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SUMMARY

Remote dispensing pharmacies

- Authorizes the operation of remote dispensing pharmacies and requires the State Board of Pharmacy to regulate them.
- Requires a remote dispensing pharmacy to be staffed by two or more pharmacy interns or certified pharmacy technicians and overseen and operated by both a supervising pharmacy and pharmacist through the use of a telepharmacy system.
- Requires the Board to adopt rules governing the operation of remote dispensing pharmacies.

Mailing drugs to patients

- Prohibits health plan issuers, pharmacy benefit managers, and other administrators from prohibiting a pharmacy from mailing or delivering drugs to patients as an ancillary service.

Pharmacist administration of injectable drugs

- Authorizes a pharmacist to administer by injection the following drugs if prescribed by a physician and if other conditions specified in current law are met: HIV treatment drugs in long-acting or extended-release forms and any other drug specified in Board rules.

Pharmacy technician trainees

- Authorizes the Board to register as a pharmacy technician trainee an applicant who is 17 years old and possesses a high school diploma or certificate of high school equivalence.

Certified mental health assistants

- Establishes licensure by the State 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.
- Specifies application procedures including education requirements, renewal procedures, and continuing education requirements for CMHAs.
- Establishes within the Medical Board an advisory committee to advise the Board and the Department of Higher Education regarding CMHA education programs.
- 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 for violations of that and other related prohibitions.

Uniform Duties to Incapacitated Persons Act

- Modifies the law governing the use of medical identifying devices, including by recognizing devices containing bar or quick response codes that may be scanned to obtain medical information in an emergency.
- Names these provisions of the act "Paige's Law."

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DETAILED ANALYSIS

Remote dispensing pharmacies

The act requires the State Board of Pharmacy to regulate remote dispensing pharmacies. A "remote dispensing pharmacy" is a pharmacy where the dispensing of drugs, counseling of patients, and other pharmacist care is provided through a telepharmacy system. Dispensing of drugs at the pharmacy may include the dispensing of drug therapy related devices. A telepharmacy system uses an electronic method to monitor the dispensing of drugs and provide for related drug utilization review and patient counseling services.[1]

Eligibility

To operate as a remote dispensing pharmacy, the pharmacy must satisfy all of the following:

- Be licensed by the Board as a terminal distributor of dangerous drugs;
- Use only a telepharmacy system that meets standards established by the Board in rules;
- Be staffed by two or more pharmacy interns or certified pharmacy technicians;
- Have a supervising pharmacy and supervising pharmacist;
- Be located in Ohio, in a building that is zoned for commercial use;
- In general, not be located within a ten-mile radius of an outpatient pharmacy.[2]

Exceptions to the exclusion area surrounding an outpatient pharmacy

The act establishes circumstances when a remote dispensing pharmacy's proximity to an outpatient pharmacy may be closer than ten miles. Specifically, the ten-mile radius around an outpatient pharmacy that otherwise constitutes an area of exclusion does not apply in relation to (1) federally qualified health centers (FQHCs) and (2) locations approved by the Board based on a demonstration of need.[3]

Regarding FQHCs, the act permits a remote dispensing pharmacy to be within the ten-mile radius of an outpatient pharmacy if the remote pharmacy is part of an FQHC or an FQHC look-alike, which is a facility that meets the eligibility requirements for federal FQHC funding but does

[1] R.C. 4729.554(A) and (B).

[2] R.C. 4729.554(B) and (C).

[3] R.C. 4729.554(C)(2)(b).

not receive it. The remote pharmacy must be located on the same property as, or a campus contiguous to, the FQHC or look-alike.

