

**STATE MEDICAL  
BOARD OF OHIO**

**FY09 Annual Report**

July 1, 2008—June 30, 2009

---



30 East Broad St.  
3rd Floor  
Columbus, OH  
43215-6127

**MED.OHIO.GOV**

## *Message from the Executive Director*

As Executive Director of the State Medical Board, I am pleased to submit this Annual Report of Activity for Fiscal Year 2009.

The mission of the Board is to protect the public through effective medical regulation. Consistent with agency goals of maintaining high standards of licensing, meting out discipline tempered by efforts to rehabilitate, and ensuring the Board acts in the best interest of the public, the Board accomplished the following in FY 2009:

- Issued over 5,000 initial licenses and over 28,000 renewal licenses;
- Received over 4,500 complaints and completed over 2,750 investigations;
- Approved 95 citation letters;
- Conducted 82 administrative hearings;
- Adjudicated 201 disciplinary actions;
- Addressed 167 issues through quality intervention; and
- Monitored the practice of over 290 licensees.

The Board has also demonstrated a long history of fiscal responsibility. Since FY1999, the Board has not raised physician fees; has added new licensee groups to our rolls; implemented and complied with all legislative and executive directives; and always operated within fiscal reserves.

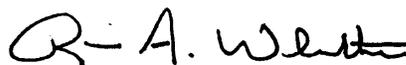
The unique nature of the Medical Board is underscored by the impact of its regulatory efforts on the very cost, quality, and availability of healthcare in Ohio. This is never more apparent than when the board must take serious disciplinary action against a licensee to protect the public. The resulting loss of a trained practitioner with years of education and experience represents a failure to identify the at-risk licensee. This loss is further exacerbated when the licensee practices in an underserved population or in an area of practice in high demand. So, programs focused upon rehabilitation and remediation, not only address public protection, they actually help ensure affordable access to healthcare.

The fiscal and operational structure of the Board has made Ohio a national leader in public protection and medical regulation. From our *Quality Intervention Program* to our *Partners in Professionalism* program we work to add public value to our regulatory efforts. But, we have never neglected the traditional components of licensure and discipline. The most often cited measure of our success in that regard has been the board's ranking compared to other state medical boards in terms of the number of serious disciplinary actions. This annual ranking was developed by Public Citizen's Health Research Group, a national consumer advocacy organization. Public Citizen has ranked the Ohio Board in the top ten since 1995. We are currently ranked third in the nation and first among large state boards.

Public Citizen, in identifying *Key Components of an Effective Medical Board*, cites the need for medical boards to be:

- Adequately funded with all money from licensure fees directed to board activities rather than to the state treasury for general purposes;
- Adequately staffed; and
- Independent from other parts of state government regarding budget and regulatory decisions.

The Medical Board must continue to operate within the fiscal and operational framework suggested above to maintain the high standards for licensure and discipline which have made Ohio a national leader in public protection. With the support of the Strickland Administration as well as the Members of the Ohio General Assembly, Ohio will continue to enjoy the high standards of public protection it has a right to expect from the State Medical Board of Ohio.



Richard A. Whitehouse, Esq.  
Executive Director

**State Medical Board of Ohio  
FY09 Annual Report**

**Table of Contents**

Agency Mission and Goals .....	1
Strategic Plan for 2011 .....	2
Medical Board Members .....	3
Board Appointments .....	3
Board Committees .....	4
Board Operations.....	5
Fiscal Report .....	5
Licensure Activities .....	7
Legislative Update.....	10
Rules Update .....	13
Quality Intervention Program .....	15
Educational Outreach Programs .....	17
Disciplinary Activities .....	18
Disciplinary Sanction Definitions .....	19

# Agency Mission & Goals

---

Under the authority of the Medical Practices Act and related law, the Medical Board licenses and oversees the practice of medicine and its branches within the state. The Board has jurisdiction over allopathic physicians (M.D.s), osteopathic physicians (D.O.s), podiatric physicians (D.P.M.s), physician assistants (P.A.s), anesthesiologist assistants (A.A.s), and acupuncturists (R.A.C.s), as well as for practitioners of the limited branches of medicine such as massage therapists (L.M.T.s) and cosmetic therapists (C.T.s). The Medical Board continues to regulate mechanotherapists and naprapaths licensed before March 1992. In FY09, the Medical Board began regulating Radiologist Assistants (R.A.).

The Medical Board's regulatory responsibilities include investigating complaints against applicants and licensees, and taking disciplinary action against those who violate the public health and safety standards set by the General Assembly and the Medical Board.

## AGENCY MISSION

To protect and enhance the health and safety of the public through effective medical regulation.

## AGENCY GOALS

- ❖ Ensure that persons practicing medicine meet sufficient standards of education, training, competence and ethics.
- ❖ Define and advocate for standards of safe medical practice.
- ❖ Rehabilitate, when possible, persons who are impaired or who practice medicine unethically or below minimal standards of care, and prohibit persons who have not been rehabilitated from practicing medicine.
- ❖ Prohibit persons from practicing medicine whose violations are so egregious as to forfeit the privilege or who otherwise lack the legal authority.
- ❖ Provide information about the licensees of the Medical Board, the Board's functions and operations, and the laws governing the practice of medicine.
- ❖ Achieve and maintain the highest possible levels of organizational efficacy.

