
STATE MEDICAL BOARD

Suspension of certificate

- Eliminates provisions that result in the automatic suspension of a certificate to practice for failure to renew or register the certificate, including failure to complete continuing education requirements, and instead permits the State Medical Board to suspend the certificate.
- Provides that an adjudication hearing is not required if the Board imposes a civil penalty for failure to complete continuing education requirements but does not take any other action.

Condition for restoring or issuing certificates

- Authorizes the Board to impose, before restoring or issuing certain certificates to practice, additional terms and conditions on applicants, including physical examinations and skills assessments.
- Provides that an adjudication hearing is not required if the Board imposes a civil penalty for failure to complete continuing education requirements but does not take any other action.

Continuing education requirements

- Clarifies continuing education requirements for physicians but does not make substantive changes to the requirements.

Expedited certificates

- Requires that the Board's secretary and supervising member, as opposed to the Board, review and make eligibility determinations concerning expedited certificates to practice medicine and surgery or osteopathic medicine and surgery by endorsement.
- Requires that if the requirements for an expedited certificate are not met, the secretary and supervising member must treat the application as an application for a certificate to practice medicine and surgery or osteopathic medicine and surgery.

Civil penalties

- Authorizes the Board to impose a civil penalty on a professional who violates the law administered by the Board.



- Requires the Board to adopt guidelines regarding the amounts of civil penalties that may be imposed and specifies that the amount of a civil penalty cannot exceed \$20,000.

Physician's report of illegal drug use

- Authorizes a physician to report a patient's known or suspected illegal drug use to a drug task force or law enforcement agency.

Prescribing based on remote examination

- Codifies, with certain changes, an administrative rule governing when a physician may prescribe or dispense a prescription drug to a person on whom the physician has never conducted a medical evaluation.

Immunity for certain volunteers

- Provides immunity to certain medical professionals who volunteer services at therapeutic camps.
- Provides an exception to having an Ohio medical license.

Disciplinary rule clarification

- Makes a clarification related to the Board's disciplinary statute.

Suspension of certificate for failure to renew or register

(R.C. 4730.14 and 4731.281)

Under current law, the failure of a physician (including a podiatrist) or physician assistant to renew or register a certificate to practice operates to suspend the certificate automatically. The law specifies procedures to (1) reinstate a certificate that has been suspended for two years or less or (2) restore a certificate that has been suspended for more than two years.

The bill eliminates the automatic suspension and instead allows the State Medical Board to suspend a certificate for a failure to renew or register.

In general, the bill permits the Board to reinstate or restore a certificate under the same terms and conditions as existing law. However, in the case of a physician (including a podiatrist), the bill increases the reinstatement fee from \$50 to \$100 and the restoration fee from \$100 to \$200. The fees for a physician assistant remain the same.



If the Board finds that a certificate holder has failed to complete continuing education requirements, current law permits the Board to impose a civil penalty of not more than \$5,000, in addition to or instead of any other authorized action. The bill maintains this civil penalty and specifies that, if the Board imposes only a civil penalty and takes no other disciplinary action, it cannot conduct an adjudication under the Administrative Procedure Act.

Conditions for restoring or issuing certificates

(R.C. 4731.222)

Skills assessments

Under existing law, the Board may restore a certificate to practice that has been in a suspended or inactive state for more than two years. The Board may also issue a certificate to practice to an applicant who has not been engaged in practice for more than two years as an active practitioner or a student. Before restoring or issuing a certificate, the Board may impose terms and conditions, including (1) requiring the applicant to pass an examination to determine fitness to resume practice, (2) requiring the applicant to obtain additional training and pass an examination, or (3) restricting or limiting the applicant's practice.

The bill authorizes the Board to impose additional terms and conditions before restoring or issuing a certificate to practice. These include:

(1) Requiring an assessment of the applicant's physical skills for purposes of determining whether the applicant's coordination, fine motor skills, and dexterity are sufficient for performing medical evaluations and procedures in a manner that meets the minimal standards of care;

(2) Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;

(3) Requiring the applicant to undergo a comprehensive physical examination, which may include an assessment of physical abilities, evaluation of sensory capabilities, or screening for the presence of neurological disorders.

Conforming and clarifying changes

The provisions regarding the Board's authority to restore or issue certificates to practice are part of the law governing physicians (including podiatrists) and practitioners of the limited branches of medicine, which consist of cosmetic therapy,



massage therapy, naprapathy, and mechanotherapy.¹⁵¹ For consistency within these provisions, the bill includes references to podiatrists and practitioners of limited branches of medicine where the references are currently omitted.