For location approvals based on need, the act requires a remote dispensing pharmacy to meet standards established by the Board in rules. Further, as part of the Board's approval process, the act requires the Board to establish a method by which persons may register to receive notice from the Board of requests for location approvals. The Board also must establish a system for accepting public comments regarding the requests. When the Board receives a request, it must electronically notify persons who register to be notified, and post notice on its website regarding a 60-day public comment period. During that period, the Board must permit other pharmacies to submit requests for location approvals. After that period ends, the Board, in determining whether any of the location requests should be approved, must consider public comments, supervising pharmacy location in relation to the proposed remote dispensing pharmacy, and any other standards specified in rules. The determination must be made at the Board's next regularly scheduled meeting that occurs on or after the date that is 90 days after the electronic notices described above were sent.[4]

Operational conditions

The act establishes conditions on the operation of each remote dispensing pharmacy. These include all of the following:

- The pharmacy must not fill prescriptions at a rate that exceeds an average of 150 prescriptions per day during a 90-day period, unless otherwise approved by the Board.
- The pharmacy must implement a quality assurance plan to ensure that there is a planned and systematic process for (1) monitoring and evaluating the quality and appropriateness of the pharmacy services and (2) identifying and resolving problems.
- If the pharmacy holds a category III terminal distributor of dangerous drugs license, it must maintain a perpetual controlled substance inventory, as specified in Board rules.[5]

Pharmacy interns and technicians

The act sets limits on the practice of pharmacy interns and certified pharmacy technicians when assisting in the process of dispensing drugs.[6] When staffing a remote dispensing pharmacy, these practitioners are prohibited from doing any of the following:

- Counseling an individual regarding drugs that are dispensed, recommending drugs and drug therapy related devices or otherwise providing advice, or assisting with the selection of drugs and drug therapy related devices for treatment of common diseases and injuries or with providing instruction on their use;

[4] R.C. 4729.554(C)(2)(c).

[5] R.C. 4729.554(F).

[6] R.C. 4729.554(G).

- Performing sterile or nonsterile drug compounding, except for the reconstitution of prepackaged dangerous drugs;
- Engaging in the repackaging of dangerous drugs;
- Administering immunizations or performing diagnostic testing, unless a pharmacist is onsite to provide direct supervision;
- Performing any other activities prohibited in Board rules.

Supervising pharmacies

The act establishes requirements to be met by the pharmacies that supervise remote dispensing pharmacies.[7] First, it requires a supervising pharmacy to be both licensed by the Board as a terminal distributor of dangerous drugs and located in Ohio. Second, the supervising pharmacy must either (1) be under common ownership and control with the remote dispensing pharmacy or (2) operate under a contract that meets requirements specified in Board rules. Third, it requires the supervising pharmacy to control the telepharmacy system used by the remote dispensing pharmacy and to employ or contract with the supervising pharmacist of the remote dispensing pharmacy.

Supervising pharmacists

The act sets a number of conditions and limitations on the pharmacist who serves as the supervising pharmacist of a remote dispensing pharmacy.[8] The supervising pharmacist must be licensed by the Board, physically located in Ohio, and employed by or under contract with the supervising pharmacy. The supervising pharmacist must be in full and actual charge of the remote dispensing pharmacy by using its telepharmacy system and surveillance system. The pharmacist is prohibited from simultaneously overseeing the activities of more than one remote dispensing pharmacy, unless otherwise approved by the Board.

The supervising pharmacist must oversee the pharmacy interns and certified pharmacy technicians who are assisting in the dispensing process at the remote dispensing pharmacy and must provide that oversight through the pharmacy's telepharmacy system and surveillance system. The supervising pharmacist is also responsible for verifying each prescription and dispensed drug before the drug leaves the remote dispensing pharmacy. Verification includes a visual review and the use of barcoding and any other technology required in Board rules. Finally, the supervising pharmacist must offer to provide patient counseling for each drug dispensed under a new prescription.

Rulemaking

The act requires the Board to adopt rules governing the regulation of remote dispensing pharmacies.[9] The Board must do so in accordance with Ohio's Administrative Procedure Act and

[7] R.C. 4729.554(D).

[8] R.C. 4729.554(E).

[9] R.C. 4729.554(H).

not later than October 9, 2026. If the Board fails to meet this deadline, the act authorizes the Ohio Attorney General or a county prosecuting attorney to apply to a court of common pleas for a court order requiring the rules to be adopted.[10]

The Board must include all of the following in the required rules:

- Standards for a system of continuous video surveillance and recording of each remote dispensing pharmacy, including establishing an adequate number of views of the entire pharmacy and requiring the retention of each recording for at least 60 days;
- Standards for telepharmacy systems and surveillance systems, including standards to ensure that the systems are capable of (a) facilitating a safe and secured method for appropriate pharmacist supervision, (b) allowing an appropriate exchange of visual, verbal, and written communications for patient counseling and other pharmacy services, and (c) being secure and compliant with the federal Health Insurance Portability and Accountability Act (HIPAA);
- Requirements for any contract between a supervising pharmacy and remote dispensing pharmacy;
- Standards for making a demonstration of need in the case of a remote dispensing pharmacy seeking to locate within ten miles of an outpatient pharmacy;
- Requirements for implementing a remote dispensing pharmacy's quality assurance plan;
- The qualifications and training necessary for pharmacy interns and certified pharmacy technicians who staff remote dispensing pharmacies, including the number of experiential hours required;
- Any additional activities that pharmacy interns and certified pharmacy technicians are prohibited from performing;
- The number of pharmacy interns and certified pharmacy technicians that a supervising pharmacist may supervise at any given time;
- The maximum distance that a supervising pharmacist may be physically located from the remote dispensing pharmacy;
- Standards for remote patient counseling by a supervising pharmacist, including the counseling required to be offered for each drug dispensed under a new prescription;
- Standards for and frequency of remote dispensing pharmacy inspections by the supervising pharmacist;
- Requirements for the closure of a remote dispensing pharmacy if its telepharmacy system or surveillance system, or any related security system used by the pharmacy, is malfunctioning;

[10] Section 3.

- Requirements related to perpetual controlled substance inventories;
- Security requirements for remote dispensing pharmacies that include methods for supervising pharmacists to determine who has accessed the pharmacy;
- Standards by which a supervising pharmacist may be approved to oversee more than one remote dispensing pharmacy simultaneously;
- Requirements for a remote dispensing pharmacy's responsible person;
- Any other standards or procedures the Board considers necessary to implement the act's provisions on remote dispensing pharmacies.

Telehealth

Continuing law allows a pharmacist to use telehealth to perform an action involved in dispensing a prescription drug, if the action is authorized through Board rules. The act specifies that a pharmacist's telehealth authority also applies to drug dispensing actions performed through remote dispensing pharmacies.[11]

Mailing drugs to patients

The act prohibits health plan issuers, pharmacy benefit managers, and other administrators from prohibiting a pharmacy from mailing or delivering drugs to patients as an ancillary service.[12]

Pharmacist administration of injectable drugs

Continuing law authorizes pharmacists to administer by injection certain drugs prescribed by a physician, including addiction treatment and antipsychotic drugs administered in long-acting or extended-release forms. The act additionally authorizes pharmacists to administer by injection (1) HIV treatment drugs in long-acting or extended-release forms and (2) any other drugs specified in rules adopted by the Board.

The act maintains preexisting pharmacist training, protocol, and other requirements that apply to pharmacist administration of injectable drugs.[13]

Pharmacy technician trainees

The act authorizes the Board to register as a pharmacy technician trainee an applicant who is 17 years old and possesses a high school diploma or certificate of high school equivalence. Previously, a 17-year-old could be registered only if enrolled in certain Board-approved career-technical school programs.[14]

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[11] R.C. 4729.285.

[12] R.C. 3959.22.

[13] R.C. 4729.45.

[14] R.C. 4729.921(B).

Certified mental health assistant licensure

The act establishes licensure for a new type of mental health professional. Under the act, 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.[15] A supervising physician may be a physician authorized to practice medicine and surgery or osteopathic medicine and surgery.[16]

Services that a CMHA may perform

The act 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:[17]

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 act and discussed below;
3. Ordering occupational therapy or referring a patient to occupational therapy, if related to the patient's diagnosis; and
4. Referring a patient to emergency medical services for acute safety concerns, so long as the CMHA consults with the supervising physician as soon as practicable thereafter.