# Strategic Plan for 2011— Quality of Healthcare Regulation

---

The Strategic Plan for 2011, adopted by the Medical Board at its December 15, 2005 meeting, outlines three key strategies to further the agency’s mission of public protection through effective medical regulation. Those strategies include:

## STRATEGY ONE

*Culture – Create an Ethics Driven/High Performance Workplace*

We must reshape our workforce and address underinvestment in our organizational capacity — specifically, staffing, training, and technology. We will exhibit greater professionalism and adopt a “customer service” approach to dealing with stakeholders and each other. Finally, we must periodically reevaluate systems and processes to challenge longtime assumptions that permit “satisfactory underperformance” focusing specifically on the interval between receipt and disposition of complaints. To do so, we will develop metrics, performance measures, and goals that promote accountability, increase efficiency, and establish our Board as a model for others.

## STRATEGY TWO

*Competency – Develop a Holistic Approach to “Effective Medical Regulation” that Helps Maintain the Competency of Licensees & Prevents Adverse Outcomes*

We will be pro-active in dealing with at-risk licensees in order to protect the public and preserve our stakeholder’s interests in maintaining or restoring a licensee’s ability to practice. Such efforts include revamping current quality intervention efforts, developing tools to deal more effectively with minimal standards cases, and analyzing the need for specific areas of remediation. We will ensure that consent agreements between the Board and licensees are clear, consistent, and creative; and that efforts to rehabilitate or remediate are effective as evidenced by performance measures. We will provide stakeholders with information that clearly reflects Board expectations regarding policies and rules involving professional conduct, minimal standards, best practices, and scope of practice.

## STRATEGY THREE

*Collaboration – Engage in Partnerships with Stakeholders and Others in Order to Leverage Available Resources and Improve Healthcare in Ohio*

We can protect the public by “building a better licensee” through public and private sector partnerships with the legislature, professional schools, associations, media, state agencies, and other stakeholders. Our efforts will be designed to instill a unique sense of ethics and professionalism in licensees that puts them on notice regarding the Board’s expectations as a regulatory body. We can also develop, analyze, and share data documenting trends impacting the cost, quality, or availability of healthcare in Ohio with stakeholders through a communications plan designed to promote the Board’s mission of protecting the public.

## Medical Board Members

---

The Medical Board is comprised of twelve members: nine physicians and three non-physician public members. All of the Board members are appointed by the Governor and serve five-year terms. Appointment terms are staggered to provide continuity and Board members may be reappointed. Two members serve as the Board's Secretary and Supervising Member who oversee the Board's investigatory process. The Secretary is a physician member and the Supervising Member may be any other member of the Board. A consumer member of the Board has served as Supervising Member since July 1993.

During FY09, the Medical Board met each month in the Administrative Hearing Room on the 3<sup>rd</sup> floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio. Meeting agendas and minutes are available on the Board's website: [med.ohio.gov](http://med.ohio.gov).

### 2008 BOARD MEMBERS:

Nandlal Varyani, MD, President  
Dalsukh A. Madia, MD, Vice President  
Lance A. Talmage, MD, Secretary  
Raymond J. Albert, Supervising Member  
Jack Amato, MD  
R. Gregory Browning, PhD(term ended 7/08)  
Carol L. Egner, MD  
W. Frank Hairston, Jr.  
Jeffr Jacobson (as of 12/08)  
Darshan Mahajan, MD  
Susan Stephens, MD (as of 3/08)  
Anita M. Steinbergh, DO  
Marchelle Suppan, DPM, MBA

### 2009 BOARD MEMBERS:

Dalsukh A. Madia, MD, President  
Jack Amato, MD, Vice President  
Lance A. Talmage, MD, Secretary  
Raymond J. Albert, Supervising Member  
Jack Amato, MD  
Carol L. Egner, MD (term ended 3/09)  
W. Frank Hairston, Jr.  
Jeffrey Jacobson  
Darshan Mahajan, MD  
Susan Stephens, MD  
Anita M. Steinbergh, DO  
Marchelle Suppan, DPM, MBA  
Nandlal Varyani, MD  
Physician (MD) appointment pending

## Board Appointments During FY09

---

Governor Ted Strickland appointed the following persons to the Medical Board during FY09:

**Jeffrey M. Jacobson** of Columbus, Ohio, was appointed in December 2008 to serve as one of three consumer representatives on the Board. His term continues until 7/31/2013. A public policy consultant, Mr. Jacobson formerly served in the Ohio House of Representatives and the Ohio Senate. He replaced R. Gregory Browning whose term expired.

**Lance A. Talmage, MD**, an OB/GYN from Toledo, Ohio, was reappointed to the Board. A member of the Board since 1999, Dr. Talmage's term continues until 3/19/2014. Since July 2003, he has served as Secretary of the Medical Board.

