

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4731-11-09

Rule Type: New

Rule Title/Tagline: Controlled substance and telehealth prescribing.

Agency Name: State Medical Board

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 122 - 134
- Fraizer, Holmes
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4743.09, 4731.74, 4731.05
5. **What statute(s) does the rule implement or amplify?** 4731.22, 4731.74, 4731.741, 4743.09, 4730.25, 4730.60.
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

HB 122 provided a new telehealth law which included provisions on prescribing. This rule implements the prescribing provisions of the telehealth law for physicians and

physician assistants. This new rule replaces current 4731-11-09 which is proposed to be rescinded because more than fifty percent of the current rule is being changed in the new rule.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule provides requirements for controlled substance prescribing including when that prescribing is done through telehealth and when the prescribing of a schedule II controlled substance to a new patient requires an initial in-person visit.

- 9. Does the rule incorporate material by reference? Yes**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

The rule references provisions of the Ohio Revised Code and Ohio Administrative Code which are exempt pursuant to R.C. 121.75(A) and can be found on the internet or at a public library.

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

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Not applicable.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not applicable.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

The rule provides requirements for physician and physician assistant prescribing which requires a license.
 - 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

Violations of the rule could result in a disciplinary sanction by the State Medical Board which could include a civil penalty.
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No
 - A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable