



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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- Reps.** Huffman and Sprague, Seitz, Blessing, Butler, Clyde, Faber, Anielski, Antonio, Ashford, Barnes, Boyd, Carfagna, Craig, Cupp, Duffey, Fedor, Galonski, Ginter, Green, Greenspan, Hambley, Holmes, Johnson, Kent, Leland, Lepore-Hagan, Manning, O'Brien, Patterson, Patton, Pelanda, Reineke, Roegner, Rogers, Ryan, Sheehy, Stein, Strahorn, Sweeney, Sykes, West, Wiggam
- Sens.** Gardner, Hottinger, Brown, Beagle, Oelslager, Tavares, Coley, Eklund, Hoagland, Huffman, Sykes, Terhar

Effective date: Emergency: February 8, 2018

ACT SUMMARY

- Requires the State Medical Board to establish the "One-Bite Program," a confidential program for treatment of health care practitioners impaired by alcohol, drugs, or other substances who have not been previously sanctioned by the Board for that impairment.
- Requires suspected practitioner impairment to be reported to the monitoring organization conducting the One-Bite Program, rather than the Board.
- Establishes uniform procedures for the Board's issuance and renewal of training certificates for both physicians and podiatrists pursuing internships, residencies, and clinical fellowships.
- Coordinates the Board's licensing procedures for dietitians and respiratory care professionals with its licensing procedures for physicians and other health professionals.
- Requires legislative authorization before home and community-based waiver services or nursing facility services may be included in Medicaid managed care.

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CONTENT AND OPERATION

ONE-BITE PROGRAM

The act requires the State Medical Board to establish a confidential program, to be known as the "One-Bite Program," for the treatment of impaired practitioners regulated by the Board who satisfy certain eligibility requirements.¹ It allows a practitioner who has not previously participated in the program or been sanctioned by the Board for impairment as a result of drugs, alcohol, or other substances to avoid discipline if specified conditions are met, including completing treatment. The act requires the Board to contract with one organization to conduct the One-Bite Program and perform monitoring services.²

Board authority over impaired practitioners

The act includes the One-Bite Program in the Board's authority to address impaired practitioners. It also revises laws governing the reporting of suspected practitioner impairment by requiring reports to be made to the monitoring organization rather than the Board.³

Law unchanged by the act permits the Board to sanction a practitioner on several grounds, including impairment. If the Board determines that a practitioner is unable to practice due to habitual or excessive use or abuse of alcohol, drugs, or other substances, it must suspend the practitioner's license or certificate and require the practitioner to submit to treatment. Before the license or certificate can be reinstated, the practitioner must successfully complete treatment from a Board-approved treatment provider and demonstrate evidence of full compliance with an aftercare contract or consent agreement.⁴

Practitioners affected

The One-Bite Program applies to the following practitioners:

- (1) Physicians, including medical doctors, osteopaths, and podiatrists;
- (2) Physician assistants;

¹ R.C. 4731.251.

² R.C. 4731.251(B).

³ R.C. 4730.32(B), 4731.224(B), 4759.13, 4760.16(B), 4761.19, 4762.16(B), 4774.16(B), and 4778.17.

⁴ R.C. 4731.22(B)(26).



- (3) Anesthesiology assistants;
- (4) Acupuncturists and Oriental medicine practitioners;
- (5) Radiologist assistants;
- (6) Genetic counselors;
- (7) Massage and cosmetic therapists;
- (8) Naprapaths and mechanotherapists;
- (9) Dietitians; and
- (10) Respiratory care professionals.⁵

Eligibility

A practitioner is eligible to participate in the One-Bite Program if all of the following are the case:

- (1) The practitioner is unable to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;⁶
- (2) The practitioner has not participated previously in the One-Bite Program;
- (3) Unless the Board has referred the practitioner to the program, the practitioner has not been sanctioned previously by the Board for impairment.⁷

Monitoring organization

To be qualified to contract with the Board and conduct the One-Bite Program, a monitoring organization must:

- (1) Be sponsored by one or more professional associations or societies of practitioners;
- (2) Be organized as not-for-profit and exempt from federal income taxation;

⁵ R.C. 4731.251(A).