Additionally, a CMHA may provide telehealth services in accordance with continuing law that establishes standards for telehealth services for various health care professionals.[18]

Delegation of tasks

The act 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 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.[19]

There are certain conditions that must be met for a CMHA to delegate administration of a drug, as follows:[20]

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

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

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

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

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

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

- The CMHA is granted physician-delegated prescriptive authority by the supervising physician and is 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:[21]

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, or a similar publication if designated by the Medical Board; and
3. Engaging in electroconvulsive therapy, transcranial magnetic stimulation, or any other intervention designated as invasive by Medical Board rules.

Supervision agreements

The act requires a physician to enter into a supervision agreement with each CMHA the physician will supervise. 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 alternate supervising physicians in the supervision agreement. 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.[22]

A supervision agreement must include the following terms:[23]

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 who practices, or a supervising physician who supervises, in a manner that departs from, or fails to conform to, the terms of a supervision agreement, or otherwise fails to comply with

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

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

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

the requirements for supervision agreements discussed above. If the Board finds that a CMHA or supervising physician has failed to keep a copy of the supervision agreement in their records, the Board may take disciplinary action and impose a civil penalty or may permit the individual to agree in writing to update the records and pay a civil penalty. Any civil penalty cannot exceed $5,000 and must be deposited into the state treasury to the credit of the State Medical Board operating fund.[24]

Supervision requirements

Communication

Generally, the act requires that a supervising physician 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 and 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 1,000 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.[25]

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. 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 condition or possible change in diagnosis. Additionally, annual reevaluation is required if the CMHA prescribes a controlled substance to the patient.[26]

Quality assurance and review

The supervising physician must comply with the quality assurance standards established by the Medical Board in rules, which are discussed in greater detail below. The supervising physician may perform other quality assurance activities that the physician considers appropriate. Additionally, the supervising physician must regularly perform other reviews of the CMHA that the supervising physician considers necessary.[27]

A supervising physician can authorize a CMHA to perform a service only if the physician is satisfied that the CMHA is capable of competently performing the service. A supervising physician

[24] R.C. 4772.10(D) and (E) and 4731.24.

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

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

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

is prohibited from authorizing performance of any service that is beyond the physician's or CMHA's normal course of practice and expertise.[28]

The act requires the Medical Board to adopt rules establishing quality assurance standards, including a process for all of the following:[29]

- 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; and
- Performance of any other quality assurance activities the Medical Board considers necessary.

Limit on number of CMHAs 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.[30]

Liability – termination of agreement

The act 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.[31]

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 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.[32]

[28] R.C. 4772.11(C).

[29] R.C. 4772.19(B)(4).

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

[31] R.C. 4772.11(E).

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

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:[33]

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 fewer 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 ADHD diagnosis.

If a CMHA has physician-delegated prescriptive authority to prescribe a minor an opioid analgesic, the CMHA must comply with continuing law that requires a discussion of risks and guardian consent.[34]

Regarding buprenorphine for use in medication-assisted treatment, the Medical Board must 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.[35]

Compliance with OARRS

Similar to other prescribers, a CMHA must comply with the following before prescribing a controlled substance:[36]

- Before the initial prescription, request from the Pharmacy Board's drug database, known as the Ohio Automated Rx Reporting System (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.

[33] R.C. 4772.12(B)(3) and 4772.13(A); see also R.C. 3719.06(A)(4).

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

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

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

These requirements 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.[37]

The Medical Board must adopt rules related to OARRS requirements.[38]

Other provisions related to prescribing

Similar to other prescribers, such as physician assistants, the act 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;[39]
- 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;[40]
- CMHAs treating patients with medication-assisted treatment, and prerequisites that must be met;[41]
- CMHAs personally furnishing supplies of naloxone and prescriptions for naloxone and authorizing it to be furnished or administered in accordance with protocols.[42]

The act 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 act.[43]

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.[44]

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

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

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

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

[41] R.C. 4772.15 and 3719.064.

[42] R.C. 3715.50 to 3715.503.

[43] 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.

[44] R.C. 4772.04(A) and 4772.19(B)(2); see also R.C. 4772.26, regarding fees.

