Offenses of violence	
Name of offense	Citation
An offense, other than a traffic offense, under an existing or former municipal ordinance or state or federal law, committed purposefully, knowingly, and involving physical harm to persons or a risk of serious physical harm to persons	R.C. 2901.01(A)(9)(c)
A conspiracy or attempt to commit, or complicity in committing, any offense listed above	R.C. 2923.01, 2923.02, and 2923.03

The table below lists the criminal offenses that constitute a “sexually oriented offense” as that term is defined under continuing law.¹⁰ For some offenses, at least one additional sexually oriented element is required for the underlying offense to constitute a sexually oriented offense (e.g., some underlying offenses must be committed with a “sexual motivation”). The table identifies each of those offenses by the name of the underlying offense and describes the additional sexually oriented element or elements. The offense of trafficking in persons, under certain circumstances, is considered a sexually oriented offense, and those circumstances are described after the table.

Sexually oriented offenses	
Name of offense	Citation
Rape	R.C. 2907.02
Sexual battery	R.C. 2907.03
Gross sexual imposition	R.C. 2907.05
Sexual imposition	R.C. 2907.06
Importuning	R.C. 2907.07
Voyeurism	R.C. 2907.08
Compelling prostitution	R.C. 2907.21
Promoting prostitution	R.C. 2907.22
Soliciting	R.C. 2907.24(A)(3)

¹⁰ R.C. 2950.01(A).

Sexually oriented offenses	
Name of offense	Citation
Pandering obscenity	R.C. 2907.32
Pandering obscenity involving a minor or impaired person	R.C. 2907.321
Pandering sexually oriented matter involving a minor or impaired person	R.C. 2907.322
Illegal use of a minor or impaired person in a nudity-oriented material or performance	R.C. 2907.323
Unlawful sexual conduct with a minor when the offender is less than 4 years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration	R.C. 2907.04 and 2950.01
Unlawful sexual conduct with a minor when the offender is at least 4 years older than the other person with whom the offender engaged in sexual conduct or when the offender is less than 4 years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration	R.C. 2907.04 and 2950.01
Aggravated murder when committed with a sexual motivation	R.C. 2903.01 and 2950.01
Murder when committed with a sexual motivation	R.C. 2903.02 and 2950.01
Felonious assault when committed with a sexual motivation	R.C. 2903.11 and 2950.01
Involuntary manslaughter when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation	R.C. 2903.04(A) and 2950.01
Menacing by stalking with a sexual motivation	R.C. 2903.211(A)(3) and 2950.01
Kidnapping when committed with a sexual motivation or when the victim is under 18 years old and the offender is not the victim's parent, or to engage in sexual activity with the victim against the victim's will	R.C. 2905.01(A)(1)-(5) and (B) and 2950.01

Sexually oriented offenses	
Name of offense	Citation
Voluntary manslaughter when committed with a sexual motivation	R.C. 2903.03(B) and 2950.01
Abduction when committed with a sexual motivation	R.C. 2905.02(B)
Unlawful restraint when committed with a sexual motivation	R.C. 2905.03(B)
Criminal child enticement when committed with a sexual motivation	R.C. 2905.05(B)
Endangering children by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child under 18 years of age or a mentally or physically handicapped child under 21 years of age to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, sexually oriented matter, or nudity-oriented matter	R.C. 2919.22(B)(5)
Public indecency under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the offender's spouse, by exposing the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity and if the sentencing court classifies the offender as a tier I sex offender/child-victim offender subject to registration under the Sex Offender Registration and Notification Law	R.C. 2907.09(B)(4) and (D) and 2950.01
A violation of any former Ohio law, any existing or former municipal ordinance or another state's or federal law, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed above	R.C. 2950.01(A)(13)
Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed above	R.C. 2923.01, 2923.02, and 2923.03

Trafficking in persons constitutes a "sexually oriented offense" when the offender knowingly or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, any of the following:

1. Another person knowing that the person would be compelled to engage in sexual activity for hire, or engage in a performance or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented;

- 2. Another person who is less than 16 years of age or is a person whom the offender knows or has reasonable cause to believe is a person with a developmental disability for the purpose of engaging in sexual activity, in a performance, or to be a model or participant for hire in the production of material that is obscene, sexually oriented, or nudity oriented;
- 3. Another person who is 16 or 17 years of age for the purpose of engaging in sexual activity, in a performance, or to be a model or participant for hire in the production of material that is obscene, sexually oriented, or nudity oriented, and certain circumstances of sexual battery apply with respect to the offender and the other person.¹¹

HISTORY

Action	Date
Introduced	05-28-19

H0263-I-133/ks

¹¹ R.C. 2905.32(A), 2907.03(A), and 2950.01.