⁶ See *e.g.*, R.C. 4731.22(B)(26).

⁷ R.C. 4731.252(A).

(3) Employ or contract with a physician specializing in addiction medicine to serve as its medical director; and

(4) Employ or contract with one or more licensed chemical dependency counselors, independent social workers, social workers, professional clinical counselors, professional counselors, or psychologists, as necessary for its operation.⁸

Duties

As part of its contract with the Board, the monitoring organization must, among other duties, receive reports of suspected impairment, determine eligibility, refer eligible practitioners for evaluation and treatment, and monitor practitioner compliance with the program.⁹ Each duty is described below.

Receiving reports of suspected impairment

The organization must receive any report of suspected impairment and notify the practitioner who is the subject of a report that the practitioner may be eligible to participate in the One-Bite Program.

Determining eligibility

The organization must determine whether a practitioner reported to the organization is eligible to participate in the program and notify the practitioner of its determination. In the case of a practitioner reported by a treatment provider, the organization must notify the provider of its eligibility determination. If the organization determines that a practitioner is ineligible, it must report the practitioner to the Board.

Making referrals

Once an eligible practitioner elects to participate in the program, the organization must refer the practitioner to a Board-approved treatment provider for evaluation, unless the report of suspected impairment was made by a Board-approved treatment provider that has already evaluated the practitioner.

Following evaluation, the organization must refer the practitioner to treatment with a Board-approved provider. The organization must establish, in consultation with the treatment provider, the terms and conditions for the practitioner's continued participation and successful completion of the program.

⁸ R.C. 4731.251(B).

⁹ R.C. 4731.251(C).



Monitoring

The organization must monitor the evaluation of an eligible practitioner. It also must report to the Board any practitioner who does not complete evaluation or treatment or does not comply with any of the terms and conditions established by the organization and treatment provider.

Other activities

The organization must perform any other activities that are specified in its contract with the Board or that the organization considers necessary to comply with the act.

Program procedures

The monitoring organization must develop procedures governing each of the following:

- (1) Receiving reports of practitioner impairment;
- (2) Notifying practitioners of reports and eligibility determinations;
- (3) Referring eligible practitioners for evaluation or treatment;
- (4) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers; and
- (5) Establishing individualized terms and conditions for continued participation in and successful completion of the program.¹⁰

Board consultation

The organization must develop procedures, in consultation with the Board, governing each of the following:

- (1) Reporting to the Board a practitioner who, due to impairment, presents an imminent danger to the public or the practitioner;
- (2) Reporting to the Board a practitioner who is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring;

¹⁰ R.C. 4731.251(E)(1).

(3) Reporting to the Board a practitioner whose impairment was not substantially alleviated by participation in the program or who has relapsed;

(4) Providing periodic reports to the Board regarding the total number of practitioners participating in the program, without disclosing their names or records, other than disclosures required by the act.¹¹

Program rules

The Board may adopt any rules it considers necessary to implement the program, including rules regarding the monitoring organization and providers treating practitioners referred by the organization.¹² The rules must be adopted in accordance with the Administrative Procedure Act.¹³

Immunity

The act grants the monitoring organization, as well as its agents, employees, members, or representatives, immunity from civil liability or criminal prosecution for performing any duty required by the act or Board contract, so long as there is an absence of fraud or bad faith.¹⁴

Disclosures to the Board

In general, the act prohibits the monitoring organization from disclosing to the Board the name of an impaired practitioner or any records relating to the practitioner. However, the organization may disclose to the Board a name or records in the following circumstances:

(1) The practitioner is determined to be ineligible to participate in the program;

(2) The practitioner requests the disclosure;

(3) The practitioner is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, and monitoring;

(4) The practitioner presents an imminent danger to the public or practitioner, as a result of the practitioner's impairment;

¹¹ R.C. 4731.251(E)(2).

¹² R.C. 4731.251(F).

¹³ See R.C. Chapter 119.

¹⁴ R.C. 4730.32, 4731.224, 4731.253, 4759.13, 4760.16, 4761.19, 4762.16, 4774.16, and 4778.17.



