

**MEDICAL BOARD
NOTICE OF PUBLIC HEARING**

THE STATE MEDICAL BOARD OF OHIO, pursuant to Chapter 119, Ohio Revised Code, hereby gives notice that it will conduct a public hearing for the purpose of considering the rescission, amendment, and adoption of rules.

The public hearing will be conducted on **Monday, November 2, 2015, at 9:00 a.m. in the Lobby Hearing Room, Rhodes State Office Tower, 30 E. Broad St., 1st Floor, Columbus, OH.** Oral or written testimony may be presented by any person affected by the proposed actions.

The following rule relating to the requirements for accessing the Ohio Automated Rx Reporting System involved changing more than fifty percent of the content of the existing rule, resulting in the requirement to rescind the existing rule and propose as a new rule:

4731-11-11 Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).

The following rule is proposed for amendment:

4731-7-01 Method of notice of meetings.

The following rules for determining whether there is equivalent military education for cosmetic therapists and massage therapists and and military service regarding acupuncturists and oriental medicine practitioners are proposed to be adopted as new rules:

4731-1-25 Determination of equivalent military education for cosmetic therapy or massage therapy.

4762-1-01 Military provisions related to certificate to practice acupuncture or oriental medicine.

The proposed rules will be available from:

- State Medical Board of Ohio, 30 East Broad Street, 3rd Floor, Columbus, OH 43215
 - Medical Board's website after September 28, 2015: <http://med.ohio.gov>
- Register of Ohio website:
<http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/searchAgency.jsp>
(Select "4731 State Medical Board" from the drop down list.)

All interested persons will be given the opportunity to be heard at the public hearing. Those persons who wish to provide oral testimony at the hearing are encouraged to preregister by contacting Sallie Debolt at the address below, and may be given preference in the order of their testimony. Persons providing oral testimony are encouraged to also submit a copy of the testimony at the hearing.

All written comments received by the Board before the close of the hearing record will be considered.

Written comments may be provided at the public hearing. However, persons interested in providing written comments are encouraged to do so prior to November 2 via e-mail to Sallie.Debolt@med.ohio.gov , or via mail to:

**Sallie Debolt, Senior Counsel
State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, OH 43215-6127**

4731-1-25**Determination of equivalent military education for cosmetic therapy or massage therapy.**

For purposes of section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or that exceed the educational and experience requirements for licensure as a cosmetic therapist or massage therapist.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4731.05, 5903.03
Rule Amplifies: 5903.03

4731-7-01

Method of notice of meetings.

(A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:

- (1) Writing the ~~Ohio~~ state medical board of Ohio (hereinafter, "board") at its business address; ~~or~~
- (2) Calling the board at its business office during normal business hours; ~~or~~
- (3) Checking the board's public website.

(B) ~~Any~~ A representative of the news media may obtain notice of all special meetings by requesting ~~in writing~~ that notice be provided and supplying a regular mail or electronic mail address.

~~In the event of a special meeting not of an emergency nature, the board shall notify all media representatives who have requested notice of the meeting by doing at least one of the following:~~

(1) I a special meeting not of an emergency nature, the board shall notify all media representatives who have requested notice of the meeting by doing at least one of the following:

- ~~(1)~~(a) Sending written notice, by regular mail or electronic mail, no later than twenty-four hours prior to the special meeting;
- ~~(2)~~(b) Notifying representatives by telephone no later than twenty-four hours prior to the special meeting. Telephone notice shall be complete if a message has been left for the representative, or if, after reasonable effort, the board has been unable to provide telephone notice;
- ~~(3)~~(c) Informing the representative personally no later than twenty-four hours prior to the special meeting.

~~In the event of a special meeting of an emergency nature requiring immediate official action, the board shall notify all media representatives who have requested notice of such meeting of the time, place and purpose of the meeting by providing notice as described in paragraphs (B)(1), (B)(2) or (B)(3) of this rule, or by notifying the clerk of the state house press room. In such event, the notice need not be given twenty four hours prior to the meeting, but shall be given immediately upon completion of the meeting agenda.~~

- (2) If a special meeting of an emergency nature requiring immediate official action is scheduled, the board shall notify all media representatives who have requested notice of such meeting of the time, place and purpose of the meeting by providing notice as described in paragraph (B)(2) of this rule, or by notifying the clerk of the state house press room. In such event, the notice shall be given immediately upon c the meeting date and time being scheduled
- (C) ~~All persons~~ Persons who have requested, in writing, advance notification of all meetings of the board at which specific public matters ~~designated by those persons~~ are scheduled to be discussed shall be placed on the board's agenda mailing list. The board shall, within a reasonable time prior to each meeting, send to those persons on the list either by regular mail or electronic mail an agenda of the meeting ~~to those persons~~ by regular mail or a notice via electronic mail that the agenda is posted on the board's website. The board may assess a reasonable fee, not to exceed the cost of copying and mailing, for notices ~~sent to persons in accordance with this rule~~ via regular mail.

