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**POLICY COMMITTEE MEETING MINUTES**  
**February 12, 2020 – Room 336**

<p><b>Members:</b> Betty Montgomery, JD Mark Bechtel, MD Sherry Johnson, DO Amol Soin, MD Robert Giacalone, JD, RPh</p> <p><b>Other Board Members present:</b> Michael Schottenstein, MD Bruce Saferin, DPM Richard Edgin, MD Kim Rothermel, MD Harish Kakarala, MD Jonathan Feibel, MD</p>	<p><b>Staff:</b> Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Rebecca Marshall, Chief Enforcement Attorney Jonithon LaCross, Director of Public Policy and Government Affairs Joe Turek, Director of Licensure and Licensee Services David Fais, Deputy Director of Investigations, Compliance &amp; Enforcement Jill Reardon, Deputy Director of Strategic Services Jerica Stewart, Communications and Outreach Administrator</p>
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Dr. Soin called the meeting to order at 9:15 a.m.

#### **Meeting Minutes Review**

Dr. Soin reported that the draft minutes of the January 8, 2020 meeting had been distributed to the committee and were included in the agenda materials.

**Dr. Bechtel moved to approve the draft minutes of the January 8, 2020 Policy Committee meeting. Ms. Montgomery seconded the motion. All in favor, the motion carried.**

#### **Rules Review Update**

Ms. Anderson stated there were several rules ready to file with JCARR. The board received additional rules from CSI. The changes made to the chronic pain rules in 11-01 and 11-02 have been released. The board will be moving forward and will hopefully have an update the following month on public hearing and JCARR dates. On rules for review for 2020, next month the board staff would like to bring personal information system rules to the committee.

#### **Legislative Update**

##### HB224 Nurse Anesthetists

The bill was passed out of the House and after the amendment, the associations were neutral. Senator Burke had a nurse anesthetists Senate bill as well (SB61). He amended HB224 into SB61 as a semi-companion bill.

HB263 Occupational Licensing – Criminal Convictions

The board has collaborated with other health care boards in the state to provide a memo outlining the concerns. Together, the Medical board, Board of Pharmacy and Physical Therapy met with the representative. He was very open to what was being asked. The boards were told there would be an amendment, but the amendment was not shared with any of the boards. When it dropped in committee, none of the concerns were reflected in the amendment. Mr. LaCross is starting to have conversations in the Senate to determine what will happen and what changes can be made.

Ms. Montgomery asked with whom Mr. LaCross was speaking.

Mr. LaCross replied he was meeting with committee members, the President's staff and key members who deal with health care boards – Sen. Huffman, Sen. Hackett, Sen. Burke. There is a plan to recirculate the memo and have further discussion.

HB374 Massage Therapy License

There is a House Bill and Senate Bill as companions still not moving. Mr. LaCross anticipates more traction for the bill in the House. There is concern around extra licensure from the townships, municipalities and cities that would be required for a facility. The bill would require full massage therapy licensure and remove relaxation massage.

Skipping occupational license and reciprocity at this time.

HB 455 Surgical Assistants

This is the fourth round of licensure requests by surgical assistants. In the current structure, anyone can become a surgical assistant. Since there is no licensure available, a hospital will provide an internal certification process. The surgical assistant must complete a certain number of training hours and they are supervised. When the physician is comfortable allowing the surgical assistant into the surgical suite, the surgical assistant is given a set amount of duties such as counting sponges, handing things over and assisting others. The hospitals, associations and other interested parties contend that licensure would be a barrier to the profession because it has a great entry point. There are questions regarding the cost of the license and what the regulatory aspect would be. It seems in the bill, surgical assistants are asking to go outside of surgical assisting and into duties that nurses and PAs perform.

Dr. Feibel stated surgical assistant training is not robust. The bill is not asking the Medical Board to regulate the profession, but to provide a certificate to allow them to perform everything that nurses and PAs can perform.

Mr. LaCross emphasized the bill supports an optional registration, not a full license process. According to the bill, surgical assistant can choose not to take part in the registry. The bill would be allowing an expansion of scope into the territory of other professionals with no regulatory ability from the board besides knowing who was in the registry. Mr. LaCross shared he was planning to meet with the lobbyists to discuss the board's concerns. He will provide an update next month at the upcoming meeting.

Dr. Soin asked if there was a distinction made between surgical assistants and surgical techs as defined in the bill.

Mr. LaCross replied they are the same in the bill because they are defined differently from state to state.

Dr. Johnson added they are different in the OR. Surgical assistants have different training and different capabilities. She explained a technician can hand the surgeon instruments and count. An assistant can do suturing and assist with a case. She noticed in the bill, it sounds as if the two types are unspecified.

Dr. Saferin stated it means nothing to be registered. If the surgical assistant wants to become licensed they can be disciplined as well.

Mr. LaCross invited the committee members to aid in the conversations regarding this bill.

Dr. Johnson volunteered.

Ms. Montgomery asked the chair for an opportunity to discuss a process for the board to weigh in legislatively.

Dr. Soin suggested making it a topic for the board retreat.

Ms. Loucka stated sharing the board's official position helps with credibility.

Dr. Schottenstein added the board could vote on position items.

Dr. Feibel suggested when there is a topic in policy committee with broad consensus, it could be flagged as an item the board will likely use to issue a position statement in the future. He indicated HB 455 is a good example.

Dr. Soin agreed with Dr. Schottenstein and Dr. Feibel and offered to provide Mr. LaCross more direction from the committee.

#### HB492 Physician Assistants

Many of the issues have been previously discussed in other pieces of legislation. PAs have attempted to pass a bill every year for expansion of scope. Mr. LaCross stated he had worked with Senator Hackett the last time and was informed he was against the bill. The PA lobbyists did not reach out to Mr. LaCross this time. Instead it was sent to him the day it dropped which is not typical. The bill proposes significant changes. One change is to decouple the national accreditation from the licensure process. Currently PAs must maintain national accreditation, but with the bill, this would change (it has been a topic of conversation for approximately four years). Much of the statutory code for the board's licensure process revolves around the accreditation. With the bill, supervision agreements would instead become collaborative agreements. The bill eliminates the physician's liability for actions of a physician assistant. It also allows PAs to pink-slip patients -around two years ago, nurses obtained pink-slip authority. It allows PAs to perform fluoroscopy and perform rapid intubation and procedural sedation. The advertising constraints have been removed.

Mr. LaCross emphasized the bill creates a large expansion that changes PA licensure. The board will have to weigh in on this bill. He would like to bring in PAs to speak with board members and staff and have an interested parties meeting. There will be an interested parties meeting in the House with the bill sponsors. He asked board members to join him at that meeting.

Ms. Montgomery asked about the life expectancy of the bill.

Mr. LaCross shared that every bill the physician assistant association has introduced moves forward. However, it always asks for more significant changes than they expect to receive. He is confident that many of the major interested parties will reject the bill as is, especially regarding the rapid intubation

and the decoupling. He stressed the board should be instrumental in the conversations regarding the bill.

Dr. Soin opined about the background of the eliminated physician liability. He expressed concern regarding the desire to perform rapid intubation, procedural sedation and fluoroscopy. He noted fluoroscopy is complicated for physicians to perform.

Dr. Schottenstein added that a pink-slip is an involuntary referral, essentially referring someone against their will for a psychiatric assessment and it is important.

Dr. Soin, Dr. Feibel and Dr. Schottenstein will work with Mr. LaCross to provide opinions.

#### SB178 Podiatrists

This bill allows podiatrists to administer influenza vaccinations and has been reported out of the Senate. Mr. LaCross is waiting on the vote.

#### Massage Therapists

Massage therapists are “shopping” for a bill to make an amendment. It would create an advisory council for massage therapists, as the board has for respiratory care, dietetics, and PAs. The council would be tasked with advising the board on issues related to the practice of massage therapy. The existing advisory councils are statutory, but there is no statutory requirement for a massage therapy advisory council. Years ago, there was a massage therapy advisory council that met with staff, advised and brought their findings to the board. It has since disbanded. The association has requested the board to allow an advisory council consisting of a physician member, massage therapy educator, unaffiliated consumer member with up to seven members serving three-year terms. The council members would receive no compensation, only reimbursement. The association would make recommendations to the board, and the board would select. This process is consistent with the other advisory councils.

The committee agreed the board should support the massage therapy advisory council.

#### SB246 Occupational License Reciprocity

Mr. LaCross is working with the bill sponsors in the Senate and will be setting up meetings for the next two weeks to discuss a memo outlining the concerns. The memo was created collaboratively by all the health care boards that were interested.