(5) The practitioner has relapsed or the practitioner's impairment has not been substantially alleviated by participation in the program.¹⁵

Waiver of confidentiality

Under the act, a participating practitioner is deemed to have waived any right to confidentiality that would prevent the monitoring organization from making reports required by the act.¹⁶

Program requirements

A practitioner who participates in the One-Bite Program must comply with all terms and conditions established by the monitoring organization and treatment provider, in addition to satisfying the requirements described below.¹⁷

Costs

A participating practitioner is responsible for all costs associated with participation. For example, the practitioner may incur evaluation and treatment costs.

Suspension of practice

On acceptance into the program, a practitioner must suspend practice until after the later of:

(1) The date the treatment provider determines that the practitioner is no longer impaired and is able to practice according to acceptable and prevailing standards of care; or

(2) The end of a period specified by the treatment provider, which cannot be less than 30 days.

Reports of suspected impairment

The act requires reports of suspected practitioner impairment to be made to the monitoring organization responsible for conducting the One-Bite Program, rather than the Board as under prior law.¹⁸ It also creates a reporting requirement in the case of

¹⁵ R.C. 4731.251(D).

¹⁶ R.C. 4731.252.

¹⁷ R.C. 4731.252(B).

¹⁸ R.C. 4730.32(B), 4731.224(B), 4760.16(B), 4762.16(B), 4774.16(B), and 4778.17.



dietitians and respiratory care professionals, came under the Board's jurisdiction effective January 21, 2018.¹⁹

If any practitioner or any society or professional association of practitioners believes that a practitioner is impaired, the practitioner, society, or association must report the information on which the belief is based to the monitoring organization. If the monitoring organization determines that the practitioner is not eligible for the program, it must report the practitioner to the Board.²⁰

The act eliminates prior law under which a Board-approved treatment provider or a committee of a health care facility or professional organization was excused from making a report if the impaired practitioner was participating in treatment.²¹

If a report of suspected impairment is made to the Board rather than the monitoring organization, the Board must refer the report to the organization. The act specifies that the Board is not required to make the referral if it is aware that the practitioner does not meet One-Bite Program eligibility requirements.²²

Standards

Continuing law requires the Board to adopt rules establishing standards for approval of physicians and facilities as treatment providers for impaired practitioners. The act requires these rules to also include standards for care and monitoring that continues after treatment.²³

PHYSICIAN AND PODIATRIST TRAINING CERTIFICATES

The act modifies the Board's procedures for issuing training certificates to physicians and podiatrists seeking to pursue internships, residencies, and clinical fellowships in Ohio.²⁴ In general, the changes establish a coordinated system for issuing and renewing the certificates for both physicians and podiatrists. The following table illustrates these changes in more detail:

¹⁹ R.C. 4759.13 and 4761.19.

²⁰ R.C. 4731.251(C).

²¹ R.C. 4730.32(B)(1), 4731.224(B), 4760.16(B)(1), 4762.16(B)(1), and 4774.16(B)(1).

²² R.C. 4730.32(B)(2), 4731.224(B)(2), 4759.13, 4760.16(B)(2), 4761.19, 4762.16(B)(2), 4774.16(B)(2), and 4778.17.

²³ R.C. 4731.25.

²⁴ R.C. 4731.291 and 4731.573.



	Prior law	The act
Application fee	\$75	\$130
Initial certificate expiration	Physicians: 3 years Podiatrists: 1 year	Physicians: same (3 years) Podiatrists: 3 years
Number of renewals permitted; fees	Physicians: 2 renewals, each valid 1 year, for \$35 each Podiatrists: 5 renewals, each valid 1 year, for \$35 each	Physicians: 1 renewal, valid for 3 years, for \$100 Podiatrists: 1 renewal, valid for 3 years, for \$100

DIETITIANS AND RESPIRATORY CARE PROFESSIONALS

H.B. 49, the main operating budget for fiscal years 2018-2019, abolished the Ohio Board of Dietetics and Ohio Respiratory Care Board and transferred their duties to the State Medical Board. The Board's regulation of dietitians and respiratory care professionals began January 21, 2018.

