STATE MEDICAL BOARD

Practitioner impairment monitoring

- Revises the law governing the State Medical Board's confidential program for treating and monitoring impaired practitioners, including by extending the program to practitioners unable to practice because of mental or physical illness, rather than only those impaired by drugs, alcohol, or other substances as under current law.

Medical Board license holders – retired status

- Establishes a process by which practitioners licensed by the Medical Board who meet certain eligibility conditions may have their licenses placed on retired status.
- Prohibits the holder of a license placed on retired status from practicing under the license, but permits the holder to continue to use any title authorized for the license so long as the title also indicates that the practitioner is retired.
- Establishes a process by which a license placed on retired status may be reactivated by the Board.
- Authorizes the Board to take the same disciplinary action against retired status license holders and applicants as it may take against any other license holders or applicants.

Criminal records checks under Interstate Medical Licensure Compact

- Clarifies that applicants under the Interstate Medical Licensure Compact are required to comply with Ohio's existing procedure for criminal records checks for physicians.

Sonographer use of intravenous ultrasound enhancing agents

- Authorizes a sonographer to administer intravenously ultrasound enhancing agents under physician delegation if certain conditions are met.

Supervision of general x-ray machine operators

- Authorizes a general x-ray machine operator to perform, in certain circumstances, radiologic procedures under the general supervision of a physician or another supervising practitioner, rather than under direct supervision as required by current law.

Physician assistant prescribing for outpatient behavioral health

- Authorizes a physician assistant (PA) to prescribe a schedule II controlled substance at an outpatient behavioral health practice where the PA would otherwise not be permitted to prescribe the drug under current law, but only if the PA has entered into a supervisory agreement with a physician employed by the same practice.

Certified mental health assistants

- Establishes licensure by the Medical Board for certified mental health assistants (CMHAs).

- Authorizes CMHAs to provide mental health care under the supervision, control, and direction of a physician with whom the CMHA has entered into a supervision agreement.
- Authorizes CMHAs to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority, including certain identified controlled substances.
- Requires the Medical Board to approve CMHA educational programs, requires education programs be accredited by an organization the Board recognizes, and specifies minimum course subject areas that must be covered.
- Authorizes the Medical Board to discipline CMHAs in a manner similar to that of other Board licensees.
- Prohibits an individual from claiming to be able to function as a CMHA if that individual does not hold a CMHA license, and imposes criminal penalties violations of that and other related prohibitions.

Practice of acupuncture and herbal therapy

- Authorizes a licensed acupuncturist with a national certification in Chinese herbology or oriental medicine to practice herbal therapy.
- Eliminates supervisory requirements for newly licensed acupuncturists, including duties and reimbursement allowances for supervising physicians and chiropractors.

Subpoenas for patient record information

- Eliminates requirements that the supervising member of the Medical Board approve the issuance of subpoenas for patient record information and be involved in probable cause determinations related to such subpoenas.

Time limit to issue adjudicative order

- Increases the time the Medical Board has to issue a final adjudicative order related to the summary suspension of a physician assistant's license to 75 days (from 60).

Public address information for licensees

- Eliminates a requirement that the Medical Board's public directory of licensees include a licensee's contact information, and instead requires it to include the licensee's business address.
- Eliminates a requirement that the Board's register of applicants and licensees show the residential address of an applicant to practice respiratory care.

Legacy Pain Management Study Committee

- Establishes the Legacy Pain Management Study Committee to study and evaluate the care and treatment of patients experiencing chronic or debilitating pain, in particular those who have been prescribed opioids for lengthy periods of time, often referred to as legacy patients.

- Requires the committee, by December 1, 2024, to prepare and submit to the General Assembly a report of its recommendations for legislation addressing the care and treatment of legacy patients.

Practitioner impairment monitoring

(R.C. 3701.89, 4730.25, 4730.32, 4731.22, 4731.224, repealed and new 4731.25, repealed and new 4731.251, 4731.252, 4731.253, 4731.254, 4731.255, 4759.07, 4759.13, 4760.13, 4760.16, 4761.09, 4761.19, 4762.13, 4762.16, 4774.13, 4774.16, 4778.14, and 4778.17)

The bill revises the law governing the State Medical Board's confidential program for evaluating, treating, and monitoring practitioner and applicant impairment because of drugs, alcohol, and other substances.

At present, the Board is responsible for licensing and regulating the following practitioners: physicians, physician assistants, limited branch of medicine practitioners, dietitians, respiratory care professionals, anesthesiologist assistants, acupuncturists, radiologist assistants, and genetic counselors. The Board's regulation may include imposing disciplinary sanctions for drug, alcohol, and substance use impairment.

Program name

The bill names the program the Confidential Monitoring Program, replacing the current name One-Bite. The bill also describes the program as nondisciplinary.

Mental or physical illness

While the One-Bite Program applies to practitioners and applicants whose ability to practice is impaired because of habitual or excessive use or abuse of drugs, alcohol, or other substances, the bill expands the meaning of impairment to include the inability to practice by reason of mental or physical illness. The bill also eliminates current law references to habitual use of drugs, alcohol, or other substances.

