

CHAPTER 18

Practice Intervention and Improvement Program

4723-18-01 Definitions

As used in this chapter:

- (A) “Certificate holder” means an individual holding either a current valid certificate of authority issued by the Board to practice as a certified nurse-midwife, certified nurse practitioner, certified registered nurse anesthetist, or clinical nurse specialist; or any current, valid certificate issued by the Board to provide dialysis care as a dialysis technician.
- (B) “Correspondence study” means an educational activity that is provided by an educational provider where the individual’s progress is monitored and evaluated by methods other than direct visual observation of academic or clinical performance.
- (C) “Educational provider” means the following:
 - (1) An entity or program that has been approved by an Ohio Board of Nursing (OBN) approver in accordance with Chapter 4723-14 of the Administrative Code;
 - (2) An educational institution that is both acceptable to the Board and accredited by a nationally recognized accrediting body;
 - (3) A prelicensure nursing education program approved by the Board in accordance with Chapter 4723-5 of the Administrative Code; or
 - (4) A state board or agency that regulates health care providers when an educational offering approved or accepted by the board or agency contains content that has been prescribed by the board for a participant in the practice intervention and improvement program.
- (D) “Licensee” means any individual holding a current valid license issued by the Board to practice nursing as a licensed practical nurse or registered nurse or an individual holding current, valid authorization issued by the Board to practice as an advanced practice nurse in accordance with Section 4723.55 of the Revised Code.
- (E) “Participant” means a licensee or certificate holder undergoing a remedial process in the practice intervention and improvement program.
- (F) “Participatory agreement” means a confidential, voluntary, written contract executed by a licensee or certificate holder and the practice intervention and improvement program (PIIP) which includes, but is not limited to, the following:
 - (1) Stipulation of the licensee’s or certificate holder’s identified practice deficiency;
 - (2) Consent of the licensee or certificate holder to participate in the remediation process required by the Board;
 - (3) Consent by the licensee or certificate holder that allows the release to PIIP of all information pertaining to the licensee’s or certificate holder’s remediation process; and
- (4) A provision whereby the failure of the remediation process will result in disciplinary action of the licensee or certificate holder by the Board.
- (G) “Practice intervention and improvement program” or “PIIP” means the program authorized by Section 4723.282 of the Revised Code that allows the Board to abstain from taking disciplinary action against a licensee or certificate holder, who has a practice deficiency that has been identified by the Board through an investigation conducted under Section 4723.28 of the Revised Code.
- (H) “Practice deficiency” means a practice activity that does not meet acceptable and prevailing standards of safe and effective nursing care as set forth in Chapter 4723-4 of the Administrative Code, or the acceptable and prevailing standards of safe and effective dialysis care as set forth in Rules 4723-23-12 or 4723-23-14 of the Administrative Code.
- (I) “Remediation” means a prescribed educational intervention that is designed to correct an identified practice deficiency of a licensee or certificate holder. Remediation includes, but is not limited to, successful demonstration by the licensee or certificate holder that the learned knowledge and skills have been incorporated into the licensee’s or certificate holder’s practice.
- (J) “Representative of the Board” means an educational provider or workplace monitor, designated by the Board to act on its behalf, who has entered into an agreement with PIIP to provide remediation or evaluation pursuant to Section 4723.282 of the Revised Code and this chapter of the Administrative Code.
- (K) “Workplace monitor” means the individual who observes and evaluates, for a specified time period, the practice of a participant in PIIP to determine whether the participant has incorporated applicable learned knowledge and skills into workplace practice.

4723-18-02 Process and Criteria to Use When Identifying an Individual’s Practice Deficiency

- (A) The Board shall investigate, in accordance with Section 4723.28 of the Revised Code, evidence that appears to show that a licensee or certificate holder has failed to practice in accordance with acceptable standards of safe practice as set forth in Chapter 4723-4 or Rules 4723-23-12 or 4723-23-14 of the Administrative Code.
- (B) The Board shall review the evidence obtained during its investigation to determine whether the licensee’s or certificate holder’s identified practice deficiency can be corrected through participation in the practice intervention and improvement program (PIIP) rather

than through formal disciplinary action. Criteria to use when making this determination include, but are not limited to, the following:

- (1) Whether the public will be adequately protected from unsafe practice if the licensee or certificate holder enters PIIP;
- (2) Whether the licensee's or certificate holder's practice deficiency resulted in harm or other untoward outcome for the patient;
- (3) The likelihood that the identified practice deficiency at issue is a deficiency that can be corrected through remediation;
- (4) The extent of the licensee's or certificate holder's cooperation with the Board during the investigation;
- (5) Whether the licensee's or certificate holder's identified practice deficiency represented an intentional or willful commission or omission by the licensee or certificate holder;
- (6) The frequency of the occurrence of the identified practice deficiency;
- (7) The adverse impact of the identified practice deficiency on others;
- (8) Whether the identified practice deficiency affected a particularly vulnerable patient;
- (9) Whether the licensee or certificate holder is eligible for participation in PIIP in accordance with Rule 4723-18-03 of the Administrative Code; and
- (10) Whether the licensee or certificate holder has a mental or physical impairment that contributed to the practice deficiency.

- (C) When the Board has reason to believe, after an investigation and review of evidence, that the licensee's or certificate holder's identified practice deficiency can be successfully corrected through Participation in PIIP, the Board may abstain from taking disciplinary action provided the licensee or certificate holder enters into an agreement with PIIP in accordance with Rule 4723-18-04 of the Administrative Code.

4723-18-03 Eligibility Requirements for Participation in the Practice Intervention and Improvement Program (PIIP)

- (A) An individual may participate in the practice intervention and improvement program if all of the following apply:
- (1) The Board determines that the public will be adequately protected from unsafe practice if the licensee or certificate holder enters PIIP;
 - (2) The individual has not been the subject of formal disciplinary action by any regulatory Board or entity located in Ohio or in another jurisdiction, unless the Board determines that the previous disciplinary action was for a violation which should not preclude participation in PIIP;

- (3) The individual is not concurrently under investigation by the Board for a violation of Chapter 4723. of the Revised Code or the rules of the Board which does not constitute a practice deficiency;
- (4) The individual can provide documentation satisfactory to the Board of having completed the continuing education required by Chapter 4723. of the Revised Code and the rules of the Board for a period of time not to exceed the six Years immediately preceding consideration of eligibility for PIIP;
- (5) The Board determines that the nature of the individual's identified practice deficiency is such that it may be corrected through remediation;
- (6) The individual holds a current valid license or certificate issued by the Board; and
- (7) The individual is eligible to renew the license or certificate issued by the Board.

- (B) If the Board has compelled a licensee or certificate holder to participate in a psycho-social assessment or to submit to a mental or physical examination or both in accordance with Paragraph (D) of Section 4723.28 of the Revised Code, a determination by the Board that the licensee or certificate holder does not have any impairment identified through the assessment or examination that would significantly affect learning abilities or the ability of the licensee or certificate holder to incorporate learned knowledge and skills into the licensee's or certificate holder's practice.

4723-18-04 Provisions of the Participatory Agreement for the Practice Intervention and Improvement Program (PIIP)

- (A) When a licensee or certificate holder has been determined by the Board to be eligible for the practice intervention and improvement program, in accordance with rules 4723-18-02 and 4723-18-03 of the Administrative Code, the licensee or certificate holder shall execute a participatory agreement with PIIP which includes, but is not limited to, provisions which:
- (1) Set forth the identified practice deficiency;
 - (2) Identify the specific remediation the participant must complete, including identification of educational providers that the participant may select for the prescribed educational intervention;
 - (3) Specify the time frame during which the participant must identify and select the educational provider that will provide the prescribed educational intervention and notify PIIP of the selection;
 - (4) Require the participant to pay all expenses the participant incurs as a result of the required remediation;