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H.B. 341
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Ginter

Elizabeth Molnar, Attorney

SUMMARY

- Authorizes a pharmacist to administer by injection any long-acting or extended-release drug prescribed by a physician to treat drug addiction, instead of limiting the pharmacist's authority to the administration of opioid antagonists as under current law.
- Exempts places in which addiction treatment drugs are directly administered by prescribers, rather than self-administered by patients, from the State Board of Pharmacy's office-based opioid treatment licensure.
- Provides that a patient whose addiction treatment drugs are directly administered by a prescriber is not to be counted when determining whether an office-based opioid treatment provider is required to be licensed by the Board.

DETAILED ANALYSIS

Pharmacist authority to administer addiction treatment drugs by injection

Current law permits a pharmacist meeting specified conditions to administer by injection certain drugs, including long-acting or extended-release opioid antagonists used to treat drug addiction. The bill extends to the pharmacist authority to administer any injectable long-acting or extended-release addiction treatment drug, not just opioid antagonists as under existing law.¹

¹ R.C. 4729.45(B)(1)(a).

Types of drugs prescribed to treat opioid addiction

According to the National Institute on Drug Abuse, there are effective medications to treat opioid use disorders.² These include opioid antagonists and agonists. An opioid antagonist is a drug, like naltrexone, that blocks the activation of opioid receptors in the brain. It treats opioid use disorder by preventing any opioid drug from producing rewarding effects such as euphoria.

Opioid agonists occupy and activate the brain's opioid receptors, eliminating withdrawal symptoms and relieving drug cravings. There are two types of agonists – full and partial. Methadone is an example of a full agonist, a slow-acting opioid that binds fully to the opioid receptor, while buprenorphine is a partial agonist, meaning it binds to the same receptors but activates them less strongly than full agonists do.³

It appears that the only addiction treatment drugs currently available for administration by injection are Vivitrol, a long-acting form of naltrexone (an opioid antagonist)⁴ and Sublocade, an injectable form of buprenorphine (a partial agonist) which was approved by the United States Food and Drug Administration in 2017.⁵

Conditions on pharmacist administration by injection generally

Under existing law maintained by the bill, a pharmacist may administer to an individual a drug by injection if it is prescribed by a physician and the physician has an ongoing physician-patient relationship with the individual. The bill retains other current law requirements governing injections by a pharmacist, including that the pharmacist follow a protocol established by a physician, complete certain education in the administration of drugs, obtain the individual's permission before administering a drug, observe the individual for any adverse reactions, and notify the prescribing physician of the administration.⁶ With respect to a drug administered by injection for the treatment of addiction, the pharmacist also may order blood or urine testing to determine whether it is appropriate to administer the drug.⁷

² See <https://www.drugabuse.gov/publications/research-reports/medications-to-treat-opioid-addiction/overview>.

³ See <https://www.drugabuse.gov/publications/research-reports/medications-to-treat-opioid-addiction/how-do-medications-to-treat-opioid-addiction-work>.

⁴ See <https://www.vivitrol.com/opioid-dependence/what-is-vivitrol>.

⁵ *FDA approves first once-monthly buprenorphine injection, a medication-assisted treatment option for opioid use disorder*, United States Food and Drug Administration, November 30, 2017, available at <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm587312.htm>.

⁶ R.C. 4729.45(C), (D), and (F).

⁷ R.C. 4729.45(D) and (E).

Office-based opioid treatment

Current law defines “office-based opioid treatment” as the treatment of opioid dependence or addiction using a controlled substance.⁸ Subject to several exemptions, a facility, clinic, or other location where a prescriber provides office-based opioid treatment to more than 30 patients must hold a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification issued by the State Board of Pharmacy.⁹

The bill exempts from this licensure requirement a place in which all of the following apply:

1. Patients are treated for opioid dependence or addiction;
2. A physician, physician assistant, or advanced practice registered nurse directly administers addiction treatment drugs to patients;
3. Addiction treatment drugs are not dispensed to patients for self-administration.¹⁰

The bill also specifies that patients who receive treatment for opioid dependence or addiction by this direct administration of drugs are not to be included when determining whether a prescriber is providing office-based opioid treatment to more than 30 patients at a particular location.¹¹

Locations currently exempt from office-based opioid treatment licensure include (1) hospitals and hospital-operated facilities and practices, (2) clinical research facilities, (3) federally regulated opioid treatment programs, and (4) programs and facilities licensed or certified by the Department of Mental Health and Addiction Services.¹² The bill maintains these exemptions.