Potential impairment

The bill specifically allows practitioners and applicants who may be impaired to participate in the Confidential Monitoring Program. Under current law, the practitioner or applicant must be impaired in order to be eligible for participation.

Monitoring organization

The bill maintains the requirement that the Medical Board contract with a monitoring organization to conduct the program and perform monitoring services. But, it requires the monitoring organization, as a condition of eligibility to conduct the program, to be a "professionals health program" sponsored by a professional association or society of practitioners.

The bill also requires the monitoring organization to employ any licensed health care practitioners necessary for the program's operation, in place of the current law requirement to employ chemical dependency counselors, social workers, clinical counselors, and psychologists.

Practitioner eligibility

The bill modifies a condition of practitioner eligibility related to prior professional discipline, by instead prohibiting a practitioner from participating if still under the terms of a consent agreement or Board order.

Practice suspension

The bill eliminates the requirement that a practitioner suspend practice while participating in the program. It instead requires suspension only if the monitoring organization, evaluator, or treatment provider recommends it.

Practitioner relapse

Current law prohibits the monitoring organization from disclosing to the Medical Board the name of a participating practitioner or applicant. The prohibition, however, does not apply in certain circumstances, including when a practitioner or applicant relapses. The bill eliminates that circumstance.

Approval of evaluators and treatment providers

The bill transfers from the Medical Board to the monitoring organization the responsibility for approving treatment providers. The bill also requires the organization to approve program evaluators. However, the Board and organization together must develop criteria and procedures for evaluator and treatment provider approval. The Board also must adopt rules establishing standards for approval.

Note on treatment providers

The monitoring organization's approval of treatment providers under the bill is not limited to those serving the Confidential Monitoring Program. The bill also extends the organization's approval to those providing services as part of the Board's formal disciplinary processes.

Assistance with formal disciplinary action

Separate from the Confidential Monitoring Program, the Medical Board may contract with the monitoring organization to assist in the monitoring of impaired practitioners who are subject to formal disciplinary action by the Board.

Medical Board license holders – retired status

(R.C. 4730.14, 4730.141, 4730.25, 4730.28, 4731.22, 4731.222, 4731.282, 4731.283, 4759.06, 4759.063, 4759.064, 4759.07, 4760.061, 4760.062, 4760.13, 4761.06, 4761.061, 4761.062, 4761.09, 4762.061, 4762.062, 4762.13, 4774.061, 4774.062, 4774.13, 4778.06, 4778.071, 4778.072, and 4778.14)

The bill establishes a process by which the following practitioners licensed by the State Medical Board may have their licenses placed on retired status: physicians, massage therapists, physician assistants, dietitians, anesthesiologist assistants, respiratory therapists, acupuncturists, radiologist assistants, and genetic counselors.

An individual seeking retired status must file an application with the Board in the form and manner the Board prescribes. The application must be submitted before the end of a license renewal period.

Eligibility conditions

The bill requires the Medical Board to place a license on retired status if the applicant meets the following eligibility conditions and pays the application fee:[146]

- The applicant holds a current, valid license to practice;
- The applicant has retired voluntarily from practice;
- In the case of a physician or physician assistant applicant, the applicant does not hold an active registration with the federal Drug Enforcement Administration;
- The applicant does not have any criminal charges pending;
- The applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of Ohio, another state, or the United States;
- The applicant does not have any complaints pending with the Medical Board;
- At the time of application, the applicant is not subject to the Board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, Board order, or consent agreement.

Retired status duration

Once a license is placed on retired status, it remains on retired status for the life of the holder, unless suspended, revoked, or reactivated. While on retired status, the license does not require renewal.

Limitations while on retired status

During the period in which a license is on retired status, all of the following apply to the license holder:

- The holder is prohibited from practicing under any circumstance;
- The holder is not required to complete continuing education to maintain the license;
- The holder is prohibited from using the license to obtain a license to practice the profession in another state;
- The holder may use any title authorized for the license so long as the title also indicates that the practitioner is retired;

[146] Fee amounts differ depending on the type of practitioner. For example, a physician must pay $500, while an acupuncturist pays $150.

- In the case of a physician assistant, the holder's prescriber number, issued as part of the holder's physician-delegated prescriptive authority, also is placed on retired status;
- In the case of a physician who holds a certificate to recommend medical marijuana, the certificate also is placed on retired status;
- In the case of any physician, the physician is prohibited from holding or practicing under a volunteer's certificate.

Reactivation

The bill establishes a process by which the holder of a license placed on retired status may seek to reactivate the license. To do so, the holder must apply to the Medical Board in the form and manner it prescribes and must pay a reactivation fee. The fee is the same amount as the fee for placing a license on retired status.

The bill authorizes the Board to reactivate the license if the applicant certifies completion of continuing education and undergoes a criminal records check. The Board also may impose other terms and conditions, which may include requiring the applicant to obtain additional training, pass an examination, and undergo a physical examination and skills assessment.

If the applicant satisfies the foregoing conditions, the Board must reactivate the license, but only if, in its discretion, it determines that the results of the criminal records check do not make the applicant ineligible for active status.