Ms. Loucka shared the bill has two parts: licensing standards – how Ohio compares to other states with licensee requirements and the background check/ensuring the safety of the licensee.

In looking at 12 other states by license types, board staff has created a grid of license requirements for surrounding states and CA, FL, NY and TX. There are distinctions between license types, but the biggest concern has been with the background check.

Mr. Giacalone referenced the previous massage therapy conversation and asked if there is a possibly to host the advisory council by phone.

Mr. LaCross affirmed.

#### SB7 Rules

Ms. Anderson stated SB7 was signed into law on January 27. It gives the board rule-making authority. It creates temporary expedited licensure for members of the military and their spouses licensed in

another jurisdiction. It becomes effective 90 days after signing. The goal is to have the rule in place as close as possible to the effective date which creates time constraints. With Dr. Schottenstein's approval, the board staff already sent the draft rule out for interested party comments. None have been received. The rule that was established allows for temporary expedited licensure with a required background check and a 14-day time limit to provide notice of progression.

The board has made the temporary license valid for up to 2 years. An individual can obtain a full license at any time if the requirements are met - this will apply to all license types. The board is in the process of rearranging current military rules. The application fee is required to be waived. Board staff determined instead of offering a full license, it would be better to issue a temporary license and make it time limited. Within that two-year time period, the individual would be eligible for a full license. The board will also need to make changes to the internal management rule for approval of license applications. The rule is very specific about the types of licenses that can be approved by staff as designated by the board. To allow board staff to approve temporary expedited licensure, it needs to be notated in the rule.

**Dr. Bechtel moved to file 4731-36-04 Expedited Temporary Licensure for Active Duty Military and Spouses with Licenses in Another Jurisdiction with CSI. Ms. Montgomery seconded. All in favor, the motion carried.**

Filing with CSI will open another comment period.

#### CRNA Regulatory Statement

Last month, the committee asked Ms. Anderson to put together a regulatory statement and reach out to the Ohio Board of Nursing for interest in joining the Medical Board in a joint regulatory statement. Ms. Loucka had a discussion with the Board of Nursing Executive Director and indicated their board is not interested in a joint statement. Ms. Anderson drafted a simple policy statement for the committee's review. If the committee approves the statement, it can be added to the website immediately.

Mr. Giacalone asked if the Board of Nursing Executive Director provided a reason for their denial.

Ms. Loucka stated the matter had not been brought to their attention and at this time, they did not want to take a position speaking on behalf of their licensees.

Dr. Feibel asked what effect the position statement has if nurses use the title.

Ms. Anderson clarified the position statement isn't an enforcement tool, but an expectation. Nurses are not the Medical Board's licensees. She reviewed the options available to the board. Florida has a bill prohibiting the use of title. Using this approach would provide enforcement, but it must be made through the legislature.

Dr. Soin asked the committee its opinion on adopting the position statement and monitoring its effect. If it resurfaces, then the board can take further action.

Mr. Giacalone asked if the title *anesthesiologist* is associated with the practice of medicine, why using *nurse anesthesiologist* isn't outside of the scope. He posed that it would be misrepresenting the practice and asked if that would give the board jurisdiction.

Ms. Anderson replied the board would have to go forward on unlicensed practice but would be unable to bring a 119 disciplinary action against a nurse. Typically, the board would work with a prosecutor in

an unlicensed practice of medicine case and they would have to decide if they wanted to move forward with charges. She stated the board should consult with legal counsel before pursuing a cease and desist.

Ms. Montgomery recommended making a bill amendment.

Mr. LaCross shared a prohibition of the title was in the budget bill and it was removed because it was not a priority. He suggested since there was a precedent for legislative intent, interested parties could use the board's position statement as leverage to reintroduce it. Or the board could direct it.

**Dr. Bechtel moved to approve the drafted position statement regarding the use of the title anesthesiologist by non-physicians. Mr. Giacalone seconded the motion. All in favor, the motion carried.**

### Podiatric Scope of Practice

Ms. Anderson shared on February 4, Dr. Schottenstein received a letter from several health care associations expressing concerns with the board's decision in June 2019 related to podiatrists' scope of practice. This week, the board also received a letter from an orthopedic association indicating their association agrees with the letter. The letters request the board go through the rule-making process to open the rules regarding podiatric scope of practice and allow for a public comment period. Initially, the board decided this in June 2019. In September 2019, the board reviewed again and decided to stand on its prior decision and to make a referral to the Common Sense Initiative for an anti-trust review. That review is pending. Ms. Anderson was informed by CSI they are planning to have a public comment period for the anti-trust referral and would like to discuss with board staff. The decision the board needs to make is whether to open up the rules for proposed amendment, review and comment.

Ms. Montgomery stated she believes this scope of practice question belongs in the legislature and that the board should abide by its decision.

Dr. Soin pointed out that in his perspective, the board is being asked a different question than in 2019. The question being, should the rule be opened for public comment?

Dr. Schottenstein stated the board has received public comment. He thinks the CSI process is a good vehicle through which to get additional public comment. He stated the board has vigorously addressed the issue and the board members are the same today as when it was last addressed. He would be glad to obtain the additional public comment from the CSI process, but would not like to reopen the rules at this time.

Dr. Schottenstein deduced that the associations felt the board decided without adequately canvassing its constituents for public input. In being sent to CSI, the board can obtain public comment through their process. Once the information has been received, then the board can revisit the question again.

Dr. Feibel expressed his concern of the public comments in CSI. He stated if the board was trying to ensure it did the right thing in not over-stepping the statute, it would have gone to JCARR, which reviews for statutory compliance. He pointed out the board sent the rule to CSI for only anti-trust evaluation. He stated in reading the letter, the associations are worried about the board over-stepping, allowing scope of practice expansion without legislative intent. The board must decide if it will no longer continue the conversation or be willing to have the decision reviewed and alert the board if a mistake has been made. He felt that sending the rule to JCARR would be the appropriate step. He is unsure if the board sends the rule to CSI that CSI will be able to determine the board's legislative

intent is correct. Dr. Feibel stated the board may decide it does not care about a potential over-step, but it should be clear about what is being accomplished by sending the rule to CSI. He opined the result of sending the rule to CSI will be a determination of whether or not the board is liable within the statute.

Dr. Schottenstein stated he is not looking for CSI to determine that question. He is curious about the public comment. He thinks the public comment will be salubrious for the board to see what its constituents have to say. Also, a CSI decision is not necessarily determinative. He asked Ms. Anderson if an association can request JCARR on their own.

Ms. Anderson shared there is a new process which the board has never used, effective August 2019. A party impacted by a board decision that did not come through a rule can petition JCARR itself. JCARR then has the ability ask the board why a rule was not created. Then JCARR could mandate the board to create a rule within six months. She reiterated it is a new process and she was unaware of any agency that had gone through it. CSI accomplishes two things. The first is an anti-trust review, which looks for an articulated state policy. They will look at the legislation during this process. If the board opens a rule, it would be sent for initial public comment, then to CSI for business impact analysis, then JCARR for filing. Given the nature of the scope of practice, to open up the rule, she anticipates the rule would go back to CSI for an anti-trust review.

Ms. Montgomery speculated the associations could use the new process and expedite the rule, which may be more efficient.

Dr. Schottenstein stated the board wants as much government oversight as feasible.

Dr. Saferin restated the history of the board's votes for this concern in June and September. He stated the board discussed it thoroughly and did not want to change its mind or open up the rule. The board felt the two procedures were a part of the scope of practice and has been so for 22 years. Hospitals have not questioned it and in the beginning the orthopedic community did not contest it. The letters indicated the board erred. He stated the board did not error and voted twice in support of its decision. He expressed concern that any time an association does not agree with the board's decision, it will have to reopen rules. He noted everything that was quoted in the letters came from the board discussion. He stated this is a turf battle and the board should stick to its original decision.

Dr. Soin reiterated the previous scope of practice question is not being asked at this time. Instead the associations are asking if the board should open the rule for public comment. Previously, they questioned if the board interpreted the rule correctly. Dr. Soin personally agreed. For the current question of opening up the rule to comment, Dr. Soin agrees that the question is answered by taking no action, because there is a comment period available.

Dr. Schottenstein added, he would like to receive comment from hospitals, ambulatory centers, etc. to give the benefit of their experiences.

Dr. Feibel asked Ms. Anderson if the board could direct CSI to review specific items.

Ms. Anderson shared CSI asked for input from the board on what is being sought for the public comment period and presumes it includes how long it should be open, who they should reach out to, what type of wording and that kind of information. She suggested maybe the board can help them with a contact list.