To be eligible for a CMHA license, an applicant must be 18 years old or older, hold a bachelor's degree in any field of study, and meet one of the following additional education requirements:[45]

1. Hold a master's degree or higher from a CMHA program (see "**CMHA education programs**," below); or
2. Hold a diploma from an accredited medical school or osteopathic medical school and have completed 12 months of coursework from a CMHA program.

A CMHA applicant also must comply with continuing law regarding criminal records checks for professional licenses.[46]

Renewal

A CMHA license is valid for two years, unless earlier revoked or suspended.[47] 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 act is required as part of the renewal application. A renewal applicant must comply with continuing education requirements, discussed below.[48]

Similar to other licensees the Medical Board regulates, the act includes provisions related to the automatic suspension of licenses not renewed, and reinstatement and restoration of those licenses.[49]

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 that the CMHA has been granted access to the OARRS drug database. The second requirement does not need to be met if 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.[50]

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

[46] R.C. 4772.041 and 4776.01; R.C. 4776.02 to 4776.04, not in the act.

[47] R.C. 4772.06.

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

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

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

The Medical Board may establish additional continuing education requirements in rules.[51]

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.[52]

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, which cannot exceed $5,000.[53]

Duplicate license

The act 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.[54]

CMHA education programs

To constitute a CMHA program under the act, the program must include at least 30 credit hours of graduate coursework and include courses in the following areas:[55]

- Psychiatric diagnoses included in the DSM;
- Laboratory studies used in diagnosing or managing psychiatric conditions;
- 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; and

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

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

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

[54] R.C. 4772.07.

[55] R.C. 4772.05(A).

- Clinical experiences in inpatient psychiatric units, outpatient mental health clinics, psychiatric consultation and liaison services, and addiction services.

Related to approval of CMHA programs by the Chancellor of Higher Education, the act creates an advisory committee within the Medical Board. The committee must advise the Board and the Department of Higher Education regarding CMHA programs until there is a national accrediting body for CMHAs. Until then, the committee must reference the physician assistant accrediting standards from the Accrediting Review Commission on Education for the Physician Assistant in providing feedback and recommendations. Once there is a national accrediting body, the committee will cease to exist.

The act authorizes the Ohio State Medical Association, Northeast Ohio Medical University, and the Ohio Psychiatric Physicians Association to recommend appointments for the advisory committee to the Executive Director of the Medical Board. After considering the recommendations, the Executive Director must make initial appointments by June 8, 2025. The act includes other details concerning the advisory committee, such as terms of membership, filling vacancies, committee organization, and the authority to conduct meetings virtually.[56]

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.[57]

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 act'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. Generally, the civil penalties are to be deposited into the Board's operating fund, except that civil penalties related to impairment of practice due to habitual or excessive use or abuse of drugs or alcohol are to be used solely for investigations, enforcement, and compliance monitoring.[58]

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

[56] R.C. 4772.05(B) and (C).

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

[58] 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;[59]
- The handling of CMHAs in default of child support orders;[60]
- Probate court adjudications of mental illness or mental incompetence of a CMHA;[61]
- Board investigations of evidence related to violations of the act's provisions, including subpoena powers, confidentiality of investigatory information, and quarterly Board reports concerning cases being investigated;[62]
- 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;[63]
- Reporting by health care facilities that take formal disciplinary actions against a CMHA;[64]
- Reporting by CMHAs, physicians, or professional associations or societies of CMHAs or physicians that believe a violation of the act's provisions has occurred;[65]
- 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;[66]
- Reporting by insurers providing professional liability insurance to CMHAs for final dispositions resulting in damages over $25,000;[67]
- Enforcement of the act's provisions by the secretary of the Medical Board;[68] and
- Injunctions against unlicensed CMHA practice.[69]

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

[60] R.C. 4772.201; R.C. 3123.41 to 3123.50, not in the act.

[61] R.C. 4772.202.

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

[63] R.C. 4772.22 and 2929.42.

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

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

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

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

[68] R.C. 4772.24.

[69] R.C. 4772.25.