## Committees

---

The Medical Board addresses a variety of policy issues through its standing committees. Committees formulate recommendations that are forwarded to the full Board for action.

The committee structure includes two groups composed of six board members each. Six committees are assigned to each group. The Executive Director and Executive staff conduct research and provide support to the committees. Committee meetings are held prior to the monthly Board meetings and committee agendas are posted on the Medical Board's website. Committee actions are included in the Board meeting minutes also posted on the website.

### PHYSICIAN ASSISTANT POLICY COMMITTEE

The Physician Assistant Policy Committee (PAPC) is the only statutorily required committee of the Medical Board. In compliance with Section 4730.05, Ohio Revised Code, the PAPC meets at least four times per year to review education and licensure requirements for physician assistants; review existing and proposed rules pertaining to the practice of physician assistants; the supervisory relationship between physician assistants and supervising physicians; application forms and procedures; and physician-delegated prescriptive authority for physician assistants in accordance with Section 4370.38, Ohio Revised Code. Recommendations made by the PAPC are forwarded to the Board's Physician Assistant Committee for further review and recommendation to the full Board.

During FY09, the PAPC met five times and focused on review of special services plan requests and post-graduate education equivalency issues. Additionally, the PAPC clarified issues related to the Physician Assistant Formulary and considered revisions to the formulary. The Medical Board's website – [med.ohio.gov](http://med.ohio.gov) – includes a link that enables users to quickly locate information about physician assistant licensure and the activities of the Physician Assistant Policy Committee.

Those listed below served on the Physician Assistant Policy Committee in FY09:

Robert Zaayer, PA-C, Chair  
Michael Bowen, PA-C  
David Ballinger, PA-C  
Eugene Imbrogno, MD  
John M. Jonesco, DO

Deborah A. Lange, RPh  
Eric Luckage  
Debra Parker, Pharm.D  
Lance A. Talmage, MD

### MASSAGE THERAPY ADVISORY COMMITTEE

The Medical Board formed the Massage Therapy Advisory Committee (MTAC) in 2003 to identify and address issues specific to the profession. The Massage Therapy Advisory Committee (MTAC) met three times during FY09. The Committee discussed education, testing, and registration requirements for LMT's, as well as issues related to the scope of practice of massage therapy. Advisory Committee recommendations were forwarded to the Board's Limited Branch Committee for further review and recommendation to the full Board.

## Committees

---

The Massage Therapy Advisory Committee reviewed the content of the Massage and Bodywork Licensing Examination (MBLEx) offered by the Federation of State Boards of Massage Therapy and determined that the MBLEx examination could be used for Ohio licensure in lieu of the examination created and administered by the Medical Board. Approval by the Medical Board and legislative changes are required before the MBLEx can be implemented.

The committee also supported the Board's efforts to seek legislative change to implement a staggered licensure renewal system for massage therapists, similar to that in place for physician renewal. The feasibility of requiring continuing education hours for massage therapy licensure renewal will be studied further by the committee, as legislative change would be required to implement such requirements. The Massage Therapy Advisory Committee also supported the Board's efforts to amend rules to permit massage therapists with chemical dependency issues to undergo intensive outpatient therapy instead of the mandatory minimum 28-day inpatient treatment currently required.

The following professionals served on the Massage Therapy Advisory Committee in FY09:

Dennis J. Gibbons, LMT  
Richard A. Greely, BA, LMT  
Jeanne deMontagnac-Hall, BS, LMT

## Board Operations

---

The Executive Director oversees day-to-day operations. The agency supports 87 full time staff. Medical Board operations are funded exclusively through licensing-related fees that are non-general revenue fund sources.

## Fiscal Report

Medical Board operations are funded exclusively through licensing fees that are separate from the state's general revenue sources. Agency revenues totaled \$7,349,532 in FY09.

The original FY09 spending appropriation allocated to the agency by the legislature was \$8,225,945. However, the Board requested additional funds to offset an increase in fees charged to the agency by the Attorney General's office and to continue the use of contract hearing examiners to help the Board resolve a backlog of disciplinary cases awaiting administrative hearing. The Controlling Board authorized an additional appropriation of \$382,600 for these expenses. With the additional appropriation, the FY09 spending appropriation for the agency totaled \$8,608,545. Through June 30, 2009, the Medical Board had spent or encumbered 99.9% of these funds.

Payroll costs accounted for 80 % of the agency allotments. Operational expenses for office rent, computer services, medical expert contracts, equipment, maintenance and other support services accounted for the remaining 20% of the agency budget.

# Board Operations

## FY09 REVENUE

REVENUE BY LICENSEE TYPE:	YEAR-TO-DATE ANNUAL FY09
<i>Holding Account</i>	\$ 1,039,435
<i>Miscellaneous/Other</i>	\$ 901
AA -- Anesthesiologist Asst.	\$ 2,050
AC -- Acupuncturist	\$ 1,200
CT -- Cosmetic Therapist	\$ 7,565
DO -- Osteopathic Medicine	\$ 705,595
DPM -- Podiatric Medicine	\$ 130,870
MD -- Medicine	\$ 4,691,265
MT -- Massage Therapist	\$ 484,715
PA -- Physician Assistant	\$ 270,701
RA -- Radiology Assistant	\$ 400
LICS -- Misc./Mechano. Limited Branches	\$ 8,041
PUBL -- Public Records (copies)	\$ 74
STAFF/OTHER Reimbursements	\$ 6,721
	\$ 7,349,532

## FY09 EXPENDITURES

FY09 SPENDING AUTHORITY	YEAR-TO-DATE ANNUAL FY09	ANNUAL FY08
PAYROLL \$6,970,760	\$ 5,124,302 \$ 1,590,624 \$ 95,096	\$4,935,528 \$1,499,264 \$88,595
PURCH PERS SVCS \$512,130	\$ 43,872 \$ 371,831 \$ 680	\$43,984 \$179,886 \$47,119
OPERATING \$1,081,655	\$ 69,585 \$ 157,361 \$ 113,325 \$ 33,317 \$ 25,844 \$ 4,603 \$ 866,584	\$70,984 \$176,652 \$122,539 \$26,880 \$20,491 \$20,174 \$517,364
EQUIPMENT \$40,000	\$ 12,365 \$ - \$ 10,208 \$ 1,632	\$4,044 \$1,596 \$5,440 \$13,017
REFUND/TRANSFER \$4,000	\$ - \$ 4,388	\$0 \$4,090
\$8,608,545	\$ 8,525,616	\$7,777,646
Spending & Enc: 99.9% Target: 100%		\$223,281 Additional Year-End Encumb. Used in FY08

# Licensure Activities

The licensure responsibilities of the Medical Board ensure that those practicing medicine and its limited branches meet sufficient standards of education, training, competency and ethics. The training, education and other requirements for licensure established through Ohio law are available for quick reference on the Medical Board's website.

The following chart illustrates the number and types of licensees regulated by the Medical Board:

License Type	Total Active Licensees FY08	Total Active Licensees FY09
Cosmetic Therapist – CT and Restricted Cosmetic Therapists	207	215
Massage Therapist - LMT	10,541	11,027
Doctor Of Osteopathic Medicine - DO	4,762	4,871
Medical Doctor - MD	35,871	36,362
Doctor Of Podiatric Medicine - DPM	953	953
Mechanotherapist - DM	32	28
Naprapath - NAP	1	1
Physician Assistant - PA	1,777	1,938
Radiologist Assistant	NA	0
MD Training Certificate	3,951	3,974
DO Training Certificate	782	802
DPM Training Certificate	65	74
Acupuncturist - AC	139	154
Anesthesiologist Assistant - AA	122	141
Telemedicine Licenses	78	91
<b>GRAND TOTAL</b>	<b>59,281</b>	<b>60,573</b>

## Physician Assistant Certificates to Prescribe

Since October 2007, the Medical Board has issued two types of certificates to qualified Physician Assistants permitting physician-delegated prescriptive authority. The following certificates to prescribe were issued in FY08 and FY09.

Physician Assistant provisional certificate to prescribe	319 issued in FY08	290 in FY09
Physician Assistant certificate to prescribe	6 issued in FY08	413 in FY09

# Licensure Activities

---

## Initial Licenses Issued in FY09

The following table illustrates the number and types of initial medical and limited branch licenses and Physician Assistant certificates to practice issued by the Medical Board:

Type of License	Number Issued
Medical Doctor	1,861
Doctor of Osteopathic Medicine	294
Doctor of Podiatric Medicine	26
Physician Assistant	144
Anesthesiologist Assistant	17
Massage Therapy	811
Cosmetic Therapy	3
Acupuncturist	15
<b>TOTAL</b>	<b>3,171</b>

## Training Certificates & Other Special Licenses

**Training Certificates:** Section 4731.291, Ohio Revised Code, requires those participating in a medical residency or fellowship training program in Ohio to obtain a training certificate or a full license. In FY09, 1,954 training certificates were issued to physicians in allopathic, osteopathic, or podiatric residency or fellowship training programs in this state.

**Telemedicine Certificates:** The “practice of telemedicine” means the practice of medicine in this state through the use of any communication, including oral, written, or electronic communication, by a physician located outside of this state. In accordance with Section 4731.296, Ohio Revised Code, the Board issues Telemedicine Certificates to those practitioners who wish to practice telemedicine in Ohio. The Medical Board issued 20 telemedicine certificates in FY09.

**Special Activity Certificates:** Per Section 4731.294, Ohio Revised Code, special activity certificates are available to those practitioners licensed in another state who will be practicing in this state in conjunction with a special activity, program or event taking place in Ohio. Special activity certificates are valid for 30 days or the duration of the event, whichever is shorter. The Medical Board issued 72 special activity certificates in FY09.