Disciplinary actions

The bill authorizes the Medical Board to take disciplinary action against an applicant seeking retired status or reactivation who commits fraud, misrepresentation, or deception in applying for, or securing, the status or reactivation. The Board also may impose discipline if the holder practices while on retired status, uses the license to obtain licensure in another state, or uses a title that does not reflect the holder's retired status. In disciplining the holder, the Board may impose any sanction that it may impose under current law on any other license holder or applicant.

The bill also specifies that the placement of a practitioner's license on retired status does not remove or limit the Board's jurisdiction to take any disciplinary action against the practitioner with regard to the license as it existed before being placed on retired status.

Criminal records checks under Interstate Medical Licensure Compact

(R.C. 4731.08; repealed R.C. 4731.112)

The bill adds applicants under the Interstate Medical Licensure Compact to an existing Revised Code section that specifies criminal records check requirements for physicians. The bill repeals a separate, but substantively identical, section that applies only to Compact applicants.

Sonographer use of intravenous ultrasound enhancing agents

(R.C. 4731.37)

Conditions on delegation and administration

The bill authorizes a sonographer to administer, under a physician's delegation, an ultrasound enhancing agent intravenously if several conditions are met. These include the following:

- The delegating physician's normal course of practice and expertise must include the intravenous administration of ultrasound enhancing agents.
- The sonographer must have successfully completed an education and training program in sonography, be certified by a nationally recognized accrediting organization, and have successfully completed training in the intravenous administration of ultrasound enhancing agents. Under the bill, training in intravenous administration may be obtained as part of a sonography education and training program, training provided by the delegating physician, or a training program developed and offered by the facility where the physician practices.
- The sonographer must administer the agent in accordance with a written practice protocol developed by the facility. The protocol's standards for intravenous administration must align with clinical standards and industry guidelines.
- The delegating physician must be physically present at the facility where the sonographer administers the agent, though the bill specifies that the physician is not required to be in the same room as the sonographer.

Intravenous mechanism

Under the bill, the delegated authority to administer an ultrasound enhancing agent intravenously also includes the authority to insert, maintain, and remove an intravenous mechanism.

Exemptions

The bill specifies that it does not prohibit any of the following individuals from administering intravenously an ultrasound enhancing agent:

- An individual who is otherwise authorized by statutory law to administer intravenously ultrasound enhancing agents, including a physician assistant, registered nurse, or licensed practical nurse;
- An individual who is awaiting certification or registration as a sonographer and administers the agent under the general supervision of a physician and the direct supervision of either a sonographer with delegated authority to administer agents intravenously or an individual otherwise authorized to administer agents intravenously;
- A student who is enrolled in a sonography education and training program and, as part of the program, administers intravenously ultrasound enhancing agents.

Supervision of general x-ray machine operators

(R.C. 4773.06)

The bill authorizes a general x-ray machine operator to perform radiologic procedures under the general supervision of a supervising practitioner who is a physician, podiatrist, mechanotherapist, or chiropractor, but only if the both of the following are the case:

- The operator is performing radiologic procedures with an x-ray machine only on a patient's chest, spine, abdomen, or extremities; and
- The operator is performing the procedures in a facility being operated as an urgent care facility, occupational health care facility, or outpatient health care facility.

In all other circumstances, the general x-ray machine operator remains subject to current law's direct supervision requirement, as discussed below.

Direct vs. general supervision

Under existing law maintained by the bill, direct supervision does not require a supervising practitioner to observe each radiologic procedure performed, but does require the practitioner to be present at the location where the procedure is being performed. General supervision neither requires the supervising practitioner to observe radiologic procedures nor to be present at the location. Instead, general supervision requires the practitioner to be readily available for purposes of consultation and direction.

Physician assistant prescribing for outpatient behavioral health

(R.C. 4730.41)

The bill authorizes a physician assistant (PA) to prescribe a schedule II controlled substance if the prescription is issued at the site of a behavioral health practice that does not otherwise qualify under current law as a site where a PA may prescribe such a drug. The following limitations apply: (1) the behavioral health practice must be organized to provide outpatient services for treating mental health conditions, substance use disorders, or both, and (2) the PA must have entered into a supervisory agreement with a physician who is employed by the same practice.

Under current law, PAs cannot generally prescribe schedule II controlled substances, other than in limited amounts for terminally ill patients. A location-based exception exists that allows PAs to prescribe schedule II controlled substances to nonterminal patients. This exception applies to locations such as hospitals, nursing homes, and federally qualified health centers. It also allows such prescribing by PAs at medical practices, but only if (1) the practice is comprised of one or more physicians who also are owners of the practice, (2) the practice is organized to provide direct patient care, and (3) the PA has entered into a supervisory agreement with at least one of the physician owners who practice at that site. The bill creates an additional medical practice location from which PAs can prescribe schedule II controlled substances.