Replaces: 4731-7-01

Effective:

Five Year Review (FYR) Dates: 09/24/2015

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 121.22, 4731.05
Rule Amplifies: 121.22
Prior Effective Dates: 2/16/76, 7/1/99, 6/30/05

TO BE RESCINDED

4731-11-11

Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).

(A) For purposes of this rule:

- (1) "OARRS" means the "Ohio Automated Rx Reporting Sysytem" drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (2) "OARRS report" means a report of information related to a specified patient generated by the drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (3) "Personally furnish" means the distribution of drugs by a prescriber to the prescriber's patients for use outside the prescriber's practice setting.
- (4) "Protracted basis" means a period in excess of twelve continuous weeks.
- (5) "Reported drugs" means all the drugs listed in rule 4729-37-02 of the Administrative Code that are required to be reported to the drug database established and maintained pursuant to section 4729.75 of the Revised Code, including:
 - (a) Controlled substances in schedules II, III, IV, and V, and
 - (b) All dangerous drug products containing carisoprodol or tramadol.

(B) If a physician believes or has reason to believe that a patient may be abusing or diverting drugs, the physician shall use sound clinical judgment in determining whether or not the reported drug should be prescribed or personally furnished to the patient under the circumstances.

- (1) To assist in this determination, the physician shall access OARRS and document receipt and assessment of the information received if the patient exhibits the following signs of drug abuse or diversion:
 - (a) Selling prescription drugs;
 - (b) Forging or altering a prescription;
 - (c) Stealing or borrowing reported drugs;

- (d) Increasing the dosage of reported drugs in amounts that exceed the prescribed amount;
 - (e) Having a drug screen result that is inconsistent with the treatment plan or refusing to participate in a drug screen;
 - (f) Having been arrested, convicted or received diversion, or intervention in lieu of conviction for a drug related offense while under the physician's care;
 - (g) Receiving reported drugs from multiple prescribers, without clinical basis; or
 - (h) Having a family member, friend, law enforcement officer, or health care professional express concern related to the patient's use of illegal or reported drugs.
- (2) Other signs of possible abuse or diversion which may necessitate accessing OARRS include, but are not limited to the following:
- (a) A known history of chemical abuse or dependency;
 - (b) Appearing impaired or overly sedated during an office visit or exam;
 - (c) Requesting reported drugs by specific name, street name, color, or identifying marks;
 - (d) Frequently requesting early refills of reported drugs;
 - (e) Frequently losing prescriptions for reported drugs;
 - (f) A history of illegal drug use;
 - (g) Sharing reported drugs with another person; or
 - (h) Recurring emergency department visits to obtain reported drugs.
- (C) A physician prescribing or personally furnishing reported drugs to treat a patient on a protracted basis shall, at a minimum, document receipt and assessment of an

OARRS report in the following circumstances:

- (1) Once the physician has reason to believe that the treatment will be required on a protracted basis; and
 - (2) At least once annually, thereafter.
- (D) A physician shall document receipt and assessment of all OARRS reports in the patient record.
- (1) Initial reports requested in compliance with this rule shall cover a time period of at least one year;
 - (2) Subsequent reports requested in compliance with this rule shall, at a minimum, cover the period from the date of the last report to present.
- (E) In the event an OARRS report is not available prior to writing a prescription for a reported drug or personally furnishing the reported drug, a physician shall document in the patient record why the the OARRS report was not available.
- (F) Paragraph (C) of this rule does not apply to a hospice patient in a hospice care program as those terms are defined in section 3712.01 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 09/24/2015

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4731.05, 4731.055
Rule Amplifies: 4731.055
Prior Effective Dates: 11/30/2011

4731-11-11

Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).(A) For purposes of this rule:

- (1) "Delegate" means an authorized representative who is registered with the Ohio board of pharmacy to obtain an OARRS report on behalf of a physician;
- (2) "OARRS" means the "Ohio Automated Rx Reporting System" drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (3) "OARRS report" means a report of information related to a specified patient generated by the drug database established and maintained pursuant to section 4729.75 of the Revised Code.
- (4) "Personally furnish" means the distribution of drugs by a prescriber to the prescriber's patients for use outside the prescriber's practice setting.
- (5) "Reported drugs" means all the drugs listed in rule 4729-37-02 of the Administrative Code that are required to be reported to the drug database established and maintained pursuant to section 4729.75 of the Revised Code, including controlled substances in schedules II, III, IV, and V.