- (5) Require the participant to notify any and all employers or contracting entities for whom the participant provides nursing or dialysis care regarding the remediation and furnish documentation of the notification to PIIP;
- (6) Require the participant to participate in workplace monitoring;
- (7) Require the participant to cooperate with any entity, including, but not limited to, the educational provider and workplace monitor utilized by the Board;
- (8) Require the participant to cause any and all workplace monitors and educational providers, selected by the participant to provide remediation, to send written progress reports regarding the participant's progress in remediation to PIIP at specified intervals;
- (9) Require the participant to sign any and all waivers necessary to secure all reports required by PIIP;
- (10) Require the participant to submit a written personal progress report containing the information required by PIIP to PIIP at specified intervals;
- (11) Require the participant to meet in person with a PIIP representative at specified intervals;
- (12) Require the participant to obey all federal, state, and local laws, including, but not limited to, all laws and rules regulating nursing practice or dialysis care in Ohio;
- (13) Specify that the prescribed educational intervention may not be used to satisfy the continuing education requirements set forth in Chapter 4723. of the Revised Code and the rules of the Board;
- (14) Specify the terms and conditions the participant must meet to successfully complete the remediation, including, but not limited to, the time frames for completing both the educational and workplace monitoring components of the remediation; and
- (15) Set forth the grounds for termination from PIIP.

(B) A licensee or certificate holder determined by the Board to be eligible for PIIP who refuses to enter into the participatory agreement set forth in this rule within the time frame specified by PIIP shall be subject to disciplinary action in accordance with Section 4723.28 of the Revised Code.

4723-18-05 Grounds For Termination From the Practice Intervention and Improvement Program (PIIP)

(A) A licensee or certificate holder determined by the Board to have a practice deficiency that may be remediated through participation in the practice intervention and improvement program may be terminated from PIIP for any of the following:

- (1) Failure to comply with any term of the participatory agreement entered into by the participant;
 - (2) Receipt of evidence from the educational provider selected by the participant indicating that the participant has failed to progress through or to successfully complete the remediation in the manner and during the time frame prescribed by the Board;
 - (3) Receipt of evidence from the workplace monitor indicating that the participant has failed to incorporate learned knowledge and skills into practice or has continued to demonstrate the practice deficiency;
 - (4) Failure to complete the remediation; or
 - (5) Failure to maintain eligibility for PIIP.
- (B) When a licensee or certificate holder is terminated from PIIP for one of the reasons specified in Paragraph (A) of this rule, the Board shall proceed with disciplinary action in accordance with Section 4723.28 of the Revised Code. The Board may consider an individual's termination from PIIP when determining the discipline to be imposed.

4723-18-06 Requirements for Educational Providers Offering Remediation for the Practice Intervention And Improvement Program (PIIP)

- (A) The Board shall utilize educational providers as defined in Paragraph (C) of Rule 4723-18-01 of the Administrative Code to provide the remedial educational intervention prescribed for a participant in the practice intervention and improvement program.
- (B) An educational provider that desires to offer a prescribed educational intervention for PIIP shall:
 - (1) Provide to the Board a written description of the educational intervention to be made available to PIIP, including:
 - (a) An outline of the course content;
 - (b) The number of theory hours, if applicable;
 - (c) The number of laboratory hours, if applicable;
 - (d) The course description;
 - (e) The course objectives or outcomes;
 - (f) The teaching strategies;
 - (g) The method of evaluation;
 - (h) The required textbooks or other learning resources needed;
 - (i) A statement as to whether the course can be adapted to meet a participant's specific learning needs; and
 - (j) The projected time frame for completing the course;
 - (2) Agree to meet the requirements set forth in Paragraph (C) of this rule; and
 - (3) Agree, as a representative of the Board, to maintain the confidentiality of all PIIP records

in accordance with Section 4723.282 of the Revised Code.

(C) When an educational provider is selected by a PIIP participant the provider shall:

- (1) Maintain the confidentiality of the participant's participation in PIIP and of all records associated with the participant's specific prescribed educational intervention;
- (2) Provide to PIIP a written agreement to offer an educational intervention related to the specific area of practice deficiency identified by the Board;
- (3) Timely review the information provided by PIIP which sets forth the specific prescribed educational intervention needed by the participant;
- (4) Formulate and provide to PIIP, prior to the participant's entry into the prescribed educational intervention, a specific learning plan for the participant which includes:
 - (a) Measurable objectives the participant must meet to successfully complete the prescribed educational intervention;
 - (b) The anticipated duration of the prescribed educational intervention; and
 - (c) The site at which the prescribed educational intervention will take place;
- (5) Report to PIIP regarding the participant's progress in remediation at the intervals specified by PIIP;
- (6) Notify PIIP in writing within five days of the occurrence of any of the following:
 - (a) Failure of the participant to satisfactorily progress through the prescribed educational intervention in the manner and during the time frame prescribed by the Board or the participant's expulsion or termination from the intervention; or
 - (b) Failure of the participant to successfully complete the prescribed educational intervention.