Certified mental health assistants

(R.C. Chapter 4772; conforming changes in numerous other R.C. sections; Sections 130.120 to 130.125)

Certified mental health assistant licensure

The bill establishes licensure for a new type of mental health professional. Under the bill, a certified mental health assistant (CMHA) is an individual who provides mental health care under the supervision, control, and direction of a physician with whom the CMHA has entered into a supervision agreement. A CMHA may practice in any setting within which a supervising physician has supervision, control, and direction of the CMHA.[147] A supervising physician may be a physician authorized to practice medicine and surgery or osteopathic medicine and surgery.[148]

Services that may be performed by a CMHA

The bill authorizes a CMHA to perform the following services authorized by the supervising physician that are part of the supervising physician's normal course of practice and expertise:[149]

1. Ordering diagnostic, therapeutic, and other medical services as appropriate based on the patient's diagnosis that has been made by the supervising physician;

2. Ordering, prescribing, personally furnishing, and administering drugs and medical devices as provided in the bill and discussed below;

3. Prescribing physical therapy or referring a patient to physical therapy, if related to the patient's diagnosis, or, in accordance with continuing law, provide services as an athletic trainer;[150]

4. Ordering occupational therapy or referring a patient to occupational therapy, if related to the patient's diagnosis;

5. Referring a patient to emergency medical services for acute safety concerns, so long the CMHA consults with the supervising physician as soon as practicable thereafter;

6. Referring a patient for voluntary or involuntary admission for substance use disorder treatment or inpatient psychiatric care, but only after consulting with the supervising physician; and

7. Performing any other services specified by the State Medical Board in rules.

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[147] R.C. 4772.01(A), 4772.09(A) and (B), 4772.11(A).

[148] R.C. 4772.01(E).

[149] R.C. 4772.09(C).

[150] See also R.C. 4755.48 and 4755.623.

Additionally, a CMHA may provide telehealth services in accordance with existing law that establishes standards for telehealth services for various health care professionals.[151]

Delegation of tasks

The bill authorizes CMHAs to delegate the performance of a task to implement a patient's care plan and, if certain conditions are met, delegate administration of a drug. The CMHA must be physically present at the location where the task is performed or the drug is administered. Before making such a delegation, the CMHA must determine that the task or drug is appropriate for the patient and the person to whom the delegation is made may safely perform the task or administer the drug. Generally, the delegation may be to any person.[152]

There are certain conditions that must be met for a CMHA to delegate administration of a drug, as follows:[153]

- The CMHA is granted physician-delegated prescriptive authority by the supervising physician and be authorized to prescribe the drug to be administered;
- The drug is not a controlled substance;
- The drug is not administered intravenously; and
- The drug is not administered in a hospital inpatient care unit, hospital emergency department, freestanding emergency department, or ambulatory surgical facility.

Prohibited services

A CMHA is prohibited from doing any of the following:[154]

1. Making an initial diagnosis;

2. Treating a patient for any diagnosis or condition not found in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association; and

3. Engaging in electroconvulsive therapy, transcranial magnetic stimulation, or any other intervention designated as invasive by Medical Board rules.

Supervision agreements

The bill requires a physician to enter into a supervision agreement with each CMHA who will be supervised by the physician. A supervision agreement can apply to one or more CMHAs, but generally may not apply to more than one physician, unless the physician chooses to designate in the supervision agreement other physicians to act as alternate supervising

[151] R.C. 4772.091 and 4743.09; see also R.C. 5164.95.

[152] R.C. 4772.092(A), (B), and (D).

[153] R.C. 4772.092(C).

[154] R.C. 4772.09(D); see also R.C. 4772.11(A)(2).

physicians. The supervision agreement must clearly state that the supervising physician is legally responsible and assumes legal liability for the services provided by the CMHA. It must be signed by the supervising physician and the CMHA. A supervision agreement may be amended.[155]

A supervision agreement must include the following terms:[156]

1. The responsibilities to be fulfilled by the supervising physician and the CMHA;

2. Any limitations on the responsibilities to be fulfilled by the CMHA; and

3. The circumstances under which the CMHA is required to refer a patient to the supervising physician.

The Medical Board, pursuant to an adjudication conducted in accordance with the Administrative Procedure Act, may take disciplinary action and impose a civil penalty against a CMHA that practices, or a supervising physician that supervises, in a manner that departs from, or fails to conform to, the terms of a supervision agreement, or otherwise fails to comply with the requirements for supervision agreements discussed above.[157]

Supervision requirements

Communication

Generally, the bill requires that a supervising physician must be continuously available for direct communication with a CMHA, either by being physically present where the CMHA is practicing or being readily available through telecommunication being located within a distance of where a CMHA is practicing such that the physician can reasonably assure proper care of patients. During the first 500 hours of practice, however, the supervising physician must be physically present at the location where the CMHA is practicing. This does not require the physician to be in the same room as the CMHA.[158]

Diagnosis and reevaluation

As discussed above, the supervising physician must initially diagnose a patient with a diagnosis or condition found in the DSM prior to a CMHA providing services to a patient. After the initial diagnosis, the supervising physician must personally and actively review the CMHA's professional activities at least weekly.[159] A patient must be reevaluated by the supervising physician at least every two years, or sooner if there is a significant change in the patient's

[155] R.C. 4772.10(A) and (B)(5) and (C); see also R.C. 4772.11(F).

[156] R.C. 4772.10(B).

[157] R.C. 4772.10(E).

[158] R.C. 4772.11(A)(1).

