

TO: EMPLOYEES OF STATE MEDICAL PROFESSIONAL LICENSING BOARDS
FROM: CENTRAL SERVICE AGENCY, OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES
DATE: NOVEMBER 15, 2016
RE: PROPOSED LEGISLATION REGARDING MEDICAL PROFESSIONAL BOARDS

We are writing to inform you of legislation that has been introduced in the Ohio General Assembly that, if passed as currently written, would impact Ohio's medical professional licensing boards. The legislation aims to minimize legal vulnerabilities of these boards by ensuring compliance with antitrust laws, and will better align licensing board regulation with modern clinical standards and practices.

Should this legislation pass as introduced, we fully expect staffing needs and roles to remain largely unchanged under the new board structure. The proposal simply redesigns how licensing of medical professionals would be managed in Ohio and does not impact the number of licensees monitored or applications that will need to be reviewed. Impacts on existing board staff carrying out important licensing and regulatory duties are expected to be negligible, allowing the high level of work currently being done by licensing and regulatory professionals within existing boards to be maintained under the new system.

Below is an overview of the proposed legislation and greater explanation as to why these reforms are being proposed.

Employees may direct their questions to CSA.HR@das.ohio.gov and someone from our staff will respond as quickly as possible. Thank you.

WHY ARE THESE REFORMS TO MEDICAL PROFESSIONAL LICENSING BOARDS BEING PROPOSED?

In 2015 the United States Supreme Court ruled that the North Carolina Board of Dental Examiners violated federal antitrust laws because members of the state's dental board were active participants in the profession they regulated. This proposal directly responds to this ruling by establishing a third-party review process by the Department of Administrative Services, which would be triggered when a board action has the potential to violate state or federal antitrust law.

Additionally, the proposed new medical professional board structure will better align licensing and regulatory efforts with modern clinical standards and practices.

HOW WILL THE LEGISLATION ADDRESS LEGAL VULNERABILITIES?

Under the proposal, any action taken by, or on behalf of, a board that could be subject to antitrust laws would be deemed a "reviewable action." In that case, the board may self-refer the action for third-party review by DAS. An individual who is or could be negatively impacted by the board action may also appeal to DAS for a review. If the process determines that the reviewable action is not subject to state or federal antitrust law, then DAS will approve the action in writing and the board action may take effect. If the reviewable action is deemed a potential violation of antitrust law, DAS will then disapprove of the action in writing.

The review process is specifically designed to prevent delays in important decisions made by boards. The addition of this review process is aimed squarely at insulating boards from potential legal action and is designed to be timely and efficient, so as not to hold up important board actions and rulemaking.

HOW WILL BOARDS BE IMPACTED BY THIS LEGISLATION?

Under the proposal, all medical professional licensing boards would be subject to the new DAS review process. Separately, the new medical professional licensing board structure would merge some existing boards without changing the overall structure, while also merging some boards to create three new boards that better align licensing and regulatory functions.

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Medical Professional Licensing Boards Under Proposed Structure			
Board	Board Members	Types of Licenses	Total Licensees
Nursing	13	8	281,085
Medical	12	20	92,226
<i>Behavioral Health Professionals (NEW)</i>	7	16	47,935
Pharmacy	9	5	43,339
Dental	13	12	33,863
<i>Physical Health Services (NEW)</i>	7	9	27,732
<i>Vision and Hearing Professionals (NEW)</i>	9	16	16,485
Chiropractic	5	4	2,642

Dental, Nursing and Chiropractic Boards Remain Unchanged: While the Ohio State Dental Board, the Ohio Board of Nursing, and the Ohio State Chiropractic Board will need to comply with the new level of rule review developed to prevent antitrust violations, these boards will not experience any structural changes as a result of this proposal.

Better Alignment for Nutrition and Respiratory Care: Under the proposal, the State Medical Board of Ohio would assume most work and oversight currently assigned to the Ohio Board of Dietetics and the Ohio Respiratory Care Board, with the exception of licensing home medical equipment facilities. This change will add roughly 11,500 licensees to the State Medical Board of Ohio's existing number of approximately 81,000. The basic structure and appointed membership of the Medical Board will remain unchanged.

Proposed State Medical Board of Ohio Structure			
Existing Boards	Board Members	Types of Licenses	Total Licensees
State Medical Board of Ohio	12	17	80,649
Ohio Board of Dietetics	5	1	4,005
Ohio Respiratory Care Board	9	2	7,572
Proposed Board Structure	Board Members	Types of Licenses	Total Licensees
State Medical Board of Ohio	12	20	92,226

Better Alignment for Home Medical Equipment Facilities: The Ohio Board of Pharmacy will absorb the approval and monitoring of home medical equipment facility licensing – a responsibility currently within the purview of the Ohio Respiratory Care Board. This change will add fewer than 800 licensees to the Pharmacy Board's existing list of nearly 43,000. The basic structure and appointed membership of the Pharmacy Board will remain unchanged.

