



State Medical Board of  
**Ohio**

# Federal and State Updates to Medication Assisted Treatment Rules

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# Medication Assisted Treatment Rules: Brief History

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In October 2002, the DEA rescheduled buprenorphine from a schedule V drug to a schedule III drug under the Controlled Substances Act.

In January 2015, the Medical Board adopted 4731-11-12, regulating office-based opioid treatment.

In September 2017, legislation was approved requiring rules for physicians, physician assistants, and advanced practice registered nurses to establish standards and procedures to be followed in the use of all drugs approved by the FDA for use in medication-assisted treatment. The rules were required to address detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control and other topics selected by the Medical Board and Nursing Board after considering best practices in medication-assisted treatment.

In April 2019, the existing rule related to office-based opioid treatment was rescinded and replaced with rules that meet the legislative requirements. Rules related to detoxification or withdrawal management were finalized in October 2020. (Chapter 4730-4 for physician assistants and Chapter 4731-33 for physicians).

# Federal Rules Update

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**DATA 2000 Waiver or “X” Waiver:** Allowed prescribers to treat opioid use disorder with Schedule III, IV, and V medications that have been specifically approved by the FDA for that indication outside of an opioid treatment program.

**Consolidated Appropriations Act of 2023:**

Part 1:

- An X Waiver registration is no longer required to treat patients with buprenorphine for OUD.
- All future prescriptions for buprenorphine only require a standard DEA registration number.
- There are no longer any limits or patient caps on the number of patients a prescriber may treat for OUD with buprenorphine.

Part 2:

Beginning on June 27, 2023, practitioners applying for a new or renewed DEA registration will need to attest to having completed a total of at least 8 hours of training on opioid or other substance use disorders. In other words, the training does not have to be completed until you apply for a new or renew your DEA registration beginning June 27, 2023.

Exceptions:

1. Hold a current board certification in addiction medicine or addiction psychiatry from the American Board of Medical Specialties, American Board of Addiction Medicine, or the American Osteopathic Association; or
2. Graduated within five years in good standing from a medical, advanced practice nursing, or physician assistant school in the United States that included successful completion of an opioid or other substance use disorder curriculum. Training must include the treatment and management of patients with opioid and other substance use disorders, and the appropriate clinical use of all drugs approved by the FDA for the treatment of a substance use disorder.

Past DATA-Waived trainings count.

# Initial Draft of Updates to State Rules

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- Following the announcement of Federal law changes in late 2022 and early 2023, SMBO staff escalated our usual 5-year rule review for our MAT Rules.
- First, we engaged in conversation with the Ohio Department of Mental Health and Addiction Services, the Ohio Department of Health, the Board of Nursing, and the Board of Pharmacy, as well as the Governor's Recovery Ohio team, to scope out the policy issues for consideration.
- We then hosted 3 separate stakeholder meetings to solicit input prior to our first draft of the rules. These calls included individual providers, major health care systems, and all the relevant associations. We also had separate one-on-one calls with individual providers.
- The SMBO staff presented a first draft of the rules to the Board at the September meeting and received permission to circulate the rules for comments.



# SMBO and OPHP

4731-16-01

**Definitions.**

As used in this chapter of the Administrative Code:

- (A) "Applicant" has the same meaning as used in section 4731.25(A)(1) of the Revised Code.
- (B) "Approved evaluator or treatment provider" means an evaluator or treatment provider approved by the monitoring organization pursuant to section 4731.251 of the Revised Code and this chapter of the Administrative Code.
- (C) "The board" means the state medical board of Ohio.
- (D) "Confidential monitoring program" means a confidential non-disciplinary program for the evaluation and treatment of practitioners and applicants who are, or may be impaired under sections 4731.25 through 4731.255 of the Revised Code.
- (E) "Continuing care" or "Aftercare" means regular treatment sessions following the successful completion of primary treatment which are facilitated by a licensed healthcare provider to address ongoing recovery issues and are provided by a treatment provider approved by the monitoring organization.
- (F) "Impaired" or "Impairment" has the same meaning as used in section 4731.25(A)(2)(a) and (b) of the Revised Code. Impairment includes the inability to practice according to acceptable and prevailing standards of care by reason of mental illness, mental disorder, or physical illness, including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills. Impairment includes the inability to practice in accordance with such standards without appropriate treatment, monitoring, or supervision.
- (G) "Impaired physician committee" includes health committees, physician assistance committees, peer support committees, and similar bodies.
- (H) "Monitoring organization" means an entity that meets the requirements of section 4731.25(B) of the Revised Code and enters into a contract with the board for the operation of the confidential monitoring program for impaired practitioners and applicants, review and approval of evaluators and treatment providers in section 4731.251 of the Revised Code, and assists the board with monitoring impaired practitioners who are subject to formal disciplinary action by the board under section 4731.251(C) of the Revised Code.
- (I) "Practitioner" has the same meaning as used in section 4731.25(A)(3) of the Revised Code.

4731-16-02

**General procedures in impairment cases.**

- (A) Should the board have reason to believe that any practitioner or applicant is impaired, it shall refer the individual to the monitoring organization. In addition, upon notification by the monitoring organization that the practitioner or applicant is not eligible for the confidential monitoring program, the board may compel the individual to submit to a mental or physical examination, or both.
  - (1) Such examinations shall be undertaken by an evaluator or treatment provider under contract with the board and on the approved list maintained by the monitoring organization.
  - (2) The notice issued ordering the individual to submit to examination shall delineate acts, conduct or behavior committed or displayed which establish reason to believe that the individual is impaired.
  - (3) Failure to submit to examination ordered by the board constitutes an admission of impairment unless the failure is due to circumstances beyond the individual's control.
- (B) In cases where the only potential disciplinary violation is based on impairment, the board may do the following:
  - (1) Upon identification by the board of reason to believe that a practitioner or applicant is impaired and not eligible for the confidential monitoring program, it may require an examination or examinations as set forth in paragraph (A) of this rule. The examination must meet all requirements of rule 4731-16-05 of the Administrative Code.
    - (a) If the examination or examinations fail to disclose impairment, the board shall not issue discipline based on impairment unless other investigation produces reliable, substantial, and probative evidence demonstrating impairment.
    - (b) If the examination or examinations disclose impairment, or if the board has other reliable, substantial, and probative evidence demonstrating impairment, the board may initiate proceedings to suspend the license or deny the applicant. The board may issue an order of summary suspension.
  - (2) The presence of one or more of the following circumstances shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination:

4731-16-02

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- (a) The individual has relapsed during or following treatment and the individual is not under a current monitoring agreement with the monitoring organization;
  - (b) The individual has applied for or requested treatment in lieu of conviction of a criminal charge or intervention in lieu of conviction of a criminal charge, or has applied for or requested entry into a similar diversion or drug intervention program and the individual is not eligible for the confidential monitoring program;
  - (c) The individual has pled guilty to or has had a judicial finding of guilt of a criminal offense that involved the individual's personal use or abuse of any controlled substance, and the individual is not eligible for the confidential monitoring program.
- (3) Before being eligible to apply for reinstatement of a license suspended under this paragraph the impaired individual must demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the individual's license. Such demonstrations shall include but shall not be limited to the following:
    - (a) Certification from a treatment provider approved by the monitoring organization under section 4731.251 of the Revised Code that the individual has successfully completed all required treatment as determined by the treatment provider and the medical director or designee of the monitoring organization. The treatment may include withdrawal management, inpatient, residential, extended residential, partial hospitalization, intensive outpatient, outpatient, continuing care, or other therapy or treatment.
    - (b) Evidence of continuing full compliance with any aftercare or continuing care contract as determined by the treatment provider and the medical director or designee of the monitoring organization and with any consent agreement or order of the board then in effect;
    - (c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board or monitoring organization for making such assessments and shall describe the basis for this determination. A physician who is the medical director of a treatment provider approved by the monitoring organization under

# Updates to State Rules: Technical Considerations

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Under Ohio Revised Code 4731.056(B), the Medical Board “shall adopt rules that establish standards and procedures to be followed by physicians in the use of all drugs approved by the United States food and drug administration for use in medication-assisted treatment, including controlled substances in schedule III, IV, or V. The rules shall address detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other topics selected by the board after considering best practices in medication-assisted treatment.”