[159] R.C. 4772.11(A)(2) and (3)(a).

condition or possible change in diagnosis. Additionally, annual reevaluation is required if the CMHA prescribes a controlled substance to the patient.[160]

Quality assurance and review

The supervising physician must ensure a quality assurance system is implemented and maintained with respect to each CMHA the physician supervises. The supervising physician must regularly perform other reviews of the CMHA that the supervising physician considers necessary.[161]

A quality assurance system that is required under the bill must describe a process for all of the following:[162]

- Routine review by the supervising physician of selected patient record entries and medical orders made by the CMHA;
- Discussion of complex cases;
- Discussion of new medical developments relevant to the practice of the supervising physician and CMHA;
- Performance of quality assurance activities required in rules adopted by the Medical Board; and
- Performance of any other quality assurance activities that the supervising physician considers to be appropriate.

Supervising physicians and CMHAs must keep records of quality assurance activities and make them available to the Medical Board on request.[163]

Limit on the number of CMHAs that may be supervised at one time

While a physician may enter into supervision agreements with unlimited CMHAs, a physician can only supervise up to five CMHAs at one time.[164]

Liability – termination of agreement

The bill states that a supervising physician assumes liability for the services provided by a CMHA while the supervision agreement is pending. A supervising physician is not liable for any services provided by a CMHA after the supervision agreement expires or is terminated.[165]

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[160] R.C. 4772.11(A)(3)(b).

[161] R.C. 4772.11(A)(4) and (5).

[162] R.C. 4772.11(E)(2).

[163] R.C. 4772.11(E)(3).

[164] R.C. 4772.11(B).

[165] R.C. 4772.11(F).

Physician-delegated prescriptive authority

A licensed CMHA is authorized to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority. The prescriptive authority may be exercised only to the extent that that it is granted by the supervising physician. A CMHA must comply with all conditions placed on the prescriptive authority by the supervising physician. Examples of conditions that may be placed on the prescriptive authority include (1) identifying drugs and therapeutic devices that the physician chooses not to permit the CMHA to prescribe, (2) limits on dosage units and refills that may be prescribed, (3) circumstances for required physician referral, and (4) any other responsibilities a supervising physician must fulfill.[166]

Controlled substances

Controlled substances that may be prescribed

If a CMHA has physician-delegated prescriptive authority for controlled substances, the CMHA must register with the federal Drug Enforcement Administration. Only the following controlled substances may be prescribed by a CMHA:[167]

1. Buprenorphine, but only for patients actively engaged in opioid use disorder treatment;

2. Benzodiazepines, but only for patients diagnosed with chronic anxiety disorders or acute anxiety or agitation (in the latter case, only in an amount indicated for a period of seven or less days); and

3. FDA-approved stimulants for the treatment of attention deficit hyperactivity disorder (ADHD), but only if the supervising physician has diagnosed the patient with, or confirmed the diagnosis of, ADHD.

If a CMHA has physician-delegated prescriptive authority to prescribe a minor an opioid analgesic, the CMHA must comply with existing law that requires a discussion of risks and guardian consent.[168]

Regarding buprenorphine for use in medication-assisted treatment, the Medical Board is required to adopt rules establishing standards and procedures a CMHA must follow, including related to detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other related topics. The rules may apply to all circumstances, or only to prescribing in office-based practices or other specified practice locations. The rules must be consistent with rules previously adopted for advanced practice registered nurses, physician assistants, and physicians.[169]

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[166] R.C. 4772.12(A) and (B).

[167] R.C. 4772.13(A); see also R.C. 3719.06(A)(4).

[168] R.C. 4772.12(B)(4), citing R.C. 3719.061, not in the bill.

[169] R.C. 4772.13(D)(2).

Compliance with OARRS

Similar to other prescribers, a CMHA must comply with the following before prescribing a controlled substance:[170]

- Before the initial prescription, request from the Pharmacy Board's drug database, known as OARRS, a report related to the patient covering the past 12 months;
- If the patient's course of treatment continues for more than 90-days after the initial report, make periodic requests for OARRS reports until the treatment has ended, at least every 90 days; and
- Assess the requested reports and document it in the patient's record.

The above provisions do not apply in various enumerated circumstances, such as when a drug is prescribed for less than seven days, to a hospice patient in a hospice care program, or for administration in a hospital, nursing home, or assisted living facility.[171]

The Medical Board is required to adopt rules related to OARRS requirements.[172]

Other provisions related to prescribing

Similar to other prescribers, such as physician assistants, the bill includes provisions related to:

- CMHAs personally furnishing to patients samples of drugs and therapeutic devices that are included in the CMHA's physician-delegated prescriptive authority;[173]
- CMHAs personally furnishing to patients complete or partial supplies of drugs and therapeutic devices that are included in the CMHA's physician-delegated prescriptive authority;[174]
- CMHAs treating patients with medication-assisted treatment, and prerequisites in existing law that must be met;[175]
- CMHAs personally furnishing supplies of naloxone and prescriptions for naloxone, and authorizing it to be furnished or administered in accordance with protocols.[176]

[170] R.C. 4772.13(B).

[171] R.C. 4772.13(C).

[172] R.C. 4772.13(D)(1).

[173] R.C. 4772.14(A); see also R.C. 3719.81.