Proposed Ohio Board of Pharmacy Structure			
Existing Boards/Licensing	Board Members	Types of Licenses	Total Licensees
Ohio Board of Pharmacy	9	4	42,612
Home Medical Equipment Facility Licensing	N/A	1	727
Proposed Board Structure	Board Members	Types of Licenses	Total Licensees
Ohio Board of Pharmacy	9	5	43,339

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Better Alignment for Physical Health Services Providers: A new Physical Health Services Board will replace the State Board of Orthotics, Prosthetics and Pedorthics, and the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board. The proposed board moves from two independent boards with a combined total of 29 appointed board members to a new board with seven appointed board members representing professionals from each former board.

New Board Member Representation

- 1 Athletic Trainer
- 1 Physical Therapist
- 1 Occupational Therapist
- 1 Orthotist
- 1 Pedorthist
- 1 Prosthetist
- 1 Public Member

Proposed New Physical Health Services Board			
Existing Boards	Board Members	Types of Licenses	Total Licensees
Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board	20	5	27,332
State Board of Orthotics, Prosthetics and Pedorthics	9	4	400
Proposed New Board Structure	Board Members	Types of Licenses	Total Licensees
Physical Health Services Board	7	9	27,732

Better Alignment for Behavioral Health Professionals: A new Behavioral Health Professionals Board will replace the Ohio Chemical Dependency Professionals Board, the Ohio Counselor, Social Worker and Marriage and Family Therapist Board, and the Ohio State Board of Psychology. The proposed board structure moves from three independent boards with a combined total of 37 appointed board members to one board with seven appointed board members representing professionals from each former board.

New Board Member Representation

- 1 Marriage and Family Therapist or Professional Counselor (Licensed)
- 1 Social Worker (Licensed)
- 1 Non-School Psychologist
- 1 School Psychologist
- 1 Chemical Dependency Counselor (Drug or Alcohol)
- 1 Chemical Prevention Specialist
- 1 Public Member

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Proposed New Behavioral Health Professionals Board			
Current Structure of Each Board	Board Members	Types of Licenses	Total Licensees
Ohio Counselor, Social Worker and Marriage and Family Therapist Board	15	7	34,556
Ohio Chemical Dependency Professionals Board	13	6	9,879
Ohio State Board of Psychology	9	3	3,500
Proposed New Board Structure	Board Members	Types of Licenses	Total Licensees
Behavioral Health Professionals Board	7	16	47,935

Better Alignment for Vision and Hearing Professionals: A new Vision and Hearing Professionals Board will replace the Ohio State Board of Optometry, the Ohio Optical Dispensers Board, the Hearing Aid Dealer and Fitters Licensing Board, and the Ohio Board of Speech-Language Pathology and Audiology. The proposed board structure moves from four independent boards with a combined total of 31 appointed board members to one board with nine appointed board members representing professionals from each former board.

New Board Member Representation

- 2 Clinical Audiologists
- 2 Ophthalmologists
- 2 Optometrists
- 1 Speech-Language Pathologist
- 1 Dispensing Optician
- 1 Public Member

Proposed New Vision and Hearing Professionals Board			
Current Structure of Each Board	Board Members	Types of Licenses	Total Licensees
Ohio Board of Speech-Language Pathology & Audiology	9	7	8,354
Ohio State Board of Optometry	6	3	2,264
Ohio Optical Dispensers Board	9	3	5,347
Hearing Aid Dealers and Fitters Licensing Board	7	3	520
Proposed New Board Structure	Board Members	Types of Licenses	Total Licensees
Vision and Hearing Professionals Board	9	16	16,485

HOW WILL EMPLOYEES TRANSITION TO NEW BOARDS?

All staff from current boards will transition to the new boards, carrying with them their expertise and knowledge. The legislation provides the executive director of each newly-created board the ability to reassign positions, as needed, for up to two years following the transition. (This provision does not apply to bargaining unit employees.)

CAN EMPLOYEES BE OFFERED AN EARLY RETIREMENT OPTION?

Yes, as written, the legislation allows executive directors of existing boards, in cooperation with the Office of Budget & Management, to utilize an early retirement option for current board employees.

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HOW WILL THE STATE TRANSITION TO NEW BOARDS WITHOUT DISRUPTING IMPORTANT WORK THAT MUST GET DONE IN THE LICENSING PROCESS?

The legislation is written to limit disruption to the important licensing work being done by the boards during a transition. The three new boards would be formed and executive directors will be hired prior to July 1, 2017, to ensure that processes and systems allow boards to immediately begin work when they gain authority on July 1, 2017.

Board employees may direct their questions to CSA.HR@das.ohio.gov and someone from our staff will respond as quickly as possible.

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