HISTORY

Action	Date
Introduced	09-23-19

H0341-I-133/ks

⁸ R.C. 4729.553(A)(4).

⁹ R.C. 4729.553(B)(1).

¹⁰ R.C. 4729.553(B)(2)(i).

¹¹ R.C. 4729.553(B)(3).

¹² R.C. 4729.553(B)(2).



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 178
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Schuring

Audra Tidball, Attorney

SUMMARY

- Authorizes podiatrists to administer influenza vaccinations to individuals seven or older.

DETAILED ANALYSIS

Podiatrist administration of flu shots

The bill authorizes podiatrists to administer influenza vaccinations to individuals seven or older.¹ Under current law, the practice of podiatric medicine and surgery consists of treating (1) foot ailments, (2) muscles and tendons of the leg that govern functions of the foot, and (3) superficial hand lesions that are not associated with trauma.²

HISTORY

Action	Date
Introduced	07-17-19

S0178-I-133/ar

¹ R.C. 4731.512.

² R.C. 4731.51.

Legislative Report

November 8, 2019
Prepared by: Jonithon
LaCross

MY TRACKED BILLS

Bill Information

HB29 DEXTROMETHORPHAN SALES *(KOEHLER K)*

To prohibit sales of dextromethorphan without a prescription to persons under age 18.

CURRENT STATUS

11/12/2019 - House Health, (Fourth Hearing)

[HB29 Bill Page](#) 

HB46 STATE GOVT EXPENDITURE DATABASE *(GREENSPAN D)*

To require the Treasurer of State to establish the Ohio State Government Expenditure Database.

CURRENT STATUS

11/13/2019 - Senate General Government and Agency Review , (Fourth Hearing)

[HB46 Bill Page](#) 

HB61 HEALTH PROVIDER RESIDENTIAL INFO *(LANESE L, LISTON B)*

To include forensic mental health providers, mental health evaluation providers, and regional psychiatric hospital employees as individuals whose residential and familial information is exempt from disclosure under the Public Records Law.

CURRENT STATUS

6/27/2019 - **REPORTED OUT**, Senate Judiciary, (Second Hearing)

[HB61 Bill Page](#) 

HB63 PHARMACY BENEFIT MANAGERS *(LIPPS S, WEST T)*

Regarding pharmacy benefit managers, pharmacists, and the disclosure to patients of drug price information.

CURRENT STATUS

6/4/2019 - **REPORTED OUT**, House Health, (Fifth Hearing)

[HB63 Bill Page](#) →

HB68 HEARTBEAT BILL (HOOD R, KELLER C)

To generally prohibit an abortion of an unborn human individual with a detectable heartbeat and to create the Joint Legislative Committee on Adoption Promotion and Support.

CURRENT STATUS

2/26/2019 - House Health, (First Hearing)

[HB68 Bill Page](#) →

HB133 MILITARY-TEMPORARY LICENSURE (PERALES R, WEINSTEIN C)

To require state occupational licensing agencies, under certain circumstances, to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved to Ohio for military duty.

CURRENT STATUS

10/2/2019 - Senate Transportation, Commerce and Workforce, (First Hearing)

[HB133 Bill Page](#) →

HB144 NURSE EMPLOYMENT-MANDATORY OVERTIME (MANNING D)

To prohibit a hospital from requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment.

CURRENT STATUS

10/23/2019 - House Commerce and Labor, (Third Hearing)

[HB144 Bill Page](#) →

HB165 HEALTH EDUCATION STANDARDS (LISTON B, GALONSKI T)

Regarding the adoption of health education standards.

📌 CURRENT STATUS

6/18/2019 - House Primary and Secondary Education, (Third Hearing)

[HB165 Bill Page](#) →

HB177 STANDARD CARE ARRANGEMENTS *(BRINKMAN T)*

Regarding standard care arrangements entered into by advanced practice registered nurses and collaborating physicians or podiatrists; physician prescribing of schedule II controlled substances from convenience care clinics; and clearances by licensed health professionals of concussed student athletes.