[174] R.C. 4772.14(B).

[175] R.C. 4772.15 and 3719.064; see also R.C. 4729.553, regarding office-based opioid treatment.

[176] R.C. 3715.50 to 3715.503; see also R.C. 4729.29 and 4729.514.

The bill includes corresponding changes to Ohio's criminal drug laws and pharmacy laws related to CMHA authority to possess, prescribe, furnish, administer, and sell drugs under the bill.[177]

License issuance and renewal

Application and education requirements

An individual who seeks a CMHA license must file a written application with the Medical Board. The application must include an application fee to be specified by the Board in rules.[178]

To be eligible for a CMHA license, an applicant must be 18 years old or older and meet one of the following education requirements:[179]

1. Hold a master's degree or higher from an education program approved by the Medical Board under the bill; or

2. Hold a diploma from an accredited medical school or osteopathic medical school and have completed 12 months of coursework from an education program approved by the Board under the bill.

A CMHA applicant also must comply with existing law regarding criminal records checks for professional licenses.[180]

Renewal

A CMHA license is valid for two years, unless earlier revoked or suspended.[181] A license may be renewed for additional two-year periods. The Medical Board must provide licensees with renewal notices at least one month before expiration. The biennial renewal fee is to be specified by the Board in rules. Self-reporting of any criminal offense that is grounds for refusing to issue a license under the bill is required as part of the renewal application. A renewal applicant must comply with continuing education requirements, discussed below.[182]

Similar to other licensees the Medical Board regulates, the bill includes provisions related to the automatic suspension of licenses not renewed, and reinstatement and restoration of those licenses.[183]

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[177] R.C. 2925.01, 2925.02, 2925.03, 2925.11, 2925.12, 2925.14, 2925.23, 2925.36, 2925.55, 2925.56, 4729.01, and 4729.51.

[178] R.C. 4772.04(A); See also R.C. 4772.26, regarding fees.

[179] R.C. 4772.04(B).

[180] R.C. 4772.041 and 4776.01; R.C. 4776.02 to 4776.04.

[181] R.C. 4772.06.

[182] R.C. 4772.08(A) to (C).

[183] R.C. 4772.08(E); See also R.C. 4772.082, regarding restoration of licenses.

Continuing education

Requirements

To be eligible for license renewal, a CMHA that has been granted physician-delegated prescriptive authority must (1) complete every two years at least 12 hours of continuing education in pharmacology through a Medical Board-approved program or course and (2) if the CMHA prescribes opioid analgesics or benzodiazepines, certify the CMHA has been granted access to the OARRS drug database, unless the Pharmacy Board has notified the Medical Board that the CMHA has been restricted from obtaining information from OARRS, the Pharmacy Board no longer maintains the drug database, or the CMHA does not practice in Ohio.[184]

The Medical Board may establish additional continuing education requirements in rules.[185]

Reductions and extensions

The Medical Board must provide for pro rata reductions for continuing education in pharmacology for CMHAs who have been disabled or absent from the country. It also must grant reporting extensions for CMHA serving on active duty during a reporting period.[186]

Investigating compliance

The Medical Board may investigate continuing education compliance though random sampling and other means. If the Board finds a violation, it may take disciplinary action in accordance with the Administrative Procedure Act or permit the individual to agree to complete the continuing education and pay a civil penalty. A civil penalty cannot exceed $5,000.[187]

Duplicate license

The bill requires the Medical Board, if requested by a CMHA, to issue a duplicate license to replace one that is missing or damaged, to reflect a name change, or for other reasonable cause. The duplicate license fee is $35.[188]

Approval of CMHA education programs

The bill requires the Medical Board to approve education programs for CMHAs. To be eligible for Board-approval, an education program must be accredited by a Board-recognized organization that is qualified to accredit mental health educational programs and include courses in the following areas:[189]

- Psychiatric diagnoses included in the DSM;

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[184] R.C. 4772.081(A).

[185] R.C. 4772.081(C).

[186] R.C. 4772.081(A)(1) and (B) and 5903.12.

[187] R.C. 4772.08(D) and (F).

[188] R.C. 4772.07.

[189] R.C. 4772.05.

- Laboratory studies;
- Medical conditions that mimic or present as psychiatric conditions;
- Medical conditions associated with psychiatric conditions or treatment;
- Psychopharmacology;
- Psychosocial interventions;
- Conducting suicide and homicide risk assessments;
- Forensic issues in psychiatry, including involuntary hospitalization and mandated treatment;
- Basic behavioral health counseling;
- Clinical experiences in inpatient psychiatric units, outpatient mental health clinics, psychiatric consultation and liaison services, and addiction services; and
- Any other area established by rules.

The Medical Board may establish additional standards by rule.