**Visiting Faculty Certificates:** As permitted by Section 4731.293, Ohio Revised Code, visiting faculty certificates may be issued to those with a license in another state who have accepted an academic appointment in Ohio. Senate Bill 279, effective January 6, 2009, extended the duration of the visiting faculty certificate from one year to three years. The law also permitted those holding a visiting faculty certificate before the act’s effective date to apply for a second certificate. Seven visiting faculty certificates were issued in FY09.

## Licensure Activities

---

### Licensure Examinations

Licensure examinations for allopathic physicians (M.D.s), osteopathic physicians (D.O.s), and podiatric physicians (D.P.M.s) are administered by national examining boards and are offered throughout the year in a computerized format.

Twice each year, the Medical Board administers examinations to candidates for licensure in Massage Therapy and Cosmetic Therapy. In FY09, the Board administered 1,495 Massage Therapy examinations; 687 applicants sat for the December 2008 exam, and 808 applicants sat for the June 2009 exam. The Board administered 16 Cosmetic Therapy examinations: nine candidates sat for the December 2008 exam, and seven candidates sat for the June 2009 exam.

### Limited Branch Schools Approved

The Medical Board granted Certificates of Good Standing to offer courses in massage therapy to the following schools in FY09. This certification allows their students to sit for the massage therapy licensing examination administered by the Medical Board. The complete list of approved limited branch schools is available on the Medical Board's website: [med.ohio.gov](http://med.ohio.gov).

American College Massage School – Crown Point, IN  
Ann Arbor Institute of Massage Therapy – Ann Arbor, MI  
Career Training Academy – Pittsburgh, PA  
Center for Natural Wellness School of Massage Therapy – Albany, NY  
Colorado Institute of Massage Therapy – Colorado Springs, CO  
Heritage College – Oklahoma City, OK  
High-Tech Institute-Las Vegas – Las Vegas, NV  
Kentucky Academy of Medical Massage – Mays Lick, KY  
Miami-Jacobs Career College-Akron – Akron, OH  
Miami-Jacobs Career College-Cincinnati – Cincinnati, OH  
Miami-Jacobs Career College-Columbus – Columbus, OH  
Miami-Jacobs Career College-Dayton – Dayton, OH  
Miami-Jacobs Career College-Springboro – Springboro, OH  
Miami-Jacobs Career College-Troy – Troy, OH  
Moscow School of Massage – Moscow, ID  
M.T. Wellness-Medical Model Massage Institute – Columbus, OH  
National Institute of Massotherapy – Akron, OH  
National Institute of Massotherapy Branch Classroom – Independence, OH  
Raphael's School of Beauty Culture, Inc – Niles, OH  
Southwestern College, Cincinnati – Cincinnati, OH  
Southwestern College, Dayton – Dayton, OH  
Southwestern College, Toledo – Toledo, OH  
The New York Institute of Massage – Williamsville, NY  
Trilogy Center for Healing Arts – Marion, OH  
Universal College of Healing Arts – Omaha, NE

## Licensure Activities

---

### Radiologist Assistants

With the passage of SB 229, effective September 11, 2008, radiologist assistants became the newest profession licensed and regulated by the Medical Board. As of June 11, 2009, an individual must hold a certificate to practice issued by the Medical Board in order to practice as a radiologist assistant.

Chapter 4774, Ohio Revised Code, the practice act for radiologist assistants, sets out the licensure requirements for radiologist assistants and specifies the services a radiologist assistant may perform. Radiologist Assistants may practice only under the supervision of a physician who is practicing as a radiologist. The statutes outline the supervision requirements by a radiologist and specify that the supervising radiologist assumes legal liability for the services performed by a radiologist assistant.

### Staggered License Renewal Cycle implemented

Senate Bill 279, which went into effect in January 2009, authorized the Medical Board to implement a staggered license renewal system for massage therapists and cosmetic therapists. This law includes the massage therapists and cosmetic therapists in the staggered license renewal system used by physicians since 1998. This method shifts the licensure expiration date from a single date of expiration for that licensee group to variable expiration dates spread over two years based on the first letter of the licensee's last name. Including the over 10,000 massage therapists and cosmetic therapists in the staggered renewal will even out the workload and revenue collection over a two-year period.

## FY09 Legislative Update

---

Legislation passed in FY09 that impacted the Medical Board is listed below:

### Senate Bill 245 – Acupuncture

*Effective 8/22/08*

Modifies the laws regarding the practice of acupuncturists as follows:

- Establishes the length of time of the acupuncturist's supervisory period
- Permits an acupuncturist who has completed an initial supervisory period to perform acupuncture for a patient without receiving a referral or prescription for acupuncture
- Requires an acupuncturist to confirm that the patient has received a relevant diagnostic examination by a physician or chiropractor within the past six months.
- Requires a student in an acupuncture training program to be supervised by an acupuncturist who has completed the required supervisory period.
- Requires an acupuncturist to have professional liability insurance coverage in an amount that is at least \$500,000.

**Exemption for PAs:** The law also provides that certain physician assistant applicants are not required to obtain a master's or higher degree as a condition of being eligible to practice in Ohio.