📌 CURRENT STATUS

6/18/2019 - House Health, (Fourth Hearing)

[HB177 Bill Page](#) →

HB205 LEGAL IMMUNITY-OVERDOSE *(GALONSKI T)*

To expand immunity from prosecution for certain drug offenses when a person obtains medical assistance for a drug overdose.

📌 CURRENT STATUS

6/27/2019 - House Criminal Justice, (Third Hearing)

[HB205 Bill Page](#) →

HB224 NURSE ANESTHETISTS *(CROSS J, WILKIN S)*

Regarding the practice of certified registered nurse anesthetists.

📌 CURRENT STATUS

6/18/2019 - **SUBSTITUTE BILL ACCEPTED**, House Health, (Fourth Hearing)

[HB224 Bill Page](#) →

HB231 FREE EPINEPHRINE PROGRAMS *(GREENSPAN D)*

To require the Department of Education to notify public and private schools of free epinephrine autoinjector programs and to enact the "Allison Rose Suhy Act" with regard to food allergy training for public schools and institutions of higher education.

CURRENT STATUS

5/21/2019 - House Primary and Secondary Education, (First Hearing)

[HB231 Bill Page](#) →

HB263 OCCUPATIONAL LICENSING-CRIMINAL CONVICTIONS *(KOEHLER K)*

To revise the initial occupational licensing restrictions applicable to individuals convicted of criminal offenses.

CURRENT STATUS

11/6/2019 - House Commerce and Labor, (Third Hearing)

[HB263 Bill Page](#) →

HB323 PSYCHOLOGISTS-PRESCRIBING *(MANNING D)*

To authorize certain psychologists to prescribe drugs and therapeutic devices as part of the practice of psychology.

CURRENT STATUS

10/1/2019 - House Health, (First Hearing)

[HB323 Bill Page](#) →

HB341 ADDICTION TREATMENT DRUGS *(GINTER T)*

Regarding the administration of drugs for addiction treatment.

CURRENT STATUS

11/5/2019 - House Health, (Second Hearing)

[HB341 Bill Page](#) →

HB374 MASSAGE THERAPY LICENSE *(PLUMMER P, MANCHESTER S)*

To make changes to the massage therapy licensing law.

CURRENT STATUS

10/23/2019 - Referred to Committee House Commerce and Labor

[HB374 Bill Page](#) →

SB1 REDUCE REGULATORY RESTRICTIONS (MCCOLLEY R, ROEGNER K)

To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.

CURRENT STATUS

6/12/2019 - House State and Local Government, (First Hearing)

[SB1 Bill Page](#) →

SB7 TEMP STATE OCCUPATIONAL LICENSES-MILITARY (LEHNER P, HACKETT R)

Regarding temporary state occupational licenses for members of the military and their spouses.

CURRENT STATUS

11/6/2019 - Consideration of House Amendments; Vote 0-33, Senate does not concur

[SB7 Bill Page](#) →

SB9 HEALTH PLAN CLAIM INFORMATION (HUFFMAN M)

To require health plan issuers to release certain claim information to group plan policyholders.

CURRENT STATUS

10/29/2019 - Re-Referred to Committee

[SB9 Bill Page](#) →

SB14 DRUG PRICE INFORMATION DISCLOSURE (MAHARATH T)

Regarding pharmacy benefit managers, pharmacists, and the disclosure to patients of drug price information.

CURRENT STATUS

4/3/2019 - Senate Insurance and Financial Institutions, (First Hearing)

SB14 Bill Page →

SB20 CONTROLLED SUBSTANCES DISPOSAL (MAHARATH T)

Regarding the disposal of controlled substances.

CURRENT STATUS

4/10/2019 - Senate Health, Human Services and Medicaid, (First Hearing)

SB20 Bill Page →

SB25 MEDICAID WORK, EDUCATION REQUIREMENTS (HUFFMAN M)

Regarding work and education requirements for the Medicaid program.

CURRENT STATUS

3/20/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

SB25 Bill Page →

SB27 FETAL REMAINS-SURGICAL ABORTIONS (UECKER J)

To impose requirements on the final disposition of fetal remains from surgical abortions.