(B) Standards of care:

- (1) The accepted and prevailing minimal standards of care require that when prescribing or personally furnishing a reported drug, a physician shall take into account all of the following:
 - (a) The potential for abuse of the reported drug;
 - (b) The possibility that use of the reported drug may lead to dependence;
 - (c) The possibility the patient will obtain the reported drug for a nontherapeutic use or distribute it to other persons; and
 - (d) The potential existence of an illicit market for the reported drug.
- (2) In considering whether a prescription for or the personally furnishing of a reported drug is appropriate for the patient, the physician shall use sound clinical judgment and obtain and review an OARRS report consistent with the provisions of this rule.

(C) A physician shall obtain and review an OARRS report to help determine if it is appropriate to prescribe or personally furnish an opioid analgesic, benzodiazepine, or reported drug to a patient as provided in this paragraph and paragraph (F) of this rule:

- (1) A physician shall obtain and review an OARRS report before prescribing or personally furnishing an opiate analgesic or benzodiazepine to a patient, unless an exception listed in paragraph (G) of this rule is applicable.
- (2) A physician shall obtain and review an OARRS report when a patient's course of treatment with a reported drug other than an opioid analgesic or benzodiazepine has lasted more than ninety days, unless an exception listed in paragraph (G) of this rule is applicable.
- (3) A physician shall obtain and review an OARRS report when any of the following red flags pertain to the patient:
 - (a) Selling prescription drugs;
 - (b) Forging or altering a prescription;
 - (c) Stealing or borrowing reported drugs;
 - (d) Increasing the dosage of reported drugs in amounts that exceed the prescribed amount;
 - (e) Suffering an overdose, intentional or unintentional;
 - (f) Having a drug screen result that is inconsistent with the treatment plan or refusing to participate in a drug screen;
 - (g) Having been arrested, convicted, or received diversion or intervention in lieu of conviction for a drug related offense while under the physician's care;
 - (h) Receiving reported drugs from multiple prescribers, without clinical basis;
 - (i) Traveling with a group of other patients to the physician's office where all or most of the patients request controlled substance prescriptions;
 - (j) Traveling an extended distance or from out of state to the physician's office;
 - (k) Having a family member, friend, law enforcement officer, or health care professional express concern related to the patient's use of illegal or reported drugs;
 - (l) A known history of chemical abuse or dependency;
 - (m) Appearing impaired or overly sedated during an office visit or exam;

- (n) Requesting reported drugs by street name, color, or identifying marks;
- (o) Frequently requesting early refills of reported drugs;
- (p) Frequently losing prescriptions for reported drugs;
- (q) A history of illegal drug use;
- (r) Sharing reported drugs with another person; or
- (s) Recurring visits to non-coordinated sites of care, such as emergency departments, urgent care facilities, or walk-in clinics to obtain reported drugs.

(D) A physician who decides to utilize an opioid analgesic, benzodiazepine, or other reported drug in any of the circumstances within paragraphs (C)(2) and (C)(3) of this rule, shall take the following steps prior to issuing a prescription for or personally furnishing the opioid analgesic, benzodiazepine, or other reported drug:

- (1) Review and document in the patient record the reasons why the physician believes or has reason to believe that the patient may be abusing or diverting drugs;
- (2) Review and document in the patient's record the patient's progress toward treatment objectives over the course of treatment;
- (3) Review and document in the patient record the functional status of the patient, including activities for daily living, adverse effects, analgesia, and aberrant behavior over the course of treatment;
- (4) Consider using a patient treatment agreement including more frequent and periodic reviews of OARRS reports and that may also include more frequent office visits, different treatment options, drug screens, use of one pharmacy, use of one provider for the prescription or personally furnishing of reported drugs, and consequences for non-compliance with the terms of the agreement. The patient treatment agreement shall be maintained as part of the patient record; and
- (5) Consider consulting with or referring the patient to a substance abuse specialist.