Schedule III drug: substances in this schedule have a potential for abuse less than substances in Schedules I or II and abuse may lead to moderate or low physical dependence or high psychological dependence.

# Updates to State Rules: Practical Considerations

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Ohio Revised Code 4731.22(B)(6): The Medical Board can discipline you for not meeting “minimal standards of care”.

What are the minimal standards of care?

# Ways to Participate in Process

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Chief Legal Counsel

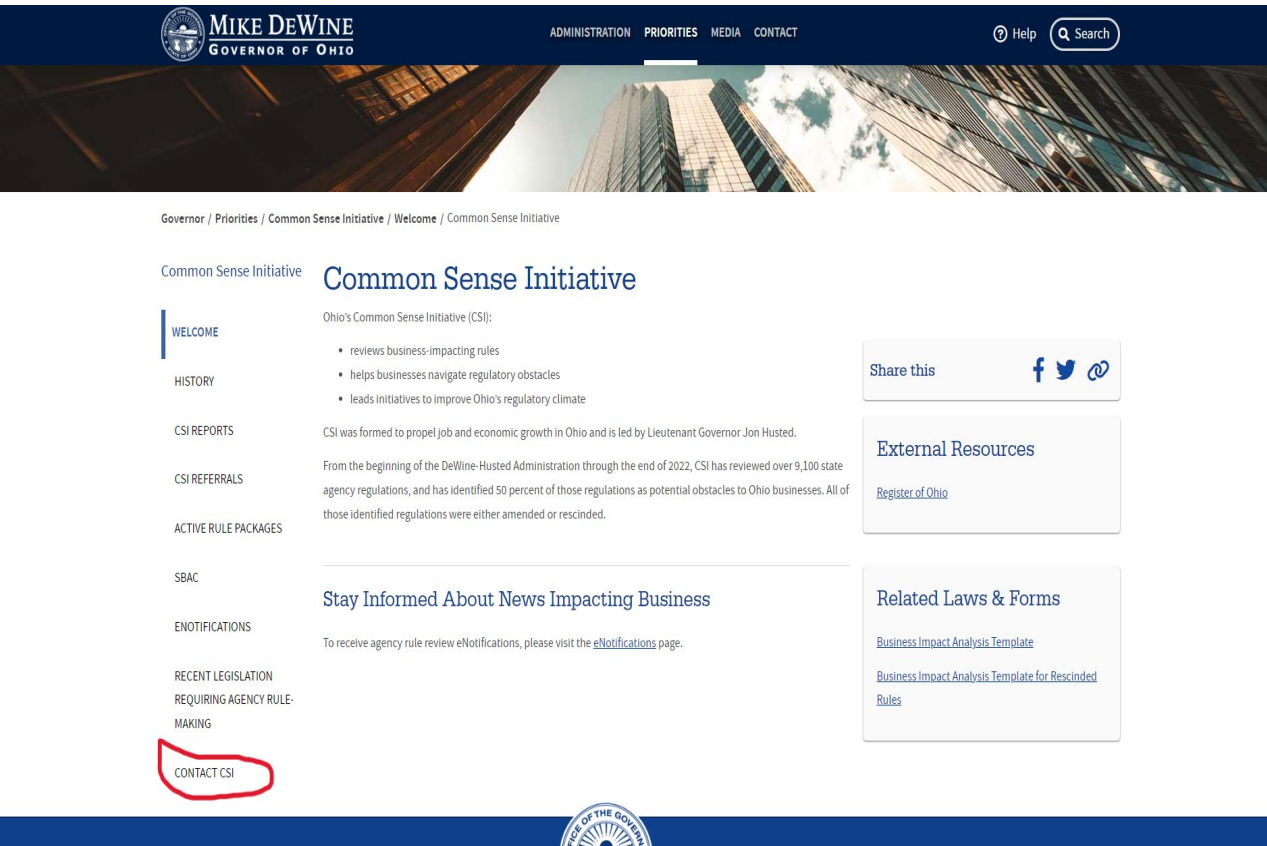
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<https://med.ohio.gov/laws-and-regulations/rules/newly-adopted-and-proposed-rules>