CURRENT STATUS

4/30/2019 - House Civil Justice, (Second Hearing)

SB27 Bill Page →

SB29 MEDICAID COPAYMENTS (DOLAN M)

Regarding Medicaid copayment requirements.

CURRENT STATUS

2/19/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

[SB29 Bill Page](#) 

SB51 NON-OPIOID DIRECTIVES AND THERAPIES *(MAHARATH T)*

Regarding non-opioid directives and non-opioid therapies.

CURRENT STATUS

5/1/2019 - Senate Health, Human Services and Medicaid, (First Hearing)

[SB51 Bill Page](#) 

SB59 NALOXONE DISPENSING WITHOUT PRESCRIPTION *(ANTONIO N)*

To require the State Board of Pharmacy to educate license holders about the law authorizing naloxone dispensing without a prescription.

CURRENT STATUS

11/12/2019 - House Health, (First Hearing)

[SB59 Bill Page](#) 

SB61 NURSE ANESTHETISTS *(BURKE D)*

Regarding the authority of certified registered nurse anesthetists to select, order, and administer certain drugs.

CURRENT STATUS

4/10/2019 - Senate General Government and Agency Review , (Second Hearing)

[SB61 Bill Page](#) 

SB97 COST ESTIMATES FOR HEALTH CARE *(HUFFMAN S)*

Regarding the provision of cost estimates for scheduled health care services and health care services requiring insurer preauthorization.

CURRENT STATUS

10/22/2019 - Referred to Committee House Health

[SB97 Bill Page](#) 

SB105 MASSAGE THERAPY LICENSING *(BRENNER A)*

To make changes to the massage therapy licensing law.

CURRENT STATUS

9/18/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

[SB105 Bill Page](#) 

SB121 HEALTH EDUCATION STANDARDS *(SYKES V, KUNZE S)*

To require the State Board of Education to adopt health education standards and to require that only statewide venereal disease education standards and curriculum be approved by the General Assembly.

CURRENT STATUS

10/29/2019 - Senate Education, (Third Hearing)

[SB121 Bill Page](#) 

SB130 PROHIBIT CONVERSION THERAPY *(MAHARATH T)*

To prohibit certain health care professionals from engaging in conversion therapy when treating minor patients.

CURRENT STATUS

9/18/2019 - Senate Health, Human Services and Medicaid, (First Hearing)

[SB130 Bill Page](#) 

SB141 PHYSICIAN EMPLOYMENT CONTRACTS *(WILLIAMS S)*

To prohibit the use of noncompete provisions in physician employment contracts.

CURRENT STATUS

5/15/2019 - Referred to Committee Senate Transportation, Commerce and Workforce

SB141 Bill Page →

SB178 **PODIATRISTS** *(SCHURING K)*

Regarding the authority of podiatrists to administer influenza vaccinations.

CURRENT STATUS

11/13/2019 - Senate Health, Human Services and Medicaid, (Second Hearing)

SB178 Bill Page →

MEMORANDUM

TO: Licensure Committee
Policy Committee

FROM: Joseph S. Turek, Director, Licensure & Licensee Services

DATE: November 13, 2019

RE: Proposed changes to O.A.C 4731-6-14

Amendments to Section 4731-6-14: Eligibility for Licensure

This memo proposes an amendment to Section 4731-6-14, Ohio Administrative Code. The amendment would add a catch-all provision to provide the board with discretion to deem a licensing examination, that may not otherwise be addressed in the rule, acceptable to meet the statutory examination requirement applicable to M.D. and D.O. applicants.

The proposed amendment to Section 4731-6-14, Ohio Administrative Code, adds subsection (B)(7). Please review the following proposed amendment:

4731-6-14 Eligibility for licensure.

(A) The board shall issue a license to each individual who meets all applicable requirements under section 4731.09 of the Revised Code, and who passes the medical and osteopathic examination in accordance with rule 4731-6-05 of the Administrative Code, or has passed one of the following examinations:

(B)

(1) One of the following examination sequences, with all steps, parts, levels or components having been administered prior to January 2000. The score achieved on each step, part, level or component must have equaled or exceeded the figure established by the USMLE program, the national board of medical examiners, the national board of osteopathic medical examiners or the federation as a passing score for that step, part, level or component, respectively.