Ms. Montgomery moved to determine not to open the rules at this time but to work with CSI anti-trust on a public comment period and then review those comments when they come in and reassess. Mr. Giacalone seconded the motion. All in favor, the motion carried.

**ADJOURN**

The meeting adjourned at 10:17 a.m.

JS



**MEMORANDUM**

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

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Update

DATE: February 28, 2020

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Attached please find the Rule Review Schedule and Spreadsheet.

**Action Requested: No Action Needed**

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# **Legal Dept. Rules Schedule**

As of 02/28/2020

## **RULES AT CSI**

### **Comment Deadline 7/31/19**

4731-13-13

### **Comment deadline 11/22/19**

4761-8-01

4761-9-02

### **Comment Deadline 12/2/19**

4731-33-01      4731-33-02

4730-4-01      4730-4-02

### **Comment Deadline 12/20/19**

Military Rules for all license types

### **Comment Deadline 2/28/20**

4731-36-04

### **Approved to File with CSI**

4731-11-02      4731-11-03      4731-11-04

4731-11-04.1      4731-11-07      4731-11-11

4731-18 – Light Based Medical Device Rules

4731-10-CME Rules

## **RULES AT JCARR**

### **Ready To File with JCARR**

4731-11-01      4731-35-01      4761-5-01

4731-11-14      4731-35-02      4761-5-02

4761-5-04      4761-5-06      4761-6-01

4761-7-04      4761-9-01      4761-9-04

4761-9-05      4761-9-07      4761-10-03

4730 Chapters 1, 2, and 3

## **RULES FOR REVIEW 2020**

### **March**

4774-1-01 through -04

Radiologist Assistants

4731-8-01 through -06

Personal Information Systems

### **April**

4731-13-01 through -36

Hearing Rules

### **May**

4731-17-01 through -07

Exposure-Prone Invasive Procedures and Precautions

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	Notes
4730-1-01	Regulation of Physician Assistants - Definitions		06/12/19	07/16/19	11/07/19					09/30/18	09/30/23	
4730-1-05	Quality Assurance System		06/12/19	07/16/19	11/07/19					08/07/18	08/07/23	
4730-1-06	Licensure as a physician assistant	03/22/19	06/12/19	12/04/19						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	12/04/19						09/30/15	09/30/20	
4730-1-07	Miscellaneous Provisions		06/12/19	07/16/19	11/07/19					09/30/18	09/30/23	
4730-1-08	Physician assistant delegation of medical tasks and administration of drugs		06/12/19	07/16/19	11/07/19					07/31/16	07/31/21	
4730-2-01	Physician Delegated Prescriptive Authority - Definitions		06/12/19	07/16/19	11/07/19					9/30/18	09/15/19	extension granted from 3/19/19. Need another if not filed by 9-15-19
4730-2-04	Period of on-site supervision of physician-delegated prescriptive authority		06/12/19	07/16/19	11/07/19					11/30/18	11/15/23	
4730-2-05	Addition of valid prescriber number after initial licensure		06/12/19	07/16/19	11/07/19					11/30/18	11/15/23	
4730-2-06	Physician Assistant Formulary		06/12/19	07/16/19	11/07/19					06/30/14	12/27/19	extension granted from 6/30/19
4730-2-07	Standards for Prescribing		06/12/19	07/16/19	11/07/19					9/30/18	12/27/19	extension granted from 6/30/19
4730-2-10	Standards and Procedures for use of OARRS		06/12/19	07/16/19	11/07/19					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	
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	

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	Notes
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	12/04/19						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	
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	

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	Notes
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.			12/04/19						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	
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	

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	Notes
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				11/14/19					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	
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	11/14/19					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 ( <b>see note below</b> )									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	

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	Notes
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	
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	

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	Notes
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	
4731-15-05	Liability; Reporting Forms; Confidentially and Disclosure									11/17/17	11/17/22	
4731-16-01	Rules governing impaired physicians and approval of treatments programs - Definitions									11/17/17	11/17/22	
4731-16-02	General Procedures in Impairment Cases									11/17/17	11/17/22	
4731-16-04	Other Violations									11/17/17	11/17/22	
4731-16-05	Examinations									11/17/17	11/17/22	
4731-16-06	Consent Agreements and Orders for Reinstatement of Impaired Practitioners									11/17/17	11/17/22	
4731-16-07	Treatment Provider Program Obligations									11/17/17	11/17/22	
4731-16-08	Criteria for Approval									11/17/17	11/17/22	
4731-16-09	Procedures for Approval									11/17/17	11/17/22	
4731-16-10	Aftercare Contracts									11/17/17	11/17/22	
4731-16-11	Revocation, Suspension, or Denial of Certificate of Good Standing									11/17/17	11/17/22	
4731-16-12	Out-of-State Impairment Cases									11/17/17	11/17/22	
4731-16-13	Patient Consent; Revocation of Consent									11/17/17	11/17/22	
4731-16-14	Caffeine, Nicotine, and Over-The Counter Drugs									11/17/17	11/17/22	
4731-16-15	Patient Rights									11/17/17	11/17/22	
4731-16-17	Requirements for the one-bite program									01/31/19	01/31/24	
4731-16-18	Eligibility for the one-bite program									01/31/19	01/31/24	
4731-16-19	Monitoring organization for one-bite program									01/31/19	01/31/24	
4731-16-20	Treatment providers in the one-bite program									01/31/19	01/31/24	
4731-16-21	Continuing care for the one-bite program									01/31/19	01/31/24	
4731-17-01	Exposure-Prone Invasive Procedure Precautions - Definitions									12/31/16	12/31/21	
4731-17-02	Universal Precautions									11/30/16	11/30/21	
4731-17-03	Hand Washing										08/17/21	
4731-17-04	Disinfection and Sterilization									12/31/16	12/31/21	

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	Notes
4731-17-05	Handling and Disposal of Sharps and Wastes										08/17/21	
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			12/04/19						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	
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	

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	Notes
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			11/30/19	11/30/24	
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	
4731-32-04	Suspension and Revocation of Certificate to Recommend									09/08/17	09/08/22	
4731-32-05	Petition to Request Additional Qualifying Condition or Disease									09/08/17	09/08/22	
4731-33-01	Definitions	05/09/19								04/30/19	04/30/24	
4731-33-02	Standards and procedure for withdrawal management for drug or alcohol addiction	05/09/19										
4731-33-03	Office-Based Treatment for Opioid Addiction									04/30/19	04/30/24	

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	Notes
4731-33-04	Medication Assisted Treatment Using Naltrexone									04/30/19	04/30/24	
4731-34-01	Standards and Procedures to be followed by physicians when prescribing a dangerous drug that may be administered by a pharmacist by injection.									07/31/19	07/31/24	
4731-35-01	Consult Agreements	01/18/19		03/21/19	11/14/19							
4731-35-02	Standards for managing drug therapy	01/18/19		03/21/19	11/14/19							
4731-36-01	Military provisions related to education and experience requirements for licensure	03/22/19	06/12/19	12/04/19								
4731-36-02	Military provisions related to renewal of license and continuing education	03/22/19	06/12/19	12/04/19								
4731-36-03	Processing applications from service members, veterans, or spouses of service members or veterans.	03/22/19	06/12/19	12/04/19								
4731-36-04	Temporary license for military spouse	02/11/20	02/12/20	02/14/20								
4759-2-01	Definitions	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-01	Applications	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-02	Preprofessional experience	04/19/18	07/11/18	09/25/18							08/28/24	
4759-4-03	Examination	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-04	Continuing Education	08/27/19								11/30/19	11/30/24	
4759-4-08	Limited permit	8/27/19 4/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-09	License certificates and permits	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-12	<i>Consideration of military experience, education, training and term of service</i>	03/22/19	06/12/19	12/04/19						11/30/19	11/30/24	
4759-4-13	<i>Temporary license for military spouse</i>	03/22/19	06/12/19	12/04/19						11/30/19	11/30/24	
4759-5-01	Supervision of persons claiming exemption									08/28/19	08/28/24	
4759-5-02	Student practice exemption	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-5-03	Plan of treatment exemption	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-5-04	Additional nutritional activities exemption										07/01/24	
4759-5-05	Distribution of literature exemption										07/01/24	
4759-5-06	Weight control program exemption										07/01/24	
4759-6-01	Standards of practice innutrition care	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-6-02	Standards of professional performance	04/19/18	07/11/18	09/25/18							12/18/17	
4759-6-03	Interpretation of standards	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-9-01	Severability	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-11-01	Miscellaneous Provisions	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4761-2-03	Board Records									02/28/19	02/28/24	
4761-3-01	Definition of terms									02/28/19	02/28/24	
4761-4-01	Approval of educational programs									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	Notes
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			12/04/19						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	11/06/19	01/10/20					04/24/13	04/24/18	
4761-5-02	Admission to the Ohio credentialing examination	04/23/19	06/12/19	11/06/19	01/10/20					05/06/10	05/06/15	
4761-5-04	License application procedure	04/23/19	06/12/19	11/06/19	01/10/20					08/12/13	08/15/18	
4761-5-06	Respiratory care practice by polysomnographic technologists	04/23/19	06/12/19	11/06/19	01/10/20					12/31/16	12/31/17	
4761-6-01	Limited permit application procedure	04/23/19	06/12/19	11/06/19	01/10/20					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			11/06/19	01/10/20						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	12/04/19							08/15/18	
4761-9-01	Definition of respiratory care continuing education			11/06/19	01/10/20						02/28/24	
4761-9-02	General RCCE requirements and reporting mechanism	03/22/19	06/12/19	12/04/19							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			11/06/19	01/10/20						02/28/24	
4761-9-05	Approved sources of RCCE			11/06/19	01/10/20						02/28/24	
4761-9-07	Auditing for compliance with RCCE requirements			11/06/19	01/10/20						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	11/06/19	01/10/20						05/06/15	
4761-12-01	Initial application fee			12/04/19						06/04/14	05/06/15	
4761-15-01	Miscellaneous Provisions									02/28/19	02/28/24	
4762-1-01	Military Provisions Related to Certificate to Practice Acupuncture or Oriental Medicine	03/22/19	06/12/19	12/04/19						12/31/15	12/31/20	
4774-1-01	Definitions									12/31/16	12/31/21	
4774-1-02	Application for Certificate to Practice									11/30/16	11/30/21	
4774-1-02.1	Military Provisions related to Certificate to Practice as a Radiologist Assistant	03/22/19	06/12/19	12/04/19						09/30/15	09/30/20	





