

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4731-11-09

Rule Type: Rescission

Rule Title/Tagline: Prescribing to persons not seen by the physician.

Agency Name: State Medical Board

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/29/2022
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?** 4731.05, 4731.74
5. **What statute(s) does the rule implement or amplify?** 4731.22, 4731.74
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?**

The new telehealth law in HB 122 changed some of the prescribing requirements for controlled substances. This rule is proposed to be rescinded because new proposed

rule 4731-11-09 which implements these prescribing changes is replacing the current rule.

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

The rule is being rescinded. The rule requires that a physician shall not prescribe controlled drugs or non-controlled drugs to a person on whom the physician has never conducted a physical examination. Also, the rule details exceptions to this requirement. In addition, the rule provides for telemedicine prescribing of non-controlled drugs if the prescriber follows the standard of care requirements listed in the rule.

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 the Ohio Revised Code and Ohio Administrative Code which are available 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 is proposed to be rescinded. The rule provides requirements for physician 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

The rule is proposed to be rescinded. 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