(a) Part I of the national board of medical examiners examination or step 1 of the USMLE, part II of the national board of medical examiners examination or step 2 of the USMLE, and part III of the national board of medical examiners examination or step 3 of the USMLE or component 2 of the FLEX; or

(b) Part I of the national board of osteopathic medical examiners examination or level 1 of the COMLEX-USA, part II of the national board of osteopathic medical examiners examination or

level 2 of the COMLEX-USA, and part III of the national board of osteopathic medical examiners examination or level 3 of the COMLEX-USA.

(2) Component 1 of the FLEX and step 3 of the USMLE. The component and step must have been administered prior to January 2000. A score of seventy-five or above must have been achieved on component 1. The performance achieved on step 3 must have been recognized by the USMLE program as a recommended passing performance; or

(3) Component 1 and 2 of the FLEX. Both components must have been administered after June 1985 and prior to January 2000. A score of seventy-five or above must have been achieved on each component. Both components must have been passed within a seven year period; or

(4) A written state medical board of the United States licensing examination other than the FLEX, USMLE or COMLEX-USA administered prior to June 1982 without previous or subsequent FLEX, USMLE or COMLEX-USA failure; or

(5) A single three day FLEX administered prior to June 1985. The FLEX-weighted average score must be seventy-five or above for the entire examination, or must be seventy-two or above if the examination was taken during the first two years of a state's administration of the FLEX and such score was accepted by that state as a passing score; or

(6) A written examination provided by the national board of osteopathic medical examiners for an administering state.

(7) Any other examination that adequately assesses an individual's competence to practice medicine and surgery or osteopathic medicine and surgery, as determined by the board.

* * *

Motion by the committee to:

1. Move to approve the proposed amendments to rule 4731-6-14 for initial circulation to interested parties.

MEMORANDUM

TO: Licensure Committee
Policy Committee

FROM: Joseph S. Turek, Director, Licensure & Licensee Services

DATE: November 13, 2019

RE: Proposed changes to O.R.C. 4731.19(A)(3)(c)

Amendments to Section 4731.19(A)(3)(c): Certificate to practice a limited branch of medicine.

This memo proposes two alternatives for amending Section 4731.19(A)(3)(c) to reduce the number of massage therapy applicants that are subject to non-disciplinary credential denials.

Operationally, the effect of the current statute results in seemingly qualified massage therapy applicants being denied licensure due to not graduating from a massage program that meets the board's curriculum requirements, and for lack of five years of prior out-of-state licensure required for waiver of the educational requirements. The current statute does not allow the Board discretion to grant licenses to candidates whom, in the Board's opinion, are otherwise qualified based on a combination of work history and education but fail to strictly meet the statutory requirements.

Provided herein for consideration are two options:

- (1) **Option 1 (Recommended)**: Amend 4731.19(A)(3)(c) to reduce the number of years an applicant is required to be licensed in another state in lieu of meeting other educational requirements from five years to two years. This option would decrease the frequency of non-disciplinary denials coming before the Board without potentially diluting the board's curriculum requirements; or
- (2) **Option 2**: Maintains the five-year requirement but amends 4731.19(A)(3) to allow Board members to exercise a degree of discretion by deeming a combination of an applicant's professional work history and education as substantially equivalent to Ohio requirements. This option provides more flexibility and discretion, but could lead to applicants not being treated equally, an increase in the number of applicants referred to licensure

committee, dilution of the board's curriculum requirements, and may not ultimately decrease the frequency of non-disciplinary credential denials coming before the Board. Further, there is no language that provides for such plenary discretion for other license types.

OPTION 1 (Recommended): 4731.19 Certificate to practice a limited branch of medicine.

(A) A person seeking a certificate to practice a limited branch of medicine shall file with the state medical board an application in a manner prescribed by the board. The application shall include or be accompanied by all of the following:

(1) Evidence that the applicant is at least eighteen years of age and of good moral character;

(2) Evidence that the applicant has attained high school graduation or its equivalent;

(3) Evidence that the applicant holds one of the following:

(a) A diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction;

(b) A diploma or certificate from a school, college, or institution in another state or jurisdiction showing completion of a course of instruction that meets course requirements determined by the board through rules adopted under section [4731.05](#) of the Revised Code;

(c) For not less than **five two** years preceding application, a current license, registration, or certificate in good standing in another state for massage therapy or cosmetic therapy.

* * *

OPTION 2: 4731.19 Certificate to practice a limited branch of medicine.