(E) Frequency for follow-up OARRS reports:

- (1) For a patient whose treatment with an opioid analgesic or benzodiazepine lasts more than ninety days, a physician shall obtain and review and OARRS report for the patient at least every ninety days during the course of treatment, unless an exception listed in paragraph (G) of this rule is applicable.

(2) For a patient who is treated with a reported drug other than an opioid analgesic or benzodiazepine for a period lasting more than ninety days, the physician shall obtain and review and OARRS report for the patient at least annually following the initial OARRS report obtained and reviewed pursuant to paragraph (C)(2) of this rule until the course of treatment utilizing the reported drug has ended, unless an exception in paragraph (G) is applicable.

(F) When a physician or their delegate requests an OARRS report in compliance with this rule, a physician shall document receipt and review of the OARRS report in the patient record, as follows:

(1) Initial reports requested shall cover at least the twelve months immediately preceding the date of the request:

(2) Subsequent reports requested shall, at a minimum, cover the period from the date of the last report to present:

(3) If the physician practices primarily in a county of this state that adjoins another state, the physician or their delegate shall also request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county; and

(4) If an OARRS report regarding the patient is not available, the physician shall document in the patient's record the reason that the report is not available and any efforts made in follow-up to obtain the requested information.

(G) A physician shall not be required to review and assess an OARRS report when prescribing or personally furnishing an opioid analgesic, benzodiazepine, or other reported drug under the following circumstances, unless a physician believes or has reason to believe that a patient may be abusing or diverting reported drugs:

(1) The reported drug is prescribed or personally furnished to a hospice patient in a hospice care program as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill;

(2) The reported drug is prescribed for administration in a hospital, nursing home, or residential care facility;

(3) The reported drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days;

(4) The reported drug is prescribed or personally furnished for the treatment of cancer or another condition associated with cancer; and

(5) The reported drug is prescribed or personally furnished to treat acute pain resulting from a surgical or other invasive procedure or a delivery.

Replaces: 4731-11-11

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4731.05, 4731.055
Rule Amplifies: 4731.055
Prior Effective Dates: 11/30/11

4762-1-01

Military provisions related to certificate to practice acupuncture or oriental medicine.**(A) Definitions.**

(1) "Armed forces" means any of the following:

(a) The armed forces of the United States, including the army, navy, air force, marine corps, or coast guard;

(b) A reserve component of the armed forces listed in paragraph (A)(1)(a) of this rule;

(c) The national guard, including the Ohio national guard or the national guard of any other state.

(d) The commissioned corps of the United States public health service;

(e) The merchant marine service during wartime;

(f) Such other service as may be designated by Congress; or

(g) The Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

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

(B) Eligibility for licensure.

In accordance with section 5903.03 of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, and lengths of service that are substantially equivalent to or exceed the educational and experience requirements for licensure as an acupuncturist or oriental medicine practitioner.

(C) Renewal of an expired license.

An expired license to practice acupuncture or oriental medicine shall be renewed upon payment of the biennial renewal fee provided in section 4762.06 of the Revised Code and without a late fee or re-examination if the holder meets all of the following requirements:

(1) The licensee is not otherwise disqualified from renewal because of mental or physical disability;

(2) The licensee meets the requirements for renewal of the applicable licensure type under Section 4762.06 of the Revised Code;

(3) Either of the following situations applies:

(a) The license was not renewed because of the licensee's service in the armed forces, or

(b) The license was not renewed because the licensee's spouse served in the armed forces, and the service resulted in the licensee's absence from this state.

(4) The licensee or the licensee's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(D) Extension of the continuing education period.

(1) An oriental medicine practitioner may apply for an extension of the current continuing education reporting period in the manner provided in section 5903.12 of the Revised Code.

(a) The licensee shall submit both of the following:

(i) A statement that the licensee has served on active duty, whether inside or outside of the United States, for a period in excess of thirty-one days during the current continuing education reporting period.

(ii) Proper documentation certifying the active duty service and the length of that active duty service.

(b) Upon receiving the application and proper documentation, the board shall extend the current continuing education reporting period by an amount of time equal to the total number of months that the licensee spent on active duty during the current continuing education reporting period. Any portion of a month served shall be considered one full month.

(2) An acupuncturist is not required to report continuing education coursework to the board.

Effective:

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Statutory Authority: 4762.19, 5903.03
Rule Amplifies: 5903.03, 5903.12, 5903.121