## Legislation Status Report

### **HB224 Nurse Anesthetists (Rep. Cross, Rep. Wilkins)**

Regarding the practice of certified nurse anesthetists.

**ORC Sections:** Am. 4723.43, 4729.01, and 4761.17 of the Revised Code and to amend the version of section 4729.01 of the Revised Code that is scheduled to take effect March 22, 2020

#### ***Bill Summary***

- With supervision and in the immediate presence of a physician, podiatrist, or dentist, a certified nurse anesthetist may administer anesthesia and perform anesthesia induction, maintenance, and emergence.
- With supervision, a certified nurse anesthetist may obtain informed consent for anesthesia care and perform preanesthetic preparation and evaluation, postanesthetic preparation and evaluation, post-anesthesia care, and clinical support functions.

**Status: 03/04/2020 Senate Health, Human Services and Medicaid, (Third Hearing)**

**Medical Board position:** None taken

**Medical Board staff communications to legislature:** None

### **HB263 Occupational Licensing – Criminal Convictions (Rep. Koehler)**

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

#### ***Bill 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.”
-

**Status:** 12/11/2019 02/05/2020 REPORTED OUT AS AMENDED

**Amendment:** An Legislative Service Commission (LSC) staffer explained the amendment which includes some reporting requirements for the licensing boards to the Department of Administrative Services (DAS) regarding, among other data, information about the number of licenses granted and denied; a list of criminal offenses reported by individuals who were granted a license and a list for those denied. The amendment also gives the licensing boards the authority to consider past disciplinary action against the individual by them or by boards in other states.

- The amendment also reduces the "look back" period from 10 to five years.
- Policy Matters Ohio, the ACLU gave proponent testimony and the Buckeye Institute gave interested party testimony.
- Medical Board staff collaborated with the Ohio Board of Pharmacy, Nursing Board, Chiropractic Board, Dental Board, and the Veterinary Medical Licensing Board to draft an amendment to Representative Koehler's office to address joint concerns.
- The bill sponsor rejected the multi-board recommendations.

**See separate briefing memo to board.**

### **HB341 Addiction Treatment Drugs (Rep. Ginter)**

Regarding the administration of drugs for addiction treatment.

**ORC Sections:** 4723.52, 4729.45, 4729.553, 4730.56, 4731.83

#### ***BILL 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.

**Status:** 02/12/2020 **PASSED BY HOUSE; Vote 96-0**

**Amendment:** Two amendments offered and accepted. AM1449x1 would remove silos to allow better sharing of information and limited access by federal agencies. AM1604 would replace certain language regarding addiction treatment drugs for consistency.

**Medical Board position:** None taken

**Medical Board staff communications to legislature:** None

### **HB374 Massage Therapy License (Rep. Plummer, Rep. Manchester)**

To make changes to the massage therapy licensing law.

**ORC Sections:** 2927.17, 4731.04, 4731.15, 4731.41, 503.40, 503.41, 503.411, 503.42, 503.43, 503.44, 503.45, 503.46, 503.47, 503.48, 503.49, 503.50, 715.61

#### ***Bill Summary***

- Standardizes, for purposes of regulation by the State Medical Board, townships, and municipal corporations, terminology regarding massage therapy and individuals authorized to perform massage therapy.
- As part of that standardization:
  - Eliminates a township's authority to issue licenses to individuals who perform massage therapy;
  - Requires that if a township opts to regulate massage establishments, the regulations must require all massage therapy to be performed only by specified state-licensed professionals or massage therapy students;
  - Purports to require a municipal corporation that opts to regulate massage establishments to require all massage therapy to be performed by a state-licensed professional or a student, similar to township regulation.
- Regarding a township's authority to regulate massage establishments, eliminates a permit requirement and otherwise modifies permit application procedures.

**Status:** 12/11/2019 House Commerce and Labor, (First Hearing, Sponsor testimony given)

**Medical Board position:** None taken

**Medical Board staff communications to legislature:** None

### **HB388 Regarding Out-Of-Network Care (Rep. Holmes)**

Regarding out-of-network care.

**ORC Sections:** 3902.50, 3902.51, 3902.52

#### ***Bill Summary***

- Requires an insurer to reimburse an out-of-network provider for unanticipated out-of-network care provided at an in-network facility.
- Requires an insurer to reimburse an out-of-network provider or emergency facility for emergency services provided at an out-of-network emergency facility.

- Prohibits a provider from balance billing a patient for unanticipated or emergency care as described above when that care is provided in Ohio. Establishes negotiation and arbitration
- procedures for disputes between providers and insurers regarding unanticipated or emergency out-of-network care.
- Requires a provider to disclose certain information to patients regarding the cost of other out-of-network services.

**Status:** 12/12/2019 House Finance, (Fifth Hearing)

**Medical Board position:** None taken

**Medical Board staff communications to legislature:** None

### **HB432 Occupational License Reciprocity (Rep. Powell, Rep. Lang)**

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.

**Status:** 1/29/2020 - House State and Local Government, (Second Hearing)

**See separate briefing memo to board.**

### **HB455 Surgical Assistants (Rep. Smith, Rep. Kelly)**

To regulate the practice of surgical assistants.

**ORC Sections:** 4731.07, 4731.071, 4731.10, 4785.01, 4785.02, 4785.03, 4785.04, 4785.05, 4785.06, 4785.07

#### ***Bill Summary***

- Creates a registration with the State Medical Board of Ohio for surgical assistants
- A surgical assistant must meet the following requirements:
  - Is at least eighteen years of age;
  - Has attained a high school degree or equivalent;
  - Is credentialed as a surgical assistant by the national board of surgical technology and surgical assisting or national commission for certification of surgical assistants.
- An applicant is eligible for a registration if:
  - The applicant practiced as a surgical assistant at a hospital or ambulatory surgical facility located in this state during any part of the six months that preceded the effective date of the bill;
  - The applicant successfully completed a training program for surgical assistants operated by a branch of the United States armed forces.

