



Ohio Administrative Code

Rule 4731-16-02 General procedures in impairment cases.

Effective: November 30, 2023

(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:

(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 section 4731.251 of the Revised Code may perform such an assessment without prior board approval.

(4) The board may reinstate a license suspended under this paragraph after the demonstration described in paragraph (B)(3) of this rule and after the individual has entered into a written consent agreement which conforms to the requirements set forth in rule 4731-16-06 of the Administrative Code, or after the board has issued a final order in lieu of a consent agreement.

(5) When the impaired individual resumes practice after license reinstatement, the board shall require continued monitoring of the individual. This monitoring, which may be completed by the monitoring organization at the discretion of the board, shall include but not be limited to compliance with the written consent agreement entered into before reinstatement or compliance with conditions imposed by board order after a hearing, if applicable.

(C) In cases where the board has initiated a disciplinary action for violations other than for impairment and the practitioner or applicant is participating in the confidential monitoring program or is under a board order or consent agreement for impairment, the general pattern of action described in paragraph (B) of this rule will be followed with the following exceptions:

(1) If the board permanently revokes a license, the individual shall not be eligible for further consideration for licensure or license reinstatement;

(2) If the board imposes a period of ineligibility for licensure, the individual shall not be eligible for licensure or license reinstatement until the period of ineligibility has lapsed;

(3) If the board imposes an indefinite period of ineligibility, licensure or license reinstatement shall depend upon successful completion of the requirements in paragraphs (B)(3) and (B)(4) of this rule and determination by the board that the period of suspension or ineligibility served is commensurate



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with the violations found.