Advisory councils

H.B. 49 required the Board to appoint the Dietetics Advisory Council and Respiratory Care Advisory Council, to advise the Board on the practice of dietetics and respiratory care, respectively. The act makes changes related to the compensation and duties of each council, as well as to the membership of the Respiratory Advisory Council.²⁵

Compensation

The act eliminates provisions allowing members of each council to receive per diem compensation, specifying instead that they must serve without compensation, except for actual and necessary expenses incurred in performing official duties.

Duties

Regarding the Dietetics Advisory Council, the act eliminates its authority to advise the Board on the investigation of complaints regarding the practice of dietetics. It also authorizes, rather than requires as under prior law, the Council to submit to the Board recommendations on matters related to the regulation and practice of dietetics.

Regarding the Respiratory Care Advisory Council, the act requires it to meet at least four times a year and at such other times as may be necessary to fulfill its duties. It

²⁵ R.C. 4759.051 and 4761.032.

also authorizes the Council to submit to the Board recommendations on issues related to the regulation and practice of respiratory care.

Membership

The act specifies that two members of the Respiratory Advisory Council must be physicians, one a member of the Board and one with clinical training and experience in pulmonary disease. It authorizes the Ohio State Medical Association to nominate up to three individuals for the Board's consideration when appointing the physician member with pulmonary training and experience. It also allows the Ohio Society for Respiratory Care to nominate up to three individuals for the Board to consider when appointing members other than the required physician members.

Regulatory procedures

The act makes several changes to the laws related to the licensure of dietitians and respiratory care professionals, in order to coordinate the Board's procedures for regulating them with the procedures it uses in regulating physicians and other health professionals.

Fees and licensing periods

Regarding dietitians, the act makes the following changes:

Dietician Fees		
	Prior law	The act
Application for initial license	\$125 (valid up to 1 year)	\$225 (valid up to 2 years)
Renewal	\$95 (annual)	\$180 (biennial)
Duplicate license or limited permit	\$20	\$35
License verification	No fee	\$50

The act eliminates the Board's authority to establish dietician fees exceeding the amounts provided in statute or to waive fees under certain circumstances.²⁶

Regarding respiratory care professionals, the act establishes specific statutory fees: \$75 for an initial license, \$20 for a limited permit, and \$10 to renew a limited permit. Under prior law, the Board could set fees up to those dollar amounts. The act

²⁶ R.C. 4759.06 and 4759.08.



eliminates the Board's authority to adjust fees biennially, within statutory limits, and to waive all or part of a license fee when the license is issued less than 18 months before its expiration date. It also eliminates the Board's authority to establish fees exceeding the amounts prescribed in statute. In other changes to respiratory care professionals' fees, the act:

- Reduces the biennial license renewal fee to \$75 (from \$100);
- Establishes a license verification fee of \$50;
- Establishes a duplicate license or limited permit fee of \$35; and
- In some cases, after the third renewal of a limited permit for \$10 per year, reduces the subsequent renewal fee to \$35 (from \$50).²⁷

Limited permits

The act standardizes procedures for issuing and renewing limited permits for dietitians and respiratory care professionals.²⁸ It requires that an application for a limited permit be made on a form furnished by the Board and accompanied by the limited permit application fee. The Board must issue the permit if the applicant meets educational requirements for licensure and has not violated any of the grounds for Board discipline. The Board must also maintain a register of all persons holding limited permits.

In the case of a dietitian, a limited permit expires and may be renewed in accordance with rules adopted by the Board. For a respiratory care professional, a limited permit expires three years after issuance, at the latest, with annual renewal thereafter. The act authorizes the Board to revoke a limited permit on satisfactory proof that the permit holder has engaged in practice outside the scope of the permit or in unethical conduct or has violated any of the grounds for Board discipline.

License issuance or renewal

The act makes several changes to the law governing the issuance and renewal of a license to practice as a dietitian or respiratory care professional, including:

²⁷ R.C. 4761.07 and 4761.08 (repealed).