- If the state medical board determines that an applicant meets the requirements for a registration to practice as a surgical assistant, the secretary board shall issue the registration to the applicant.
- The registration shall be valid for a two-year period unless revoked or suspended, shall expire on the date that is two years after the date of issuance, and may be renewed for additional two-year periods.
- An individual who holds a current, valid registration to practice as a surgical assistant may assist a physician in the performance of surgical procedures by engaging in one or more of the following activities:
  - Providing exposure; Maintaining hemostasis; Performing one or more of the following tasks: Making incisions; Closing or suturing surgical sites; Manipulating or removing tissue; Implanting surgical devices or drains; Suctioning surgical sites; Placing catheters; Clamping or cauterizing vessels or tissues; Applying dressings to surgical sites; Injecting or administering anesthetics; Any other tasks as directed by the physician.
- An individual may practice as a surgical assistant without holding a current, valid registration if all of the following apply:
  - The hospital or ambulatory surgical facility at which the individual practices or intends to practice has submitted to the state medical board, on behalf of its current and prospective employees, an application for a waiver from the requirement that surgical assistants be registered with the board;
  - As part of the application, the hospital or facility submits evidence that it is located in an area of the state that experiences special health problems and physician practice patterns that limit access to surgical care;
  - After receiving and reviewing the application, the board grants to the hospital's or facility's employees a waiver from the registration requirements;
  - If the individual practices only at a hospital or ambulatory surgical facility that has been granted a waiver.
- The state medical board shall adopt rules establishing standards and procedures for the regulation of surgical assistants and shall do all of the following:
  - Establish application procedures and fees for the registration of surgical assistants; Establish registration renewal procedures and fees; Specify the reasons for which the board may refuse to issue or renew, suspend, or revoke a registration; Establish procedures for waiver applications submitted.
- The board may adopt any other rules it considers necessary. The rules may require applicants for registration or renewal to complete criminal records checks and continuing education hours.

**Status: 01/28/2020 Referred to Health Committee**

**Medical Board position:** None taken

**Medical Board staff communications to legislature:** None

## **HB486 Define Crime/Civil Action – Assisted Reproduction (Rep. Powell)**

To create the crime of fraudulent assisted reproduction and civil actions for an assisted reproduction procedure without consent.

**ORC Sections:** 2901.13, 2305.117, 2907.13, 4731.86, 4731.87, 4731.871, 4731.88, 4731.881, 4731.89, 4731.90

### ***Bill Summary***

- An action for an assisted reproduction procedure performed without consent shall be brought within ten years after the procedure was performed.
- An action that would otherwise be barred may be brought not later than five years after the earliest date that any of the following occurs:
  - 1) The discovery of evidence based on deoxyribonucleic acid analysis sufficient to bring the action against the health care professional.
  - 2) The discovery of a recording providing evidence sufficient to bring the action against the health care professional.
  - 3) The health care professional confesses.
- Adds that a prosecution shall be barred unless it is commenced within the following periods after an offense is committed when a prosecution of a violation of section 2907.13 of the Revised Code shall be barred unless it is commenced within ten years after the offense is committed.
- No health care professional shall purposely or knowingly use 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 the material from that donor.
- Whoever violates is guilty of fraudulent assisted reproduction, a felony of the third degree.

**Status: 02/04/2020 Referred to Criminal Justice Committee**

**Medical Board position:** None taken

## **HB492 Physician Assistants (Rep. Wiggam, Rep. Miller)**

To Modify the laws regarding physician assistants.

**ORC Sections:** 1.64, 2108.61, 2133.211, 3701.351, 3727.06, 4730.02, 4730.03, 4730.04, 4730.05, 4730.06, 4730.07, 4730.08, 4730.11, 4730.14, 4730.19, 4730.20, 4730.201, 4730.203, 4730.21, 4730.22, 4730.25, 4730.26, 4730.32, 4730.41, 4730.411, 4730.42, 4731.22, 4761.17, 4773.02, 5122.01, 5122.10; 4730.204; and to repeal sections 4730.111 and 4730.44

## **Bill Summary:**

- Decouples national accreditation from licensure.
- Renames the PA/physician “supervision agreement” to “collaborative agreement” to more accurately represent the relationship between practitioners.
- Eliminates physician liability for the actions of a physician assistant.
- Allows a physician assistant to “pink-slip” a patient.
- Allows physician assistant’s to perform fluoroscopy.
- Permits a physician assistant to perform rapid intubation and procedural sedation, order rapid intubation and procedural sedation, and order drugs needed to perform rapid intubation and procedural sedation in a health care facility.
- Other technical corrections.

**Status:** 02/11/2020 Referred to Health Committee

**Medical Board position:** None taken.

**Medical Board staff communications to legislature:** None taken at this time.

## **SB61 Nurse Anesthetists (Sen. Burke)**

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

**ORC Sections:** 4723.43, 4729.01, 4761.17, 4723.433, 4723.434, 4723.435

### ***Bill Summary***

- With supervision and in the immediate presence of a physician, podiatrist, or dentist, a certified nurse anesthetist may administer anesthesia and perform anesthesia induction, maintenance, and emergence.
- With supervision, a certified nurse anesthetist may obtain informed consent for anesthesia care and perform preanesthetic preparation and evaluation, postanesthetic preparation and evaluation, post-anesthesia care, and clinical support functions.

**Status:** 01/22/2020 **SUBSTITUTE BILL ACCEPTED**

## **SB105 Massage Therapy Licensing (Sen. Brenner)**

To make changes to the massage therapy licensing law.

**ORC Sections:** 2927.17, 4731.04, 4731.15, 4731.41, 503.40, 503.41, 503.411, 503.42, 503.43, 503.44, 503.45, 503.46, 503.47, 503.48, 503.49, 503.50, 715.61

### ***BILL SUMMARY***

- Standardizes, for purposes of regulation by the State Medical Board, townships, and municipal corporations, terminology regarding massage therapy and individuals authorized to perform massage therapy.
- As part of that standardization:
  - Eliminates a township's authority to issue licenses to individuals who perform massage therapy;
  - Requires that if a township opts to regulate massage establishments, the regulations must require all massage therapy to be performed only by specified state-licensed professionals or massage therapy students;
  - Purports to require a municipal corporation that opts to regulate massage establishments to require all massage therapy to be performed by a state-licensed professional or a student, similar to township regulation;
- Regarding a township's authority to regulate massage establishments, eliminates a permit requirement and otherwise modifies permit application procedures.

**Status:** 09/18/2019 Senate Health, Human Services and Medicaid, (Second Hearing)

**Medical Board position:** None taken.

**Medical Board staff communications to legislature:**

- Reviewed legislative drafts.
- Advised Senator Brenner on the effects of the legislation on Massage Therapy regulation and licensure.

### **SB178 Podiatrists (Sen. Schuring)**

Regarding the authority of podiatrists to administer influenza vaccinations

**ORC Sections:** 4731.512

#### ***Bill Summary***

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

**Status:** PASSED BY SENATE; Vote 31-0

**Medical Board position:** None taken

**Medical Board staff communications to legislature:** None

## **SB246 Occupational License Reciprocity (Sen. Roegner, McColley) Companion HB432**

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.

**Status:** 02/19/2020 Senate General Government and Agency Review , (Fifth Hearing)

**See separate briefing memo to Board on companion bill HB 432.**



## MEMORANDUM

TO: Dr. Soin, Chair, Policy Committee  
Members, Policy Committee

FROM: Jonithon LaCross, Legislative Liaison

RE: State Medical Board of Ohio- Senate Bill 246 (Occupational Licensing)

DATE: March 6, 2020

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The State Medical Board of Ohio staff, in regard to Senate Bill 246 (Occupational Licensing), has drafted a brief summary of concerns and talking points. Board staff will be using the following as a leave behind for meetings regarding SB246:

### Concern

SB 246, as written, will not permit the State Medical Board of Ohio to apply its current rigorous standards for education, competence and ethics to those requesting a reciprocal license.

### February 2020 example of concern

A license was requested by an out of state M.D., who is a foreign medical graduate from Germany. He is licensed in two other states: State A and State B. The applicant only listed State B on his application; Ohio board staff discovered the license in State A.

**Concerns with the applicant's eligibility:** To be eligible for a license in Ohio, the applicant needs to meet the following requirements:

- **ECFMG certification:** The applicant **is not** ECFMG certified
- **Two years of accredited post-graduate training** in the U.S. or Canada: the applicant reports **no post-graduate training**
- **An acceptable examination sequence:** The applicant **has not passed** the USMLE or any other board-recognized licensing examination.

### **Concerns with the applicant's background:**

- The applicant reported a malpractice event that resulted in death and paid out \$500,000.
  - Ohio board staff conducted a google search and learned the applicant settled for a fine of \$150,000, for fraudulently billing State A's Medicaid program. The applicant did NOT report this.
  - Neither State A nor State B show a history of discipline.
-

**Under SB246, this individual would likely be granted a license.** He could have used his license in State B for reciprocity.

**State Medical Board of Ohio vetting process**

Potential issues that may be noted on an application or discovered during the board's vetting process (some of which that would not be revealed in a traditional background check), but are not covered in SB 246, include:

- Investigations or disciplinary actions taken by licensing boards in other jurisdictions
- Clinical privileges actions taken by hospitals
- Actions taken by the DEA or other federal agencies
- Actions by certifying bodies
- Discipline by, or dismissal from, an education or training program
- Terminations from employment
- History of substance abuse
- Physical or mental conditions that may impair the ability to practice safely
- Criminal offenses
- Malpractice history
- Fitness to practice due to absence from active practice or education

Other states will not or cannot share their confidential investigative information with us while an investigation is still under development. Therefore, if an applicant is under investigation in another state, he or she may attempt to secure a license in Ohio prior to the action being taken in the prior state.