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Common Sense Initiative

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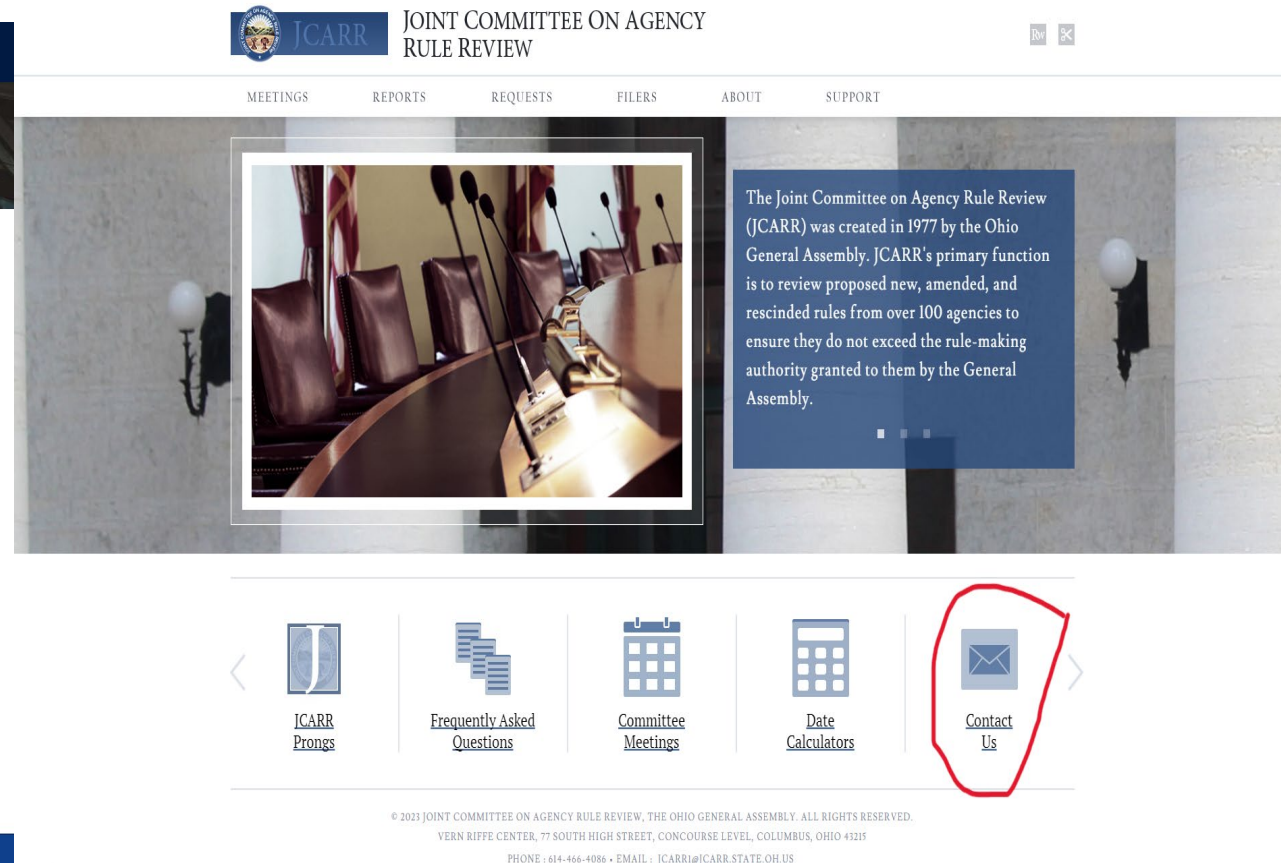
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ICARR Prongs

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# THANK YOU

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