(A) A person seeking a certificate to practice a limited branch of medicine shall file with the state medical board an application in a manner prescribed by the board. The application shall include or be accompanied by all of the following:

(1) Evidence that the applicant is at least eighteen years of age and of good moral character;

(2) Evidence that the applicant has attained high school graduation or its equivalent;

(3) Evidence that the applicant ~~holds~~ **meets** one of the following:

(a) The applicant holds A diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction;

(b) The applicant holds A diploma or certificate from a school, college, or institution in another state or jurisdiction showing completion of a course of instruction that meets course requirements determined by the board through rules adopted under section 4731.05 of the Revised Code;

(c) For not less than five years preceding application, the applicant has held a current license, registration, or certificate in good standing in another state for massage therapy or cosmetic therapy.

(d) The applicant holds a diploma or certificate from a school, college, or institution in another state or jurisdiction that does not show completion of a course of instruction in massage therapy or cosmetic therapy that meets course requirements, but has obtained education or professional experience, or both, that is equivalent or substantially similar as determined by the board.

* * *

Motion by the committee to:

1. Move to approve that Board staff pursue legislative amendments to section 4731.19 of the Ohio Revised Code



MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Progress

DATE: October 31, 2019

In October, the Board instructed me to prepare a letter to the Ohio Physicians Health Program advising that pursuant to the relevant statutes, the one-bite program does not apply to license applicants. A copy of the letter is attached.

Action Requested: No Action Requested



October 18, 2019

Kelley M. Long, MBA
Executive Director
Ohio Physicians Health Program
130 East Chestnut Street, Suite 400
Columbus, Ohio 43215

Re: One-Bite Program Eligibility

Dear Kelley:

On October 16, 2019, the State Medical Board of Ohio ("Board") considered the Report and Recommendation in the matter of Ryan Lee Gerritsen, M.D.

Dr. Gerritsen was an applicant for a license to practice medicine and surgery in Ohio. Dr. Gerritsen received a letter from the Ohio Physicians Health Program indicating that he was determined to be eligible to participate in the One-Bite Program. The One-Bite Program is not available to applicants. It is available to practitioners, defined as individuals authorized to practice in Ohio. See, Sections 4731.251 and 4731.252, Ohio Revised Code. An applicant is not authorized to practice in Ohio.

The Board asked that notification is provided to the Ohio Physicians Health Program advising that applicants are not eligible for the One-Bite Program.

Please do not hesitate to contact me if you have any questions.

Sincerely,


Kimberly C. Anderson
Chief Legal Counsel



MEMORANDUM

TO: Amol Soin, M.D., Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Controlled Substance Prescribing Rules

DATE: November 1, 2019

On October 18, 2019, the PAPC met and discussed the proposed controlled substance prescribing rules which are due for the five-year rule review on December 31, 2020. The PAPC reviewed the initial comments and recommended proceeding with all of the rules as no change rules, except 4731-11-041, OAC.

The suggested changes are as follows:

- **4731-11-041(B)(2)(b): Remove reference to the PA formulary.**
 - (2) **Following the initial visit and two follow-up visits, the treatment may be continued under one of the following means:**
 - (b) **The treatment may be provided by a physician assistant in compliance with this rule, the supervisory plan or policies of the healthcare facility, and the physician assistant formulary adopted by the board.**
- **4731-11-041(3)(a): Change requirement for supervising physician to personally review the medical records of each patient to require a discussion with the physician assistant regarding each patient.**
 - (3) **when treatment for chronic weight management is provided by a physician assistant, the following requirements apply:**
 - (a) **The supervising physician shall personally review the medical records of have a discussion with the physician assistant for each patient to whom the physician assistant has prescribed a controlled substance anorexiant following each visit;**

The PAPC members discussed whether the requirement for the supervising physician to personally review the medical records should be changed to mirror the requirement in Rule 4730-1-05 to require the supervising physician to discuss the patient with the physician assistant. There was concern that the discussion or review should occur before the next patient visit.

The PAPC members had no other concerns with the controlled substance prescribing rules, 4731-11-02, 4731-11-03, 4731-11-04, 4731-11-07 and 4731-11-11, OAC. There was discussion that telemedicine is not appropriate for prescribing under 4731-11-04, OAC.

Requested action: Determine whether Rule 4731-11-041 should be amended and if so, determine the language. Refer to the Board for filing with CSI.