**State Medical Board of Ohio Position**

The State Medical board of Ohio cannot support SB 246 in its current form. We believe we need the ability to vet reciprocity licenses with the current standards and processes used for Ohio licenses.

The following language is taken directly from SB246. Board staff changes include:

Strikethrough: staff deletion

Bold language: staff addition

Revised Code be enacted to read as follows:

**Sec. 9.79.** (A) As used in this section:

(1) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing authority to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing authority has jurisdiction.

(2) "Licensing authority" means a state agency or political subdivision that issues licenses or government certifications.

(3) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(4) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(5) "Out-of-state occupational license" means a license, certificate, registration, permit, card, or other authority that is issued or conferred by the government of another state to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which that state has jurisdiction.

(6) (a) "Government certification" means authorization from a licensing authority or the government of another state to an individual who meets qualifications related to a profession, occupation, or occupational activity to which both of the following apply:

(i) Only an individual holding the authorization may use a specific title or titles when advertising or holding the individual's self out to engage in the profession, occupation, or occupational activity.

(ii) An individual is not required to have the authorization to engage in the profession, occupation, or occupational activity in the respective jurisdiction.

(b) "Government certification" does not include a license or an out-of-state occupational license.

(7) "Private certification" means authorization from a private organization to an individual who meets qualifications determined by the organization related to the performance of a profession, occupation, or occupational activity and by which the individual may hold the individual's self out as certified by the organization.

(B) Except as otherwise provided in this section, a licensing authority shall issue a license or government certification to an applicant if the licensing authority determines that all of the following apply:

(1) The applicant holds either of the following:

(a) An out-of-state occupational license that authorizes the applicant to engage in the same profession, occupation, or occupational activity, and at the same practice level, as the license or government certification for which the applicant is applying in this state;

(b) A government certification in the same profession, occupation, or occupational activity as the license or government certification for which the applicant is applying in this state in a state that does not issue an out-of-state

occupational license for the respective profession, occupation, or occupational activity.

(2) The applicant has held the out-of-state occupational license or government certification for at least ~~one~~ **two** years **immediately preceding the application** and is in good standing in all jurisdictions in which the applicant holds an out-of-state occupational license or government certification to practice the same profession, occupation, or occupational activity for which the applicant is applying in this state.

(3) The applicant was required to satisfy minimum education, training, or experience requirements or pass an examination to receive the out-of-state occupational license or government certification.

~~(4) The applicant has not surrendered or had revoked a license, out-of-state occupational license, or government certification because of negligence or intentional misconduct related to the applicant's work in the same profession, occupation, or occupational activity for which the applicant is applying in this state.~~

(5) The applicant pays a fee equal to the renewal fee required for license or government certification holders under the applicable law to the licensing authority.

~~(6) The applicant is not disqualified from obtaining the license or government certification because of a conviction, judicial finding of guilt, or plea of guilty to a disqualifying criminal offense specified on the list the licensing authority makes available pursuant to division (C) of section 9.78 of the Revised Code.~~

(C) Except as otherwise provided in this section, a

licensing authority shall issue a license or government certification to an applicant if the licensing authority determines that all of the following apply:

(1) The applicant holds a private certification and ~~has for~~ at least two years **immediately preceding the application** ~~of~~ has work experience in the same profession, occupation, or occupational activity, and at the same practice level, as the license or government certification for which the applicant is applying in this state in a state that does not issue an out-of-state occupational license or government certification for the respective profession, occupation, or occupational activity.

(2) The applicant is in good standing with the private organization that issued the private certification.

(3) ~~The applicant meets the requirements specified under divisions (B) (4) to (6) of this section.~~ The applicant pays a fee equal to the renewal fee required for license or government certification holders under the applicable law to the licensing authority.

(D) Except as otherwise provided in this section, a licensing authority shall issue a license or government certification to an applicant if the licensing authority determines that both of the following apply:

(1) The applicant has **work experience for** at least three years **immediately preceding the application** ~~of work experience~~ in the same profession, occupation, or occupational activity, and at the same practice level, as the license or government certification for which the applicant is applying in this state in a state that does not issue an out-of-state occupational license or government certification for the respective profession, occupation, or occupational activity.

(2) ~~The applicant meets the requirements under divisions (B) (4) to (6) of this section.~~ The applicant pays a fee equal

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to the renewal fee required for license or government certification holders under the applicable law to the licensing authority.

(E) Except for any provisions of law applicable to minimum education, training, experience, or examination requirements, an application for a license or government certification under this section shall be considered an application submitted under the laws regulating the practice of the applicable occupation or profession in this state as follows:

(1) To the extent permitted by applicable law, a licensing authority may take disciplinary actions against an applicant, including but not limited to, refusing to issue a license or government certification, limiting the license or government certification, and reprimanding or placing on probation the applicant of a license or government certification.

(2) To the extent permitted by applicable law, the licensing authority may determine the fitness to practice of an applicant who has not been engaged in the practice of the occupation or profession for more than two years. Before issuing a license or government certification to such applicant, the licensing authority may impose terms and conditions on the applicant as necessary.

(F) If an applicant is the subject of a complaint,

allegation, or investigation that relates to unprofessional conduct, a violation of a licensing or disciplinary statute or an alleged crime pending before a court, administrative agency, or entity that regulates a license, out-of-state occupational license, or government certification, a licensing authority shall not issue or deny a license or government certification to the applicant under this section until the complaint, allegation, or investigation is resolved to the satisfaction of the licensing authority.

(G) If a licensing authority requires an applicant to pass an examination on this state's laws and rules governing the applicable profession, occupation, or occupational activity to receive a license or government certification under the applicable law, a licensing authority may require an applicant to pass the examination to receive a license or government certification under this section.

(H) If a licensing authority requires an applicant under the law governing the applicable profession, occupation, or occupational activity to submit to a criminal records check to receive a license or government certification, the licensing authority shall require an applicant to submit to the criminal records check to receive a license or government certification under this section.

(I) If a licensing authority requires an applicant under the law governing the applicable profession, occupation, or occupational activity to satisfy a financial responsibility requirement to receive a license or government certification, the licensing authority shall require an applicant to satisfy the requirement to receive a license or government certification under this section.

(J) An applicant who is issued a license or government certification under this section is subject to the laws

regulating the practice of the applicable occupation or profession in this state and is subject to the licensing authority's jurisdiction.

(K) A license or government certification issued under this section shall be considered a license or government certification issued under the laws regulating the practice of the applicable occupation or profession in this state. Provisions of law applicable to a license or government certification issued to an applicant who does not obtain a license or government certification under this section apply in the same manner to licenses and government certifications issued under this section.

(L) This section does not apply to any of the following:

(1) Licenses subject to the moratorium under section 3743.75 of the Revised Code;

(2) Medical marijuana cultivator licenses issued under section 3796.09 of the Revised Code;

(3) Medical marijuana retail dispensary licenses issued under section 3796.10 of the Revised Code;

(4) Licenses issued pursuant to rules prescribed under Section 5 of Article IV, Ohio Constitution;

(5) Commercial fishing licenses issued under section 1533.342 of the Revised Code;

(6) Licenses issued under Chapter 4506. of the Revised Code.

(M) Each licensing authority shall adopt rules as necessary to implement this section.

(N) A licensing authority shall provide an applicant under this section with a written decision to issue the license or government certification or reject a written notification of its intent to take action on the application for a license or government certification under Chapter 119. of the Revised Code-  
a license or government certification under this section within sixty days after receiving a complete application. For purposes of this division, an application shall not be considered complete until any required examination or criminal records check under divisions ~~(F)~~ (G) and ~~(G)~~ (H) of this section is complete and until a complaint, allegation, or investigation under division (F) is resolved to the satisfaction of the licensing authority.

(O) A political subdivision shall not prohibit an individual who holds a license or government certification issued by a state agency under this section from engaging in the respective profession, occupation, or occupational activity in the political subdivision's jurisdiction.



**MEMORANDUM**

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

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Radiologist Assistant Rules-Initial Circulation

DATE: February 28, 2020

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The rules in Chapter 4774-1 related to licensure of radiologist assistants are due for the five-year rules review in September 2020, November and December 2021. Rule 4774-1-02.1 related to military provisions is already before CSI for rescission, as part of the rule package that consolidates all of the military rules into one rule chapter, 4731-36, OAC.