In addition to the changes made for consistency, the bill specifies that the Board is authorized to impose one or more of the terms and conditions included in either existing law or the bill. Current law provides that the Board may impose any of the specified terms and conditions, but it does not expressly authorize the Board to impose more than one of them.

Continuing education requirements

(R.C. 4730.14, 4731.15, 4731.22, 4731.281, 4731.282, 4731.283 (repealed), 4731.293, 4731.295, 4731.296, 4731.297, 4778.06, and 5903.12)

If the Board finds that a physician (including a podiatrist) or physician assistant has failed to complete continuing education requirements, current law permits the Board to impose a civil penalty of not more than \$5,000, in addition to or instead of any other authorized action. The bill maintains this civil penalty and specifies that, if the Board imposes only a civil penalty and takes no other disciplinary action, it cannot conduct an adjudication under the Administrative Procedure Act.

The bill clarifies continuing education requirements for physicians (including podiatrists) by requiring that physicians complete 100 hours of continuing medical education, rather than requiring physicians to certify to the State Medical Board that they have completed 100 hours of continuing medical education. It does not make substantive changes to the requirements.

Expedited certificate to practice by endorsement

(R.C. 4731.299)

Current law authorizes the Board to issue, without examination, an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement. Individuals seeking an expedited certificate must file a written application with the Board. The bill specifies that the secretary and supervising member of the Board must review all applications for expedited certificates. The bill also provides that, if the secretary and supervising member determine that an applicant has met all of the necessary requirements, the Board must issue the certificate. Under the bill, if the secretary and supervising member determine that an applicant has not met all

¹⁵¹ R.C. 4731.15 and 4731.151, not in the bill.



of the requirements, the application must be treated as an application for a certificate to practice medicine and surgery or osteopathic medicine and surgery.

Civil penalties imposed by the Board

(R.C. 4730.252, 4731.225, 4731.24, 4760.133, 4762.133, 4774.133, and 4778.141)

The bill generally authorizes the Board to impose a civil penalty on a professional who violates the law administered by the Board. The bill applies to the following professionals: physicians, podiatrists, physician assistants, massage therapists, cosmetic therapists, naprapaths, mechanotherapists, anesthesiologist assistants, oriental medicine practitioners, acupuncturists, radiologist assistants, and genetic counselors. Existing law does not generally authorize a civil penalty.

If the Board imposes a civil penalty, it must do so pursuant to an adjudication under the Administrative Procedure Act and an affirmative vote of not fewer than six Board members. The amount of a civil penalty must be determined by the Board in accordance with guidelines adopted by the Board. The civil penalty may be in addition to any other disciplinary action that current law permits the Board to take.

The bill requires the Board to adopt, and authorizes it to amend, guidelines regarding the amounts of civil penalties to be imposed. At least six Board members must approve the adoption or amendment of the guidelines. Under the guidelines, the amount of a civil penalty cannot exceed \$20,000.

The bill provides that amounts received from payment of civil penalties must be deposited by the Board to the credit of the existing State Medical Board Operating Fund. With respect to civil penalties imposed for violations involving drug, alcohol, or substance abuse, the Board must use the amounts received solely for investigations, enforcement, and compliance monitoring.

Physician's report of patient's illegal drug use

(R.C. 4731.22 and 4731.62)

The bill authorizes a physician who is acting in a professional capacity and who knows or has reasonable cause to suspect that a patient is illegally using a dangerous drug, controlled substance, controlled substance analog, or metabolite of a controlled substance, or is using deception or fraud to obtain one of those items, to report that knowledge or suspicion to a drug task force in the county in which the patient resides or in which the knowledge or suspicion is acquired. If there is no drug task force in the county, the physician may report to the police department of the municipal corporation or the sheriff of the county in which patient resides or in which the knowledge or



suspicion is acquired. A report is not a breach of physician-patient confidentiality and does not subject a physician to civil liability for harm allegedly resulting from the report.

Prescribing based on remote examination

(R.C. 4731.74)

The bill codifies, with certain changes, an administrative rule¹⁵² governing when a physician may prescribe or dispense a prescription drug to a person on whom the physician has never conducted a medical evaluation.

Drugs that are not controlled substances

The bill authorizes a physician to prescribe or dispense a prescription drug that is not a controlled substance to a patient in a remote location, on whom the physician has never conducted a medical evaluation, if the physician does all of the following:

(1) In a manner consistent with the standard for in-person care by a physician, completes and documents a medical evaluation of the patient and collects clinical data as needed to establish a diagnosis, identify any underlying conditions, and identify any contraindications to the treatment recommended or provided;

(2) Examines the patient using appropriate technology, unless the bill's exception is met (see "**Technology requirements and exception**," below);

(3) Documents speaking to the patient regarding treatment options and the risks and benefits of treatment in order that that patient can provide informed consent to treatment;

(4) Maintains a contemporaneous medical record that is readily available to the patient and to the patient's other health care providers;

(5) Includes the electronic prescription information as part of the patient's medical record;

(6) Follows-up with the patient to assess the therapeutic outcome, as necessary.