Against supervising physicians

The act authorizes the Medical Board to take any of the disciplinary actions authorized under current law against a supervising physician who fails to maintain supervision of a CMHA in accordance with the act's requirements.[70]

Criminal penalties

Prohibited conduct

The act prohibits a person who is not licensed as a 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.[71]

Regarding physicians, the act 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.[72]

Penalties

The act 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.[73]

Additionally, the act 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 act'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.[74]

[70] R.C. 4731.22(B)(52).

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

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

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

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

Rulemaking

As discussed in greater detail above, the act 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.[75]

Miscellaneous provisions applicable to the Medical Board

Consistent with continuing Medical Board laws, the act generally provides to the Medical Board and its agents immunity from damages related to performing official duties.[76]

The act requires the Medical Board to comply with continuing law regarding human trafficking convictions of CMHAs.[77]

Act interpretation

The act 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 act 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 act 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 act 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.[78]

Medicaid coverage

The act requires the Medicaid Director to submit a request to the federal Centers for Medicare and Medicaid Services for a Medicaid waiver to allow services provided by a CMHA to be paid by the Medicaid program.[79]

Miscellaneous provisions

The act adds CMHAs to various other Ohio laws 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;[80]

[75] R.C. 4772.19.

[76] R.C. 4772.27.

[77] R.C. 4772.28

[78] R.C. 4772.03.

[79] Section 4.

[80] R.C. 2305.234.

2. Liability of mental health professionals for failing to warn of violent behaviors of clients under certain circumstances;[81]
3. Administration and distribution of drugs under a Director of Health-developed protocol during a declared public health emergency;[82]
4. Patient requests for copies of medical records;[83]
5. Board of health purchased liability insurance for health care professionals with whom the board contracts;[84]
6. Providing immunity for health care providers donating, accepting, or dispensing drugs under the drug repository program;[85]
7. Universal blood and bodily fluid precautions developed by Medical Board rules;[86]
8. Medical Board records of applicants and licensees;[87]
9. Reporting to the Medical Board violation of certain health care professional licensing laws;[88]
10. Medical Board programs for practitioners suffering impairment of practice due to habitual or excessive use or abuse of drugs or alcohol;[89]
11. Penalty enhancements for violations of the chiropractor licensing law;[90]
12. Specifying that Ohio's emergency medical professionals law does not restrict the practice of CMHAs;[91]
13. The definition of health care professional for purposes of balance billing of Medicare beneficiaries;[92]

[81] R.C. 2305.51.

[82] R.C. 3701.048.

[83] R.C. 3701.74.

[84] R.C. 3709.161.

[85] R.C. 3715.872.

[86] R.C. 4731.051.

[87] R.C. 4731.07.

[88] R.C. 4731.224.

[89] R.C. 4731.25 and 4731.251.

[90] R.C. 4734.99.

[91] R.C. 4765.51.

[92] R.C. 4769.01.

14. Unlicensed in-home health care provided to individuals with developmental disabilities when prescribed or otherwise directed by a licensed health care professional;[93] and

15. Continuing education extensions for active duty military.[94]

Uniform Duties to Incapacitated Persons Act – Paige's Law

In 1976, the General Assembly enacted the Uniform Duties to Disabled Persons Act, which authorizes and encourages those with certain medical conditions to wear medical identifying devices and carry identification cards.[95] The law also allows or requires authorized persons to search for these devices and cards under certain circumstances.

The act maintains this law, renames it the Uniform Duties to Incapacitated Persons Act, and makes several revisions to it, including by (1) expanding the persons authorized to search an incapacitated person for a medical identifying device or identification card and (2) recognizing identifying devices that contain bar or quick response codes and permitting them to be scanned in certain circumstances to determine the wearer's medical information.