The proposed changes are attached for your review:

- 4774-1-01 Definitions: No changes proposed.
- 4774-1-02 Application for a certificate to practice: Changes to align with licensure rules for other license types.
- 4774-1-02.1 Military provisions related to certificate to practice as a radiologist assistant: This rule is currently pending with CSI for rescission, as part of the rule package that consolidates all of the military rules into one chapter, 4731-36, OAC.
- 4774-1-03 Renewal of a certificate to practice: Proposed to be rescinded. Most provisions are repetitive of the statute and have been consolidated into 4774-1-02, OAC.
- 4774-1-04 Miscellaneous provisions: No changes proposed.

**Action Requested: Circulate draft proposed rules for initial review by stakeholders.**

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## Chapter 4774-1 Radiologist Assistants Certification

### 4774-1-01 Definitions.

(A) "Board" means the state medical board of Ohio.

(B) For purposes of Chapter 4774. of the Revised Code, the following definitions apply:

(1) "General Anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory functions is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(2) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(3) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from a pain stimulus is not a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained.

(4) "Minimal sedation" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected. Sedation achieved through intravenous administration of drugs is not a form of minimal sedation.

Effective: 12/31/2016

Five Year Review (FYR) Dates: 08/16/2016 and 12/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4 774.11](#)

Prior Effective Dates: 2/28/09

### 4774-1-02 Application for a certificate to practice.

(A) An applicant for an initial ~~certificate-license~~ to practice or ~~renewal or restoration of a a restored certificate license~~ to practice as a radiologist assistant shall file an application under oath in the manner ~~provided in section 4774.02 of the Revised Code~~ determined by the Board, and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board.

(B) ~~No application shall be considered filed, and shall not be reviewed, until the non-refundable application fee of two hundred dollars has been received by the board. No application for an initial license to practice as a radiologist assistant, or for restoration of a license to practice as a radiologist assistant, submitted to the board shall be considered complete until the applicant has complied with the requirements of paragraph (A) of rule 4731-4-02 of the Administrative Code and the board has received the results of the criminal records checks.~~

(C) ~~All application materials submitted to the board by applicants may be thoroughly investigated. The board may contact individuals, agencies, or organizations for recommendations or other information about applicants as the board deems necessary. Applicants may be requested to appear before the board or a representative thereof as part of the application process. The board reserves the right to thoroughly investigate all materials submitted as part of an application. The board may contact individuals, agencies, or organizations for recommendations or other information about applicants as the board deems necessary. Applicants may be~~

requested to appear before the board or a representative thereof as part of the application process.

(1)

(D) If an applicant fails to complete the application process within six months of application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application. If the application is not complete within six months of the date the application is filed with the board because required information, facts, or other materials have not been received by the board, the board may notify the applicant by certified mail that it intends to consider the application abandoned if the application is not completed.

(1) The written notice shall:

(a) Specifically identify the information, facts, or other materials required to complete the application; and

(b) Inform the applicant that the information, facts, or other materials must be received by the deadline date specified; that if the application remains incomplete at the close of business on the deadline date the application may be deemed to be abandoned and no further review of the application will occur; and that if the application is abandoned the submitted fees shall neither be refundable or transferrable to a subsequent application.

(2) If all of the information, facts, or other materials are received by the board by the deadline date and the application is deemed to be complete, the board shall process the application and may require updated information as it deems necessary.

(E) If the application process extends for a period longer than six months, the board may require updated information as it deems necessary.

(F) No application being investigated under section 4774.13 of the Revised Code, may be withdrawn without approval of the board.

(G) Application fees are not refundable.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.03](#), [4774.031](#), [4774.04](#), [4774.11](#)

Prior Effective Dates: 2/28/09

#### **4774-1-04 Miscellaneous provisions.**

For purposes of Chapter 4774. of the Revised Code and rules promulgated there under:

(A) An adjudication hearing held pursuant to the provisions of Chapter 119. of the Revised Code shall be conducted in conformance with the provisions of Chapter 4731-13 of the Administrative Code.

(B) The provisions of Chapters 4731-13, 4731-14, 4731-15, 4731-16, 4731-17, 4731-19, 4731-26, and 4731-28 of the Administrative Code are applicable to the holder of a certificate to practice as a radiologist assistant issued pursuant to Chapter 4774. of the Revised Code, as though fully set forth in Chapter 4774-01 or 4774-02 of the Administrative Code.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.11](#), [4774.13](#), [4774.14](#)

Prior Effective Dates: 2/28/09

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**MEMORANDUM**

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

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Personal Information System Rules-Initial Circulation

DATE: February 28, 2020

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The rules in Chapter 4731-8, OAC regarding personal information systems are due for the five-year rule review on 4/21/21. The rules as they currently exist are attached for your review.

Rule 4731-8-01 Personal Information Systems

Rule 4731-8-02 Definitions

Rule 4731-8-03 Procedures for accessing confidential personal information

Rule 4731-8-04 Valid reasons for accessing confidential personal information

Rule 4731-8-05 Confidentiality statutes

Rule 4731-8-06 Restricting and logging access to confidential personal information in computerized personal information systems

**Action Requested: Circulate proposed rules for initial review by stakeholders.**

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## Chapter 4731-8 Personal Information Systems

### 4731-8-01 Personal information systems.

(A) All personal information systems of the state medical board shall be maintained in accordance with chapter 1347. of the Revised Code.

(B) The executive director of the state medical board shall designate one or more persons to be directly responsible for the personal information systems maintained by the State Medical Board;

(C) An employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unauthorized use of information contained in the Medical Board's personal information systems shall be disciplined at the discretion of the executive director and in a manner which he or she deems appropriate.

(D) If personal information contained in the Medical Board's personal information systems is not accurate, relevant, timely, and complete, this fact shall be directed to the attention of the executive director's designee(s), who shall take such action as he is deemed appropriate concerning the information system in order to assure fairness in any determination made with respect to the person on the basis of the information.

(E) The state medical board shall collect only personal information that is necessary and relevant to the functions that the board is required to perform by statute, ordinance, code, or rule. The executive director's designee(s) shall eliminate personal information from the system when he determines it is determined that the information is no longer necessary and relevant to those functions.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1347.05](#) ; [4731.05](#)

Rule Amplifies: Chapter 1347

Prior Effective Dates: 06/30/05

### 4731-8-02 Definitions.

For the purposes of administrative rules promulgated in accordance with section [1347.15](#) of the Revised Code, the following definitions apply:

(A) "Access" as a noun means an instance of copying, viewing, or otherwise perceiving whereas "access" as a verb means to copy, view, or otherwise perceive.

(B) "Acquisition of a new computer system" means the purchase of a "computer system," as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the board rule addressing requirements in section [1347.15](#) of the Revised Code.

(C) "Computer system" means a "system," as defined by section [1347.01](#) of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.

(D) "Confidential personal information" has the meaning as defined by division (A)(1) of section [1347.15](#) of the Revised Code and identified by rules promulgated by the board in accordance with division (B)(3) of section [1347.15](#) of the Revised Code that reference the federal or state statutes or administrative rules that make personal information maintained by the board confidential.

(E) "Employee" means each employee of the board regardless of whether he/she holds an elected or appointed office or position within the board. "Employee" is limited to the specific employing state agency.

(F) "Incidental contact" means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.

- (G) "Individual" means a natural person or the natural person's authorized representative, legal counsel, legal custodian, or legal guardian.
- (H) "Information owner" means the individual appointed in accordance with division (A) of section [1347.05](#) of the Revised Code to be directly responsible for a system.
- (I) "Person" means a natural person.
- (J) "Personal information" has the same meaning as defined in division (E) of section [1347.01](#) of the Revised Code.
- (K) "Personal information system" means a "system" that "maintains" "personal information" as those terms are defined in section [1347.01](#) of the Revised Code. "System" includes manual and computer systems.
- (L) "Research" means a methodical investigation into a subject.
- (M) "Routine" means commonplace, regular, habitual, or ordinary.
- (N) "Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person" as that phrase is used in division (F) of section [1347.01](#) of the Revised Code means personal information relating to employees and maintained by the board for internal administrative and human resource purposes.
- (O) "System" has the same meaning as defined by division (F) of section [1347.01](#) of the Revised Code.
- (P) "Upgrade" means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.
- (Q) "Board" means the "State Medical Board of Ohio."
- (R) "Secretary" means the member of the board who is elected under section [4731.02](#) of the Revised Code to serve as the secretary or a member of the board who is appointed by the board president to act on a temporary basis in lieu of the elected secretary.
- (S) "Supervising Member" means the member of the board who is elected under section [4731.02](#) of the Revised Code to serve as supervising member or a member of the board appointed by the board president to act on a temporary basis in lieu of the elected supervising member.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1347.15](#); [4731.05](#)

Rule Amplifies: [1347.15](#)

Prior Effective Dates: 12/31/10

### **[4731-8-03 Procedures for accessing confidential personal information.](#)**

For personal information systems, whether manual or computer systems, that contain confidential personal information, the board shall do the following:

- (A) Establish criteria for accessing confidential personal information. Personal information systems of the board are managed on a "need-to-know" basis whereby the information owner determines the level of access required for an employee of the board to fulfill his/her job duties. The determination of access to confidential personal information shall be approved by the employee's supervisor and the information owner prior to providing the employee with access to confidential personal information within a personal information system. The board shall establish procedures for determining a revision to an employee's access to confidential personal information upon

a change to that employee's job duties including, but not limited to, transfer or termination. Whenever an employee's job duties no longer require access to confidential personal information in a personal information system, the employee's access to confidential personal information shall be removed.