When notification is provided to PIIP in accordance with this paragraph, the educational provider shall provide to PIIP, within fourteen days after notification, evidence which documents the participant's failure to progress through or complete the prescribed educational intervention;

- (7) Provide written verification to PIIP when the participant successfully completes the educational activity; and
- (8) Provide a means acceptable to the Board for the participant to complete the educational

intervention if the provider ceases to provide the intervention.

- (D) An educational provider that has agreed to offer prescribed educational interventions shall notify PIIP of its planned intent to cease providing interventions six months immediately prior to the scheduled termination.
- (E) A prescribed educational intervention for purposes of PIIP shall not consist solely of a correspondence study as defined in Paragraph (B) of Rule 4723-18-01 of the Administrative Code.
- (F) For purposes of providing the prescribed educational intervention directed by the Board, an educational provider selected by a PIIP participant shall be considered a representative of the Board and, in accordance with Paragraph (E) of Section 4723.28 of the Revised Code, shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter of the Administrative Code.

4723-18-07 Standards and Procedures for Prescribing an Educational Intervention for Purposes of Remediation Through the Practice Intervention and Improvement Program (PIIP)

- (A) When the Board determines, in accordance with Rule 4723-18-02 of the Administrative Code, that a licensee's or certificate holder's identified practice deficiency may be remediated through participation in the practice intervention and improvement program, the licensee or certificate holder shall be notified in writing of the Board's determination.
- (B) In order to participate in PIIP, an eligible licensee or certificate holder shall enter into the participatory agreement set forth in Rule 4723-18-04 of the Administrative Code.
- (C) PIIP shall select the educational interventions that appear, from the written description provided in accordance with Paragraph (B)(1) of Rule 4723-18-06 of the Administrative Code, to address the identified practice deficiency of the participant and include a list of these interventions in the participant's participatory agreement.
- (D) The participant shall select an educational intervention and, within the time frame specified by PIIP in the participant's participatory agreement, notify PIIP of the selection in writing.
- (E) PIIP shall notify the provider of the selected educational intervention of the participant's identified practice deficiency and initiate oversight of the participant's progress in remediation.
- (F) In accordance with Rule 4723-18-08 of the Administrative Code, PIIP shall establish workplace monitoring requirements that a participant must meet in order to demonstrate that the learned knowledge and skills have been incorporated into the participant's practice and shall notify the participant and the

participant's workplace monitor in writing of these requirements.

- (G) Upon receipt of evidence that the participant has failed to successfully complete the prescribed educational intervention, PIIP shall immediately notify the Board.

4723-18-08 Standards and Procedures for Workplace Monitoring of Remediation in the Practice Intervention And Improvement Program (PIIP)

- (A) A licensee or certificate holder who is a participant in the practice intervention and improvement program shall be monitored by PIIP to determine whether the participant satisfactorily demonstrates that the learned knowledge and skills have been incorporated into the participant's practice.

- (B) Upon the request of PIIP, a participant shall identify an individual who meets the requirements of Paragraph (E) of this rule who will act as a monitor of the participant's nursing or dialysis care practice in accordance with the specifications set forth by PIIP.

- (C) The selected workplace monitor shall enter into an agreement with PIIP setting forth the workplace monitoring requirements the participant must meet in order to demonstrate that the learned knowledge and skills have been incorporated into the participant's practice.

- (D) The workplace monitor shall:

- (1) As directed by PIIP, observe specific aspects of the participant's practice at the intervals identified by PIIP;
- (2) Evaluate specific aspects of the participant's practice and report to PIIP whether that practice, with respect to the identified practice deficiency, meets the standards of safe care as set forth in Chapter 4723-4 or Rules 4723-23-12 or 4723-23-14 of the Administrative Code;
- (3) Report to PIIP at the intervals required by PIIP regarding the participant's progress in remediation; and
- (4) Maintain the confidentiality of the participant's participation in PIIP and of all records associated with the participant's remediation.