As a part of the name change, the act changes references to a ***disabled condition***, defined to mean the condition of being unconscious, semiconscious, incoherent, or otherwise incapacitated to communicate, and a ***disabled person***, meaning a person in a disabled condition, to an ***incapacitated condition*** or an ***incapacitated person.*** The act retains the meaning of these terms.[96]

Identifying device and identification card

Previously, an identifying device was defined as an identifying bracelet, necklace, metal tag, or other similar device bearing the emergency symbol and information needed in an emergency. The act expands this definition in two ways. First, it adds chains or other pieces of jewelry to the definition. And second, it specifies that an identifying device may contain – on its front or back – a bar code or quick response code that may be scanned to determine medical information needed in an emergency.[97]

Health care practitioner

The act replaces the definition of a ***medical practitioner***, defined under former law to mean only a medical or osteopathic physician, with ***health care practitioner***, which means a medical or osteopathic physician, physician assistant, registered nurse, certified nurse practitioner, and clinical nurse specialist.[98] The act then replaces references to a medical

[93] R.C. 5123.47.

[94] R.C. 5903.12.

[95] R.C. 2305.41 to 2305.49.

[96] R.C. 2305.41(G) and (H).

[97] R.C. 2305.41(E).

[98] R.C. 2305.41(D).

practitioner throughout the Uniform Duties to Incapacitated Persons Act with references to a health care practitioner, broadening its application to include these other health professionals.

Emergency medical service provider

The act eliminates references to ***paramedics*** and replaces them with references to ***emergency medical service providers***. Continuing Ohio law recognizes three types of emergency medical service technicians (EMTs), one of which is a paramedic (EMT-paramedic), as well as first responders. By replacing the reference, the act's provisions apply to EMTs-basic, EMTs-intermediate, EMTs-paramedic, and first responders.[99]

Consent and authority to search for an identifying device

Under continuing law, by wearing an identifying device, a person consents to authorized individuals who find the person in an incapacitated condition making a reasonable search of the person's clothing or other effects for an identification card. An identification card is any card containing the holder's name, type of medical condition, physician's name, and other medical information.[100] Former law required those individuals to search for an identifying device, and if found, to make a reasonable search for an identification card and examine the card for emergency information.[101] It specified that the search could be made by any law enforcement officer or medical practitioner, but not a paramedic. The act authorizes searches by law enforcement officers, emergency medical service providers, and health care practitioners (instead of medical professionals as described above).[102] While law enforcement officers remain required to make a diligent effort to determine whether an incapacitated person's condition could result from a physical or mental illness, the act specifies that authorized persons are permitted, instead of required, to make a prompt and reasonable search for an identifying device or identification card and to examine it if one is found.[103]

Continuing law requires a person who is not authorized to perform a search for an identifying device but who finds an incapacitated person to make a reasonable effort to notify an authorized person. If one is not present, the person may search for an identifying device, and if found, may search for an identification card. If found, the person must attempt to promptly bring the device or card to the attention of an authorized person.[104]

Authority to scan an identifying device

The act authorizes the following to scan an identifying device containing a bar or quick response code:

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[99] R.C. 2305.41(B) and 2305.44.

[100] R.C. 2305.41(F).

[101] R.C. 2305.43 and 2305.44.

[102] R.C. 2305.42(C).

[103] R.C. 2305.44(A).

[104] R.C. 2305.45.

- A law enforcement officer when the officer finds an incapacitated person;
- An emergency medical service provider or health care practitioner, when examining or treating an incapacitated person;
- A person other than a law enforcement officer, emergency medical service provider, or health care practitioner when that person finds an incapacitated person and a law enforcement officer, emergency medical service provider, or health care practitioner is not present.[105]

Lastly, if an identifying device or card is found, the act authorizes the law enforcement officer, emergency medical service provider, health care practitioner, or other person to inspect both sides of the device or card.[106]

Physical and mental illness

The act specifies that a physical or mental illness may result in an individual becoming unconscious, semiconscious, incoherent, or otherwise incapacitated. Former law implicitly referred only to medical illness.[107]

HISTORY

Action	Date
Introduced	03-23-23
Reported, S. Health	05-08-24
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[105] R.C. 2305.43(B), 2305.44(A), and 2305.45(A).

[106] R.C. 2305.43(B), 2305.44(A), and 2305.45(A).

[107] R.C. 2305.42(A) and 2305.43(A).