Technology requirements and exception

The bill generally prohibits a physician from prescribing or dispensing a prescription drug that is not a controlled substance to a patient on whom the physician

¹⁵² O.A.C. 4731-11-09.



has never conducted a medical evaluation unless the physician meets the requirements above, including examination of the patient using appropriate technology. The bill specifies that the technology must be capable of all of the following:

- (1) Transmitting images of the patient's physical condition in real time;
- (2) Transmitting information regarding the patient's physical condition and other relevant clinical data and vital signs as needed to establish a diagnosis, identify underlying conditions, and identify any contraindications to the treatment recommended or provided;
- (3) Being adjusted for better image quality and definition.

The bill contains an exception to permit prescribing or dispensing a prescription drug that is not a controlled substance without the use of technology in circumstances where the patient has a designated primary care physician, or the patient designates a primary care physician with the assistance of the remote physician. In those circumstances, the remote physician may examine the patient over the telephone without the use of technology if the following requirements are met:

- (1) The remote physician is physically located in Ohio;
- (2) The remote physician has received credentials to provide telehealth services pursuant to a process certified by the National Committee for Quality Assurance;
- (3) The remote physician forwards the patient's electronic health record to the patient's designated primary care physician;
- (4) The remote physician is available to follow up with the patient after the consultation as necessary.

Controlled substances

The bill also specifies several situations in which a physician may prescribe or dispense a prescription drug, including a controlled substance, to a patient on whom the physician has never conducted a medical evaluation:

- (1) The person is a patient of a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between the physicians.
- (2) The physician is consulting with another physician or health care provider who is authorized to practice in Ohio, is acting within the scope of the physician or health care provider's professional license, and has prescriptive authority, but only if the other physician or health care provider has an ongoing professional relationship



with the patient, has agreed to supervise the patient's use of the drug or drugs provided, and, if appropriate, has a supervision agreement or standard care arrangement with the physician.

(3) The physician is the medical director of licensed hospice care program or is the attending physician of a hospice care patient enrolled in a licensed hospice program and the drugs are prescribed, dispensed, or otherwise provided to the hospice patient.

(4) The person has been admitted as an inpatient to, or is a resident of, an institutional facility.

Professional standards

The bill states that it does not imply that a single in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the course of professional practice.

Therapeutic recreation camps

Immunity of health care professionals

(R.C. 2305.231)

The bill provides immunity to health care professionals volunteering services to therapeutic camps. Under the bill, physicians and registered nurses who volunteer at a therapeutic recreation camp are not liable in damages in a civil action for administering medical care, emergency care, or first aid treatment to a camp participant. Immunity does extend to acts of the health care professional that constitute willful or wanton misconduct.

The bill defines "therapeutic recreation" to mean adoptive recreation services to persons with illnesses or disabling conditions in order to restore, remediate, or rehabilitate, to improve functioning and independence, or to reduce or eliminate the effects of illness or disability.

Under continuing law physicians, dentists, and registered nurses are given immunity from civil liability when volunteering services to school athletic programs when providing first aid or emergency care, except in situations of willful or wanton misconduct.



Practicing without an Ohio medical certificate at free therapeutic camps

(R.C. 4731.41)

The bill provides an exception to the requirement that any person practicing medicine have a certificate from the State Medical Board. The bill provides that a physician licensed and in good standing in another state and that provides the proper documentation may volunteer medical services to a free-of-charge camp accredited by The SeriousFun Children's Network that specializes in providing therapeutic recreation for individuals with chronic illnesses, as long as all the following apply:

(1) The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state;

(2) The physician provides services only at the camp or in connection with camp events or activities that occur off the grounds of the camp;

(3) The physician receives no compensation for services;

(4) The physician provides services within Ohio for no more than 30 days per calendar year;

(5) The camp has a medical director who holds an Ohio medical license.

Clarification regarding the Board's disciplinary statute

(Section 747.10)

With respect to the statute that establishes grounds and procedures for disciplinary actions taken by the Board (R.C. 4731.22), the bill provides that the inclusion of that statute in the repeal clause of H.B. 394, from the 130th General Assembly, as an outright repeal was a typographical error. The bill further provides that the intent of the General Assembly was to amend the statute, rather than repeal it outright.