Discipline

Against CMHAs

The Medical Board, by an affirmative vote of at least six members, may take various disciplinary actions against CMHAs, including limiting, revoking, and suspending licenses, refusing to issue, renew, or reinstate them, and reprimanding license holders. The reasons discipline may be imposed are similar to reasons for discipline for other health care professionals regulated by the Board. Generally, disciplinary actions must be taken pursuant to an adjudication under the Administrative Procedure Act.[190]

Also pursuant to an adjudication under the Administrative Procedure Act, in addition to the discipline described above, the Medical Board may impose civil penalties against CMHAs for violations of the bill's provisions. The amount of a civil penalty is to be determined by the Board in accordance with guidelines adopted by the Board, but cannot exceed $20,000.[191]

The bill addresses numerous other matters related to professional discipline in the standard manner that current law addresses those matters for other Medical Board licensees, such as physicians and physician assistants. These matters include:

[190] R.C. 4772.20(A) to (F).

[191] R.C. 4772.203.

- Consent agreements, Board-ordered mental and physical examinations of CMHAs, summary license suspensions in the case of a danger of immediate and serious harm to the public, and automatic license suspensions due to certain criminal convictions;[192]
- The handling of CMHAs in default of child support orders;[193]
- Probate court adjudications of mental illness or mental incompetence of a CMHA;[194]
- Board investigations of evidence related to violations of the bill's provisions, including subpoena powers, confidentiality of investigatory information, and quarterly Board reports concerning cases being investigated;[195]
- Prosecutor reporting of CMHA convictions related to sex offenses, drug offenses, or controlled substances violations, as well as prosecutor reporting of CMHA (1) convictions or procedural dismissals for other felonies and (2) misdemeanors committed in the course of practice or involving moral turpitude;[196]
- Reporting by health care facilities that take formal disciplinary actions against a CMHA;[197]
- Reporting by CMHAs, physicians, or professional associations or societies of CMHAs or physicians that believe a violation of the bill's provisions has occurred;[198]
- Reporting by CMHA professional associations or societies that suspend or revoke a CMHA's membership for violations of professional ethics, or reasons of professional incompetence or malpractice;[199]
- Reporting by insurers providing professional liability insurance to CMHAs for final dispositions resulting in damages over $25,000;[200]
- Enforcement of the bill's provisions by the secretary of the Medical Board;[201] and
- Injunctions against unlicensed CMHA practice.[202]

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[192] R.C. 4772.20(D) and (G) to (N); See also R.C. 3719.121.

[193] R.C. 4772.201; R.C. 3123.41 to 3123.50, not in the bill.

[194] R.C. 4772.202.

[195] R.C. 4772.21; See also R.C. 3719.13.

[196] R.C. 4772.22 and 2929.42.

[197] R.C. 4772.23(A).

[198] R.C. 4772.23(B).

[199] R.C. 4772.23(C).

[200] R.C. 4772.23(D).

[201] R.C. 4772.24.

[202] R.C. 4772.25.

Against supervising physicians

The bill authorizes the Medical Board to take any of the disciplinary action authorized under current law against a supervising physician who fails to maintain supervision of a CMHA in accordance with the bill's requirements.[203]

Criminal penalties

Prohibited conduct

The bill prohibits a nonlicensed CMHA from holding that person's self out as being able to function as a CMHA, or using words or letters indicating or implying that the person is a CMHA. It prohibits any person from practicing as a CMHA without the supervision, control, and direction of a physician, and without entering into a supervision agreement. It also prohibits the advertising of CMHA services, except when seeking employment, and prohibits a CMHA from failing to wear identification as a CMHA while practicing.[204]

Regarding physicians, the bill prohibits a supervising physician from authorizing a CMHA to perform services that are not within the physician's normal course of practice and expertise or that are inconsistent with the supervision agreement.[205]

Penalties

The bill specifies that a violation of any of the above "**Prohibited conduct**" is a first degree misdemeanor on the first offense, and a fourth degree felony for each subsequent offense.[206]

Additionally, the bill criminalizes violations of reporting duties, as described above, by health care facilities that take formal disciplinary actions against a CMHA; by CMHAs, physicians, or professional associations or societies of CMHAs or physicians that believe a violation of the bill's provisions has occurred; by CMHA professional associations or societies that suspend or revoke a CMHA's membership; and by insurers providing professional liability insurance to CMHAs. Those violations are a minor misdemeanor on the first offense, and a fourth degree misdemeanor on subsequent offenses, except that an individual guilty of a subsequent offense is not subject to imprisonment, but rather, only a fine of up to $1,000 for each offense.[207]

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[203] R.C. 4731.22(B)(55).

[204] R.C. 4772.02(A) through (C) and (E) and (F).

[205] R.C. 4772.02(D).

[206] R.C. 4772.99(A).

[207] R.C. 4772.99(B), citing R.C. 4772.23(A) through (D).

Rulemaking

As discussed in greater detail above, the bill requires the Medical Board to adopt rules related to the licensure of CMHAs. The rules must be adopted in accordance with the Administrative Procedure Act.[208]

Bill interpretation

The bill provides that it should not be construed to affect or interfere with the practice of medical personnel in the military or U.S. Veterans Administration employees. The bill does not prevent other individuals from performing services a CMHA is authorized to perform, if those services are within the individual's scope of practice under other Ohio laws. The bill does not prevent a physician from delegating to nurses and other qualified persons, so long as the physician does not hold the delegate out to be a CMHA. The bill should not be construed as authorizing a CMHA to independently order or direct the execution of procedures to a registered nurse or licensed practical nurse, except to the extent the CMHA is authorized to do so by a physician who is responsible for supervising the CMHA.[209]

Miscellaneous provisions

The bill adds CMHAs to various other provisions of Ohio law that apply to other types of health care providers. The provisions include:

1. Providing immunity to volunteer health care providers rendering care to indigent uninsured individuals;[210]

2. Liability of mental health professionals for failing to warn of violent behaviors of clients under certain circumstances;[211]

3. Patient requests for copies of medical records;[212]

4. Providing immunity for health care providers donating, accepting, or dispensing drugs under the drug repository program;[213]

5. Reporting to the Medical Board violation of certain health care professional licensing laws;[214]

[208] R.C. 4772.19.

