

Rule Summary and Fiscal Analysis (Part A)**Bureau of Workers' Compensation**

Agency Name

Division

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4123-6-21.7

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Utilization of opioids in the subacute or chronic phases of pain treatment for a work-related injury or occupational disease.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **4121.12, 4121.121, 4121.30, 4121.31, 4121.44, 4121.441, 4123.05**
5. Statute(s) the rule, as filed, amplifies or implements: **4121.12, 4121.121, 4121.44, 4121.441**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Bureau is proposing to adopt new opioid prescribing rule 4123-6-21.7 of the Administrative Code, effective October 1, 2016 for claims with a date of injury on or after September 1, 2016 and for all claims on or after January 1, 2017 to:

Encourage the incorporation of best current clinical practices in the utilization of

opioids in the treatment of injured workers;

Establish provisions and criteria for the treatment of opioid dependence that arose secondary to

treatment with opioid medications covered by the Bureau; and

Provide and strengthen Bureau peer review processes for opioid prescribing that can be implemented to address serious non-compliance with these best practices.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule provides standards and criteria governing the Bureau's reimbursement of opioid prescriptions used to treat a work related injury or occupational disease in the subacute phase of pain treatment, at high doses, or in the chronic phase of pain treatment, and for discontinuing opioids in the chronic phase of pain treatment.

Upon proposed rule OAC 4123-6-21.7 taking effect, BWC reimbursement for opioid prescriptions used to

treat a work related injury or occupational disease shall be limited to claims in which current best medical practices as implemented by Ohio State Medical Board rule OAC 4731-21-02 and proposed BWC rule OAC 4123-6-21.7 are followed. BWC shall not reimburse for any further prescriptions for opioids, and prescribers should discontinue prescribing opioids, if the applicable criteria of the rules are not met.

Furthermore, a prescriber's failure to comply with the requirements of OAC 4731-21-02 and OAC 4123-6-21.7 may constitute endangerment to the health and safety of injured workers, and claims involving opioid prescribing not in compliance with these rules may be subject to peer review by the BWC Pharmacy and Therapeutics (P&T) Committee, the BWC Health Care Quality Assurance Advisory Committee (HCQAAC), or such other peer review committee established by BWC.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not

incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

n/a

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The prescriber and pharmacy business communities are the only two business communities involved with the prescribing and dispensing of opioid medications. The impacted segments of those communities are the Bureau enrolled or certified providers who prescribe opioids for and those network pharmacies enrolled with the bureau that dispense the medications to injured workers covered by the Bureau.

The adverse impact of incorporating best practices for opioid prescribing into daily office processes can only be determined by the level of office automation, staff efficiency and commitment of the prescriber and their staff.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

The Bureau's reimbursement for opioid prescriptions used to treat a work related

injury or occupational disease shall be limited to claims in which current best medical practices as implemented by Ohio State Medical Board rule 4731-21-02 and proposed Bureau rule OAC 4123-6-21.7 of the Administrative Code, are followed. The Bureau shall not reimburse for any further prescriptions for opioids, and prescribers should discontinue prescribing opioids, if the applicable criteria of the rules are not met.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

Failure of a prescriber#s to comply with the requirements of 4731-21-02 and OAC 4123-6-21.7 of the Administrative Code, may constitute endangerment to the health and safety of injured workers, and claims involving opioid prescribing not in compliance with these rules may be subject to peer review by the Bureau Pharmacy and Therapeutics (P&T) Committee, the Bureau Health Care Quality Assurance Advisory Committee (HCQAAC), or such other peer review committee established by the Bureau.