## FY09 Legislative Update

---

### **Senate Bill 229 – Radiologist Assistant**

*Effective 9/11/08 and 6/11/09*

This law created Chapter 4774, Ohio Revised Code, the Radiologist Assistant Practice Act, and authorizes the Medical Board to regulate the practice of radiologist assistants. The law establishes criminal penalties for unauthorized practice, and authorizes the Board to take disciplinary action against radiologist assistants. As of June 11, 2009, an individual must hold a certificate to practice issued by the Medical Board in order to practice as a Radiologist Assistant. The law stipulates that a licensed radiologist assistant may practice only under the supervision of a physician who is practicing as a radiologist.

### **Senate Bill 175, Grieving Parents Act**

*Effective 9/12/08*

An amendment to the act authorizes the Medical Board to obtain Physician Assistant prescribing records from pharmacies.

### **Senate Bill 279 Medical Board Procedures/Allied Health Licensing**

*Effective 1/6/09*

This legislation addresses several statutory issues the Medical Board had identified for update or clarification, including:

- **Demographic questions included with physician license renewal:** Allows the Board to include demographic questions on physician renewal applications.
- **On-line renewal services:** Modifies the procedures used by the Board for the biennial renewal of physician licenses to reflect on-line renewal services;
- **Visiting Medical Faculty Certificate valid for three years:** Increases the maximum duration of a visiting medical faculty certificate from one to three years, and allows a physician who received a visiting medical faculty certificate before the bill's effective date to apply for a second certificate;
- **Physician Assistants employed by Veterans Administration:** Exempts medical personnel employed by the Veterans Administration from the laws governing the practice of physician assistants;
- **Physician Assistants:** Permits a PA to apply or remove casts or splints; and to certify that a person is eligible for a windshield disability placard or disability license plates;
- **Massage Therapy and Cosmetic Therapy License Renewal Changes:** Requires the State Medical Board to establish a staggered biennial renewal schedule for limited branch practitioners and begin implementation in the 2009 registration period;
- **Limited Branch examination qualification:** Allows a massage therapy or cosmetic therapy applicant who is licensed in another state or who holds national certification to be able to sit for the Ohio Board's licensure examinations.

## FY09 Legislative Update

---

### **House Bill 648, Accessing Confidential Personal Information**

*Effective 4/7/09*

- Requires state agencies to adopt rules regulating access to the confidential personal information they maintain.
- Provides that a person harmed by a violation of a rule of a state agency adopted under the act may bring an action in the Court of Claims, and imposes a criminal penalty for such a violation.

### **House Bill 280, Abortion**

*Effective 4/7/09*

The act authorizes the Medical Board to take disciplinary action against a physician for performing or inducing an abortion at an office or facility with knowledge that the facility has not posted the notice required by this legislation.

### **House Bill 493, Pathology Billing**

*Effective 4/7/09*

The act authorizes the State Medical Board to take disciplinary action against a physician who violates either of the act's prohibitions regarding physician billing for anatomic pathology services. The act specifies that a violation of either prohibition constitutes a reason for the Board to take disciplinary action under the Board's authority under continuing law to discipline a physician for any violation of the statutes or rules enforced by the Board.

### **House Bill 130, Corrections Laws**

*Effective 4/7/09*

The act requires, within 180 days after its effective date, each board, commission, or agency that is created under or by virtue of R.C. Title XLVII and that is authorized to deny licensure or certification without offering an opportunity for a hearing pursuant to the Administrative Procedure Act to applicants who have been convicted of, pleaded guilty to, or had a judicial finding of guilt for any specified criminal offense regardless of the jurisdiction in which the offense was committed and that intends to add specified criminal offenses to the list of criminal offenses for which licensure or certification can be so denied on the act's effective date to promulgate rules pursuant to the Administrative Procedure Act that list each of the additional criminal offenses for which licensure or certification can be so denied and state the basis for which each of those specified criminal offenses are substantially related to a person's fitness and ability to perform the duties and responsibilities of the occupation, profession, or trade.

Additionally, the act created the Ex-Offender Re-Entry Coalition and placed among its membership an Executive Director of a health care licensing board created under R.C. Title XLVII. At present time the Board of Nursing is filling this position with the Medical and Pharmacy Boards as alternates.

## FY09 Legislative Update

---

### House Bill 525, Recordable Documents to be in Standard Format

*Effective 4/7/09 and 7/1/09*

A provision in the act increases the general 10 cents per mile reimbursement rate for each witness subpoenaed to an adjudication hearing (both investigatory and adjudicative) to 50.5 cents per mile necessarily traveled to and from the witness's place of residence to the adjudication hearing.

## FY09 Rules Update

---

Medical Board rules are found in Chapters 4730, 4731 and 4774, Ohio Administrative Code (OAC). Medical Board rules promulgated during FY09 include the following:

### Controlled Substance Rules Chapter 4371-11, OAC

*Effective 9/30/08*

**4731-11-02 General Provisions** Paragraph (B) was amended to permit use of cocaine hydrochloride only as a topical anesthetic in situations where appropriate for injuries that do not involve mucous membranes.

**4731-11-06 Waivers for new uses** Rescinded as the Board has not received any waiver requests since the rule was adopted in September 2000.