²⁸ R.C. 4759.05(A)(4), 4759.06(E), 4761.05, and 4761.06.

- Eliminates the requirement that a dietetics license applicant be an Ohio resident or perform or plan to perform dietetic services in Ohio;²⁹
- Eliminates the requirement that the Board administer the license examination for respiratory care professionals and, instead, requires the Board to adopt rules approving a licensing examination administered by a national organization;³⁰
- Requires a dietetics license to be renewed biennially – beginning July 1, 2018 – rather than annually as under prior law;³¹
- Requires the Board to provide renewal notices at least one month before licenses expire;³²
- Eliminates provisions that permit a dietitian or respiratory care professional to apply for reinstatement one year after certain license sanctions;³³
- Eliminates the Board's authority to waive continuing education requirements for license renewal and, instead, provides for pro rata reductions of the number of hours to be completed;³⁴
- Eliminates the ability of a dietitian to place a license in inactive status and, instead, requires any dietitian or respiratory care professional with an inactive license on February 8, 2018 to have the license placed in active status by June 30, 2018;³⁵
- Specifies that a dietitian licensed by the former Board of Dietetics or a respiratory care professional licensed by the former Respiratory Care Board may continue to practice under that license if the person continues

²⁹ R.C. 4759.06.

³⁰ R.C. 4761.03.

³¹ R.C. 4759.06.

³² R.C. 4759.06 and 4761.06.

³³ R.C. 4759.07 and 4761.09.

³⁴ R.C. 4759.05 and 4761.03.

³⁵ R.C. 4759.06, Section 3, and Section 4. *See also* R.C. 4759.02 and 4759.05.

to meet the renewal requirements and later renews the license with the Medical Board.³⁶

Failure to renew – license reinstatement and restoration

Under the act, a dietitian or respiratory care professional license that is not renewed on or before its expiration date is automatically suspended on that date.³⁷ This is the case under continuing law for physicians and other professionals regulated by the Board.³⁸

If a license has been suspended for two years or less, the Board must reinstate it on the submission of a renewal application and reinstatement fee: \$205 for dietitians and \$100 for respiratory care professionals. The act eliminates the fee for processing a late renewal, which under prior law was \$47.50 (50% of the \$95 renewal fee) for dietitians or up to \$50 (50% of the \$100 renewal fee) for respiratory care professionals.³⁹

If a license has been suspended for more than two years, the Board may restore it on the submission of a restoration application, completion of a criminal records check, and payment of a restoration fee (\$230 for dietitians and \$125 for respiratory care professionals). The Board cannot restore a license if the results of the criminal records check make the applicant ineligible. In addition, the Board may impose terms and conditions on the applicant, including requiring the applicant to pass an examination to determine fitness to resume practice, requiring the applicant to obtain additional training and pass an examination on the training's completion, and restricting or limiting the extent, scope, or type of practice.

Out-of-state practitioners

With respect to the practice of dietetics or respiratory care by individuals who are not Ohio residents or who are licensed to practice elsewhere, the act:

- Eliminates the authority of a dietitian licensed in another state or registered by the Commission on Dietetic Registration, but not licensed in Ohio, to practice in this state for up to 15 days;⁴⁰

³⁶ R.C. 4759.06(D) and 4761.04(B).

³⁷ R.C. 4759.062 and 4761.06(C).

³⁸ See *e.g.*, R.C. 4731.15 and 4731.281.

³⁹ R.C. 4759.08 and 4761.07.

⁴⁰ R.C. 4759.02.