[209] R.C. 4772.03.

[210] R.C. 2305.234.

[211] R.C. 2305.51.

[212] R.C. 3701.74.

[213] R.C. 3715.872.

[214] R.C. 4731.224.

6. Medical Board programs for practitioners suffering impairment of practice due to habitual or excessive use or abuse of drugs or alcohol;[215] and

7. Continuing education extensions for active duty military.[216]

Practice of acupuncture and herbal therapy

(Repealed R.C. 4762.11 and 4762.12; R.C. 2919.171, 2919.202, 4731.22, 4734.31, 4762.02, 4762.10, and 4762.19)

The bill permits a licensed acupuncturist to practice herbal therapy if the acupuncturist has received a certification from the National Certification Commission for Acupuncture and Oriental Medicine in Chinese herbology or oriental medicine. The bill does not, however, prohibit unlicensed individuals from practicing herbal therapy, so long as such individuals do not represent themselves as licensed to practice herbal therapy.

The bill eliminates an existing one-year supervisory period for newly licensed acupuncturists. To practice during the supervisory period, a referral or prescription from a physician or chiropractor is required and the practice must be under the general supervision of the referring or prescribing physician or chiropractor. The bill eliminates those requirements and makes conforming changes related to a supervising physician or chiropractor's duties and reimbursement allowances.

Finally, the bill removes outstanding references to "oriental medicine" or "oriental medicine practitioner" in the sections that are amended as described above. The change is related to a previous elimination of Medical Board licensure for oriental medicine practitioners from H.B. 442 of the 133rd General Assembly. Due to that previous elimination, most references to "oriental medicine" or "oriental medicine practitioners" in the Revised Code are obsolete.[217]

Subpoenas for patient record information

(R.C. 4730.26, 4731.22, 4759.05, 4760.14, 4761.03, 4762.14, 4774.14, and 4778.18)

The bill eliminates requirements that the supervising member of the Medical Board approve the issuance of subpoenas for patient record information and be involved in probable cause determinations related to such subpoenas. Under current law, both the supervising member and the secretary of the Board must be involved in such approvals and determinations, but under the bill, the secretary of the Board is solely responsible.

Time limit to issue adjudicative order

(R.C. 4730.25)

The bill increases the time the State Medical Board has to issue a final adjudicative order related to the summary suspension of a physician assistant's license to 75 days, up from 60.

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[215] R.C. 4731.25 and 4731.251.

[216] R.C. 5903.12.

[217] See R.C. 4762.011, not in the bill.

Public address information for licensees

(R.C. 4731.07 and 4731.071; conforming change in R.C. 2305.113)

The bill makes two changes regarding address information for licensees of the Medical Board:

1. It eliminates a requirement that the Board's public directory of licensees include a licensee's contact information, and instead requires it to include the licensee's business address;

2. It eliminates a requirement that the Board's register of applicants and licensees show the residential address of an applicant to practice respiratory care.

Legacy Pain Management Study Committee

(Section 335.20)

The bill establishes the Legacy Pain Management Study Committee to study and evaluate the care and treatment of patients suffering from chronic or debilitating pain, in particular those who have been prescribed opioids for lengthy periods of time, often referred to as legacy patients.

By December 1, 2024, the Committee must prepare and submit to the General Assembly a report of its recommendations for legislation addressing the care and treatment of legacy patients. The Committee ceases to exist on the submission of its report.

Membership

The Committee consists of the following nine members, each of whom must be appointed not later than 30 days after the bill's effective date:

- Four members of the 135th General Assembly, two appointed by the Speaker of the House and two by the Senate President;
- The Director of OhioMHAS or Director's designee;
- The President of the State Medical Board of Ohio or President's designee;
- The Executive Director of the Board of Pharmacy or Executive Director's designee;
- Two public members, one representing patients appointed by the Speaker and the other representing prescribers appointed by the Senate President.

Chairperson and meetings

Members are to select a chairperson from among the Committee's membership. The Committee must meet as necessary to satisfy the bill's requirements. The Medical Board is to provide to the Committee the administrative support necessary to execute its duties.

Topics for study and evaluation

In conducting the required study and evaluation, the Committee is to consider all of the following topics relating to legacy patients:

- The needs of patients experiencing chronic or debilitating pain;

- The challenges associated with tapering opioid doses for pain patients and the need for flexibility and tapering pauses when treating such patients;
- The ways in which communications between patients and prescribers can be improved;
- The availability of and patient access to pain management specialists;
- Any other topic the Committee considers relevant.