- (E) A workplace monitor shall meet the following requirements:

- (1) Hold a current, valid license issued by the Board to practice as a registered nurse when monitoring a licensed nurse;
- (2) Hold a current, valid certificate of authority or authorization to practice as an advanced practice nurse when monitoring a holder of a certificate of authority or a holder of an authorization to practice as an advanced practice nurse for an identified practice deficiency associated with the scope of practice set forth in Section 4723.43 of the Revised Code or Chapter 4723-19 of the Administrative Code;

- (3) Hold either a current, valid license issued by the Board to practice as a registered nurse or hold current, valid authorization under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery when monitoring a dialysis technician;
- (4) Have no disciplinary action imposed on the license or authorization in Ohio or in another jurisdiction;
- (5) Be in a position that enables the monitor to directly observe the participant's clinical performance;
- (6) Have a minimum of five years' experience as a registered nurse or physician; and
- (7) Cooperate with the participant and PIIP to meet the requirements set forth in the participatory agreement entered into by the participant and PIIP.

- (F) When the individual to be monitored is a licensed practical nurse, the workplace monitor may direct a licensed practical nurse to observe specific tasks related to the identified practice deficiency and to report those observations to the monitor.

- (G) When the individual to be monitored is a dialysis technician, the workplace monitor may direct an Ohio certified dialysis technician or licensed practical nurse to observe specific tasks related to the identified practice deficiency and to report those observations to the monitor.

- (H) For purposes of providing the remediation directed by the Board, a workplace monitor shall be considered a representative of the Board and, in accordance with Paragraph (E) of Section 4723.28 of the Revised Code, shall not be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter of the Administrative Code.

4723-18-09 Terms and Conditions a Participant Must Meet to Successfully Complete the Practice Intervention and Improvement Program (PIIP)

- (A) A licensee or certificate holder eligible for the practice intervention and improvement program shall enter into a participatory agreement, as set forth in Rule 4723-18-04 of the Administrative Code, and shall comply with all of the terms and conditions set forth in the agreement.

- (B) A participant shall provide or cause to be provided all of the following to PIIP:

- (1) Written verification from an educational provider acceptable to PIIP that the participant has successfully completed the educational intervention prescribed by the Board; and
- (2) Written verification from a workplace monitor who meets the requirements set forth in Rule 4723-18-08 of the Administrative Code that, at the time of verification with

respect to the identified practice deficiency, the participant's practice meets the standards of safe care set forth in Chapter 4723-4 or Rules 4723-23-12 or 4723-23-14 of the Administrative Code.

- (C) Upon receipt of the documents required by Paragraph (B) of this rule, the Board shall review all information relevant to the participant's remediation to determine whether the participant's practice as a licensed nurse or dialysis technician meets the standards for safe care set forth in Chapter 4723-4 or Rules 4723-23-12 or 4723-23-14 of the Administrative Code.
- (D) When the Board determines that the licensee's or certificate holder's identified practice deficiency has been sufficiently corrected so as to meet the standards for safe care set forth in Chapter 4723-4 or Rules 4723-23-12 or 4723-23-14 of the Administrative Code, the Board shall immediately notify the participant in writing that remediation has been successfully completed and participation in PIIP is concluded.
- (D) When sufficient remediation has not occurred the Board shall proceed with disciplinary action in accordance with Section 4723.28 of the Revised Code.

4723-18-10 Confidentiality of Records for the Practice Intervention and Improvement Program (PIIP)

- (A) Information obtained by the practice intervention and improvement program pursuant to an investigation conducted in accordance with Sections 4723.28 and 4723.282 of the Revised Code shall be confidential pursuant to Paragraph (E) of Section 4723.28 of the Revised Code.
- (B) All records regarding an individual's participation in PIIP are confidential pursuant to Paragraph (D) of Section 4723.282 of the Revised Code.
- (C) All educational providers and workplace monitors selected to provide remediation by a participant in PIIP shall, as representatives of the Board, maintain the confidentiality of all records regarding the participant's remediation.
- (D) All PIIP records maintained by the Board shall be kept in a secure storage area in accordance with the Board's record retention schedule.
- (E) Notwithstanding Paragraphs (A) and (B) of this rule, PIIP shall make regular reports to the Board setting forth in general terms, without specific participant identifiers, information regarding identified practice deficiencies, the types of educational interventions undertaken to correct the deficiencies, and any other statistical information requested by the Board.