- Eliminates the authority of a nonresident to practice respiratory care in Ohio for up to 30 days if the services are supervised by a licensed respiratory care professional, the nonresident registers with the Board, and either qualifies for Board licensure or holds a valid license issued by another state;⁴¹
- Eliminates the Board's authority to waive the requirements that an applicant for licensure as a dietitian or respiratory care professional complete an educational program and pass an examination if the applicant is already licensed to practice in another state or country.⁴²

Respiratory care – practice exemptions

The act eliminates provisions that had exempted the following from regulation under the respiratory care laws: (1) an individual who provides respiratory care only to relatives or in medical emergencies, (2) an individual who provides gratuitous care to friends or personal family members, and (3) an individual who provides only self-care.⁴³

With respect to the exemption that continues to be available to a person employed as a certified hyperbaric technologist, the act eliminates the requirement that the person file with the Board a copy of the person's certification and pay a fee. It also eliminates the filing fee that must be paid to the Board for accepting and storing hyperbaric technologist certifications.⁴⁴

Investigations and discipline

The act establishes procedures for the investigation of alleged violations of the laws governing dietitians and respiratory care professionals.⁴⁵ These procedures correspond to those governing Board investigations of alleged violations by other practitioners also subject to its oversight.⁴⁶ For example, the act authorizes the Board to question witnesses, conduct interviews, administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the

⁴¹ R.C. 4761.11.

⁴² R.C. 4759.06(D) and 4761.04.

⁴³ R.C. 4761.11.

⁴⁴ R.C. 4761.01, 4761.07, and 4761.11.

⁴⁵ R.C. 4759.05 and 4761.03.

⁴⁶ See, *e.g.*, R.C. 4731.22(F).

production of documents. Regarding dietitians, the act's procedures also involve all of the following:

- Conducting investigations in a manner that protects the confidentiality of patients and persons who file complaints with the Board;
- Sharing information received during an investigation with law enforcement agencies, other licensing boards, and other governmental agencies prosecuting or investigating alleged violations of law;
- Preparing reports on a quarterly basis documenting the disposition of all investigations during the preceding three months.

Regarding respiratory care professionals, the act eliminates provisions that expressly prohibit the Board from disclosing confidential information from investigations or identifying information about complainants.⁴⁷ The act also eliminates provisions authorizing the Board to share information with law enforcement agencies, other licensing boards, and other governmental agencies prosecuting or investigating alleged violations of law.⁴⁸

Disciplinary actions and procedures

The act establishes additional reasons for which a dietitian or respiratory care professional may be disciplined by the Board.⁴⁹ The Board's disciplinary actions may include limiting, revoking, or suspending a license or limited permit, refusing to issue, renew, or reinstate a license or limited permit, or reprimanding or placing on probation the holder of a license or limited permit.

The grounds for discipline established in the act are similar to those that apply to physicians and other health professionals subject to the Board's oversight⁵⁰ and include: (1) departing from or failing to conform to minimal standards of care, (2) willfully betraying a professional confidence, (3) failing to cooperate in Board investigations, and (4) obtaining or attempting to obtain money or anything of value by fraudulent misrepresentation in the course of practice.

⁴⁷ R.C. 4761.08(E).

⁴⁸ R.C. 4761.031 (repealed).

⁴⁹ R.C. 4759.07 and 4761.09.

⁵⁰ See *e.g.*, R.C. 4778.14.

The act also provides that when the Board refuses to grant or issue a license or permit, revokes a license or permit, refuses to renew a license or permit, or refuses to reinstate a license or permit, it may specify that its action is permanent. An individual subject to a permanent action is thereafter ineligible to hold a license or permit, and the Board cannot accept an application for reinstatement or issuance of a license or permit.

The act clarifies that the holder of a license issued by the former Board of Dietetics or former Respiratory Care Board can be disciplined by the Medical Board.⁵¹ It also provides that the administrative procedures for taking disciplinary action against a dietitian or respiratory care professional are the same as those for other practitioners regulated by the Board.⁵²

Consistent with other Board-regulated professions, the act establishes a 60-day deadline for employers of respiratory care professionals to make reports to the Board following any disciplinary action or employment termination that would constitute grounds for disciplinary action by the Board.⁵³

Civil penalties

In addition to the disciplinary actions described above, the act authorizes the Board to impose a civil penalty on a licensed dietitian or respiratory care professional who violates the dietetics or respiratory care laws.⁵⁴ This authority is the same as the Board's authority to impose civil penalties on the other practitioners it regulates.⁵⁵

Before imposing a civil penalty, the Board must conduct an adjudication, and an affirmative vote of at least six Board members is required. It also must determine the penalty's amount in accordance with guidelines the act requires the Board to adopt. A civil penalty cannot exceed \$20,000.