(B) Respond to an individual's request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information about the individual maintained by the board, the board shall do all of the following:

(1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;

(2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and

(3) Inform the individual that the board has no confidential personal information about the individual that is responsive to the individual's request if all information maintained by the board relates to an investigation about that individual.

(C) Notify an individual whose confidential personal information maintained by the board is accessed for an invalid reason.

(1) Upon discovery or notification that confidential personal information of an individual has been accessed by an employee for an invalid reason, the board shall notify the individual whose information was invalidly accessed as soon as practical and to the extent known at the time. However, the board shall not notify the individual if the information is possessed and maintained pursuant to division (F)(5) of section [4731.22](#) of the Revised Code.

(a) The board shall delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation of invalid access or jeopardize homeland or national security.

(b) The board may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals' confidential personal information invalidly was accessed, and to restore the reasonable integrity of the manual or computer system that contains the confidential personal information that was invalidly accessed.

(2) Notification provided by the board shall inform the individual of the type of confidential personal information accessed and, if known, the date(s) of the invalid access.

(3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.

(D) Appoint a data privacy point of contact. The executive director of the board shall designate an employee of the board to serve as the data privacy point of contact. The data privacy point of contact shall work with the chief privacy officer within the state of Ohio's office of information technology to assist the board with both the implementation of privacy protections for the confidential personal information that the board maintains and compliance with section [1347.15](#) of the Revised Code and the rules adopted pursuant to the authority provided by that chapter.

(E) Complete a privacy impact assessment. The data privacy point of contact for the board shall timely complete the privacy impact assessment form developed by the office of information technology.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1347.15](#)

Rule Amplifies: [1347.15](#)

Prior Effective Dates: 12/31/10.

**4731-8-04 Valid reasons for accessing confidential person information.**

Pursuant to the requirements of division (B)(2) of section [1347.15](#) of the Revised Code, this rule contains a list of valid reasons, directly related to the board's exercise of its powers or duties, for which only employees of the board may access confidential personal information regardless of whether the personal information system is a manual system or computer system:

- (A) Responding to a public records request;
- (B) Responding to a request from an individual for the list of confidential personal information the board maintains on that individual;
- (C) Administering a constitutional provision or duty;
- (D) Administering a statutory provision or duty;
- (E) Administering an administrative rule provision or duty;
- (F) Complying with any state or federal program requirements;
- (G) Processing or payment of invoices and other financial activities;
- (H) Auditing purposes;
- (I) Licensure, renewal, or verification of licensure processes;
- (J) Investigation or law enforcement purposes;
- (K) Administrative hearings or evidentiary review by a hearing examiner;
- (L) Litigation, complying with an order of the court, or subpoena;
- (M) Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approvals/issues, payroll, Federal Medical Leave Act issues, disability issues, employee assistance program issues);
- (N) Complying with an executive order or policy;
- (O) Complying with a board policy or resolution, or with a state administrative policy or directive issued by the department of administrative services, the office of budget and management or other similar state board;
- (P) Complying with a collective bargaining agreement provision;
- (Q) Administering a board program;
- (R) Facilitating operational efficiencies or responding to complaints about the board's investigative, monitoring, or licensure processes; or
- (S) Maintaining data systems or performing information technology responsibilities.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1347.15](#)

Rule Amplifies: [1347.15](#)

Prior Effective Dates: 12/31/10

**4731-8-05 Confidentiality statutes.**

With regard to confidential personal information maintained by the board, the following federal statutes or regulations or state statutes and administrative rules make the personal information confidential:

(A) Social security numbers of applicants, licensees, and board employees: 5 U.S.C. 552a., unless the individual was told that the number would be disclosed.

(B) "Bureau of Criminal Investigation and Information" criminal records check results: section [4776.04](#) of the Revised Code.

(C) Complaints, the names of complainants and patients, and information received in an investigation, including any medical records of the subject of the complaint: division (F) of section [4730.26](#), division (F) of section [4731.22](#), division (E) of section [4760.14](#), division (E) of section [4762.14](#), and division (E) of section [4774.14](#) of the Revised Code.

(D) Medical malpractice payouts reported by a professional liability insurer: division (F) of section [4730.32](#), division (F) of section [4731.224](#), division (F) of section [4760.16](#), division (F) of section [4762.16](#), and division (F) of section [4774.16](#) of the Revised Code.

(E) Formal disciplinary action reported by a health care facility: division (F) of section [4730.32](#), division (F) of section [4731.224](#), division (F) of section [4760.16](#), division (F) of section [4762.16](#), and division (F) of section [4774.16](#) of the Revised Code.

(F) A belief that a violation of law has occurred when reported by a licensee or professional society of licensees: division (F) of section [4730.32](#), division (F) of section [4731.224](#), division (F) of section [4760.16](#), division (F) of section [4762.16](#), and division (F) of section [4774.16](#) of the Revised Code.

(G) Medical records of board employees or their family members: "Family Medical Leave Act of 1993," Pub. L. No. 103-3; 29 U.S.C. Sec. 260 as implemented in 29 C.F.R. 825.500; Section I of the "Americans with Disabilities Act of 1990," 42 U.S.C. Sec. 12112(d).

(H) Employee assistance program records: section [124.88](#) of the Revised Code.

(I) Alcohol and drug treatment records: 42 CFR Part 2; 42 U.S.C. 290dd-3.

(J) "Federal Bureau of Investigation" criminal records check results: section [4776.04](#) of the Revised Code; 28 CFR 20.33(d).

(K) "National Practitioner Data Bank" and "Healthcare and Integrity Protection Data Bank" reports: 45 CFR Part 60.

Effective: 7/31/2016

Five Year Review (FYR) Dates: 05/05/2016 and 07/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1347.15](#)

Rule Amplifies: [1347.15](#)

Prior Effective Dates: 12/31/10

### **[4731-8-06 Restricting and logging access to confidential personal information in computerized personal information systems.](#)**

For personal information systems that are computer systems and contain confidential personal information, the board shall do the following:

(A) Access restrictions. Access to confidential personal information that is kept electronically shall require a password or other authentication measure.

(B) Acquisition of a new computer system. When the board acquires a new computer system that stores, manages or contains confidential personal information, the board shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.

(C) Upgrading existing computer systems. When the board makes an upgrade to a computer system, as that term is defined in rule [4731-8-02](#) of the Administrative Code, to an existing computer system that stores, manages or contains confidential personal information, the upgrade shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.

(D) Logging requirements regarding confidential personal information in existing computer systems.

(1) Employees who access confidential personal information within computer systems shall maintain a log that records that access.

(2) Access to confidential information is not required to be entered into a log under the following circumstances:

(a) The employee is accessing confidential personal information for official board purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(b) The employee is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(c) The employee comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group of specifically named individuals.

(d) The employee accesses confidential personal information about an individual based upon a request made under either of the following circumstances:

(i) The individual requests confidential personal information about himself/herself; or

(ii) The individual makes a request that the board take some action on that individual's behalf and accessing the confidential personal information is required in order to consider or process that request.

(E) Log management. The board shall issue a policy that specifies the following:

(1) The form or forms for logging;

(2) Who shall maintain the logs;

(3) What information shall be captured in the logs;

(4) How the logs are to be stored; and

(5) How long information kept in the logs is to be retained.

(F) Nothing in this rule limits the board from requiring logging in any circumstance that it deems necessary.

Five Year Review (FYR) Dates: 04/21/2016 and 04/21/2021

Promulgated Under: [119.03](#)

Statutory Authority: [1347.15](#)

Rule Amplifies: [1347.15](#)

Prior Effective Dates: 12/31/10