The act requires that civil penalties be deposited in the state treasury to the credit of the State Medical Board Operating Fund.⁵⁶ Payments of penalties imposed as a result of practitioner impairment for alcohol or drug use must be used by the Board solely for investigations, enforcement, and compliance monitoring.

⁵¹ R.C. 4759.051 and 4761.04.

⁵² See *e.g.*, R.C. 4731.22.

⁵³ R.C. 4761.14.

⁵⁴ R.C. 4759.071 and 4761.091.

⁵⁵ See *e.g.*, R.C. 4730.252.

⁵⁶ R.C. 4731.24.



Enforcement

The act requires the Secretary of the Board to enforce the laws relating to the practice of dietetics and respiratory care.⁵⁷ If the Secretary has knowledge or notice of a violation, the Secretary must investigate and, if there appears to be probable cause, file a complaint and prosecute the offender. When requested by the Secretary, the prosecuting attorney of the appropriate county must take charge of and conduct the prosecution.

Summary suspension

The act maintains authority to suspend without prior hearing a license to practice respiratory care if there is clear and convincing evidence that (1) the holder has violated any of the grounds for which the Board may impose discipline and (2) continued practice by the holder presents a danger of immediate and serious harm to the public.⁵⁸ It also extends to the Board authority to suspend without prior hearing a license to practice dietetics.⁵⁹ The act further modifies the summary suspension procedures under the respiratory care laws to align them with procedures that apply to other professionals regulated by the Board.

Injunctions

The act authorizes the Board, Attorney General, county prosecutor, or any person who has knowledge of any individual engaging in the unauthorized practice of dietetics or respiratory care to seek a court injunction to stop the individual's unauthorized practice.⁶⁰ These provisions are the same as those included in the laws governing other professionals licensed by the Board.⁶¹ Under prior law governing the practice of respiratory care, only the Board could seek a court order restraining unlawful activity or conduct.

Technical corrections

The bill makes a number of technical changes in the laws administered by the Board, including changes to:

⁵⁷ R.C. 4759.012 and 4761.012.

⁵⁸ R.C. 4761.09.

⁵⁹ R.C. 4759.07.

⁶⁰ R.C. 4759.02 and 4761.10.

⁶¹ See *e.g.*, R.C. 4760.18.



(1) Correct references to the Ohio Peace Officer Training Commission, which was formerly established as a council;⁶²

(2) Standardize the terms used to refer to physician assistant licenses, which were formerly certificates;⁶³

(3) Correct statutory cross-references to the definition of "graduate medical education";⁶⁴

(4) Update statutory references to additional professions and occupations that are regulated under R.C. Title 47.⁶⁵

MEDICAID MANAGED CARE

The act provides that the General Assembly's authorization through the enactment of legislation is needed before home and community-based waiver services or nursing facility services are included in Medicaid managed care. However, the Medicaid program may require or permit participants of the Integrated Care Delivery System (i.e., MyCare Ohio) to obtain such services through managed care. Also, Medicaid recipients who receive such services may be designated for voluntary or mandatory participation in managed care to receive other included health care services.⁶⁶ This is similar to a vetoed item of H.B. 49.⁶⁷

HISTORY

ACTION	DATE
Introduced	03-21-17
Reported, H. Gov't Accountability & Oversight	06-06-17
Passed House (93-1)	06-21-17
Reported, S. Health, Human Services & Medicaid	01-24-18
Passed Senate (33-0)	01-24-18
House concurred in Senate amendments (92-4)	01-31-18

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⁶² R.C. 4730.26(G), 4760.14(F), 4762.14(F), and 4774.14(F).

⁶³ R.C. 4730.26(H) and 4761.01(H).

⁶⁴ R.C. 4760.01 and 4774.01.

⁶⁵ R.C. 4759.02(B)(2) and 4759.10.

⁶⁶ R.C. 5167.03 (primary) and 5167.01.

⁶⁷ Section 333.270 of Am. Sub. H.B. 49 of the 132nd General Assembly.