**4731-11-08 Utilizing controlled substances for self or family members** Technical amendments were made to the rule which has been in place since 1998. The rule prohibits a physician from self-prescribing or self-administering controlled substances, and allows physicians to prescribe to family members only in an emergency situation which is well-documented in the patient's medical record.

### Criminal Records Check Rules

*Effective 9/30/08*

The passage of HB 104 effective March 24, 2008 required the Board to write or amend its licensure related rules to include language requiring criminal records checks. The following rules were amended:

- 4730-1-06 Certificate to practice as a physician assistant
- 4731-6-21 Application procedures for MD/DO applicants
- 4731-12-05 Application procedures for DPM applicants

The following new rules related to criminal records checks were adopted:

- 4730-3-01 Definitions
- 4730-3-02 Criminal records checks
- 4731-4-01 Definitions
- 4731-4-02 Criminal records checks

# FY09 Rules Update

---

## **Limited Branch Rule amendments: Rule 4731-1-11, OAC**

*Effective 11/30/08*

This rule sets the procedural requirements for licensure as a massage therapist or cosmetic therapist. Paragraph (D) was added to state that an application will not be considered to be complete until the results of the required criminal records checks are received by the Medical Board. Paragraph (G) added language requiring the applicant's school to submit documentation of the applicant's completion of the program no later than 30-days prior to the examination.

## **Drug Treatment of Intractable Pain Rules: Chapter 4731-21, OAC**

*Effective 11/30/08*

**Rule 4731-21-01 Definitions** Paragraph (J) was amended to clarify the definition of "practitioner." Paragraph (M) was amended to define "terminal condition" to reflect medical advances.

**Rule 4731-21-02 Utilizing prescription drugs for the treatment of intractable pain** Paragraph (C) provides additional mechanisms for a practitioner prescribing for intractable pain when the practitioner believes the patient is suffering from addiction or drug abuse.

## **Impairment Rules changes: Chapter 4731-16, OAC**

*Effective 1/31/09*

The impairment rules were amended to allow for intensive outpatient treatment for certain massage therapists (L.M.T.s), and cosmetic therapists (C.T.s), instead of the minimum 28-day inpatient or residential treatment required of all other Board licensees. Intensive outpatient treatment includes a minimum of 20 treatment sessions over no less than five consecutive weeks. This change was based on the fact that massage therapy and cosmetic therapy practice is less invasive and poses less risk of patient harm than the practice of physicians and the other healthcare providers regulated by the Medical Board.

## **Radiologist Assistant Rules: Chapter 4774, OAC**

*Effective 2/28/09*

The passage of SB 229 required the Medical Board to adopt rules related to the regulation of Radiologist Assistants. The rules include:

- Rule 4774-1-01 Definitions
- Rule 4774-1-02 Application for certificate to practice
- Rule 4774-1-03 Renewal of a certificate to practice
- Rule 4774-1-04 Miscellaneous provisions
- Rule 4774-2-01 Definitions
- Rule 4774-2-02 Criminal records check

# Quality Intervention Program

---

The Quality Intervention Program (QIP) was designed and adopted into law in 1996 to address quality of care complaints that do not appear to warrant intervention via formal disciplinary action. QIP focuses on cases in which poor practice patterns are beginning to emerge or the licensee has failed to keep up with changes in practice standards. An educational intervention may be all that is needed to bring the licensee up to current standards and practices. With a successful intervention, the licensee benefits by improving practice methods; patients benefit from having a better practitioner available to address their healthcare needs; and the Medical Board protects the public without an adverse impact on the availability of care in the community.

A key component of the program is the use of two Quality Intervention Panels, each comprised of six physicians and one consumer member who are responsible for assessing the practice of the licensee referred to the program and making recommendations to the Board's Secretary and Supervising Member based upon their assessment. Between January 2000 and December 2008, 908 such cases were reviewed through the Board's Quality Intervention Program (QIP) and 161 licensees were directed into focused re-education to address deficiencies identified through expert panel review. Courses related to improving medical record keeping practices and prescribing controlled substances were the most frequent referrals suggested by the QIP panels. Section 4731.22(O), Ohio Revised Code, requires licensees participating in an individual education program recommended by the QIP to pay any costs related to that educational program.

The following persons served on the QIP panels during FY09:

## Quality Intervention Panel 1:

Carla S. O'Day, MD, Chair  
Emergency Medicine  
Rocky River

Gregory Cerilli, MD  
General Surgery  
Toledo

Eric Haus, DO  
Internal Medicine  
Mansfield

Barbara Hoover  
Consumer Representative  
Hilliard

Ranjit Rath, MD  
Cardiothoracic Surgery  
Cincinnati

Mary Jo Wexler, MD  
Family Practice  
Columbus

## Quality Intervention Panel 2:

Michael L. Amalfitano, DO  
Internal Medicine & Cardiology  
Mansfield

Brian Dorner, MD  
Plastic Surgery  
Dublin

Carol Egner, MD  
OB/GYN  
Cincinnati

Karen Kirkham, MD  
Internal Medicine  
Dayton

William Klykylo, MD  
Psychiatrist  
Dayton

Christopher Simpson, DO  
Family Practice  
Athens

# Quality Intervention Program

---

## Quality Intervention Program Activity Report

Each Quality Intervention Panel meets six times per calendar year. The following table illustrates the recommendations made by the Quality Intervention Panels to the Board's Secretary and Supervising Member regarding the cases reviewed between January 2008 and June 30, 2009:

2008	January to June 2009	DISPOSITION OF CASES FOLLOWING QIP PANEL REVIEW
60 cases	45 cases	<b>Case closed.</b> No quality of care concerns identified by QIP panel; no further action needed by Board.
11 cases	15 cases	<b>Closed post-education.</b> Licensee completed the appropriate educational program (s) and the panel has reviewed the licensee's plan to apply the education to clinical practice.
29 cases	14 cases	<b>Physician referred for remedial education.</b> The panel identified remediable practice deficiencies; doctor is notified of outcome of panel review and directed to appropriate educational program.
6 cases	7 cases	<b>Referred to the Medical Board's Secretary &amp; Supervising Member for further action.</b> The panel found practice deficiencies that did not appear to be remediable through the Quality Intervention process. Cases may involve a number of patients, or practice deficiencies viewed by the panelists as particularly egregious.
35 cases	14 cases	<b>Caution letter sent to licensee.</b> Licensee advised of practice concerns but remedial education not applicable and no other action needed by the Board.
141 cases	95 cases	<b>TOTAL CASES REVIEWED BY QIP PANELS</b>

# Educational Outreach Programs

---

## “Partners in Professionalism” Program Receives National Award

Administrators in Medicine, the national organization for state medical and osteopathic board executives, awarded the State Medical Board of Ohio Honorable Mention in the “2009 Best of Boards Award Program” for the “Partners in Professionalism” program. “Partners in Professionalism,” is a joint educational project between the State Medical Board of Ohio and the Ohio University College of Osteopathic Medicine (OU-COM) to promote professionalism and the responsibilities of medical licensure to doctors-in-training.

## Educational Display Receives Statewide Recognition

The Ohio Osteopathic Association presented the “Judges Choice Award” to the Medical Board in recognition of the Medical Board’s educational display provided during the 2009 Annual Convention of the Ohio Osteopathic Association.

## The Medical Board’s Website—[med.ohio.gov](http://med.ohio.gov)

A strong educational tool for the agency, website content is frequently updated to provide the most current information about the Medical Board and its services.

## Publications

During FY09 the following publications were prepared and provided by the Medical Board:

- ❖ **Your Report** – the Medical Board’s Newsletter includes changes in laws and rules impacting Board licensees, along with summary reports of disciplinary actions imposed since the last publication are provided in each issue of the newsletter
- ❖ **Formal Action Report** – includes summary reports of the disciplinary actions taken or initiated by the State Medical Board of Ohio following the monthly Board meetings and an update of Board matters pending in the courts

## Speaking Engagements

The Medical Board has steadily increased the number of educational presentations provided by Medical Board members and executive staff to state and national audiences in FY08 and FY09. Popular topics include the role of the Medical Board; defining professionalism in medical practice; understanding the medical licensure process; and legal aspects of controlled substance prescribing.

	Total Presentations	Given by Board Members	Given by Board Staff
FY 2008	76	15	61
FY2009	86	9	77

# Disciplinary Activities

---

## National Recognition for Disciplinary Activity

In April 2009, Ohio ranked first among the states responsible for regulating 20,000 or more physicians according to a report published by Public Citizen Health Research Group, a national consumer advocacy organization. Public Citizen rated medical licensing boards in terms of “serious” disciplinary actions imposed—defined as license revocations, suspensions, surrenders, and probations or restrictions based upon the disciplinary actions taken in 2006 – 2008. The Ohio Medical Board has ranked in Public Citizen’s top 10 each year since 1995.

In 2009, the Federation of State Medical Boards of the United States listed Ohio fourth in terms of disciplinary sanctions imposed during calendar year 2008 by medical licensing boards with a minimum of 15,000 in-state (physician) licensees. The State Medical Board of Ohio regulates approximately 60,000 licensees of all types, 40,000 of which are physicians—one of the largest licensee pools in the country—and receives approximately 3,900 complaints and takes approximately 180 disciplinary actions against licensees each year.

## Disciplinary Sanctions Imposed

The following table illustrates the number and types of disciplinary sanctions imposed by the Medical Board:

	Calendar Year 2008	January through June 2009
<b>Total Sanctions</b>	187	105
<b>Revocations</b>	36	16
<b>Indefinite Suspensions</b>	51	31
<b>Definite Suspensions</b>	3	7
<b>Probations</b>	46	25
<b>Reprimands</b>	9	1
<b>Practice Limitations</b>	5	0
<b>Surrenders/Retirements</b>	4	1
<b>Licensure Denials or Withdrawals</b>	21	10
<b>Summary Suspensions</b>	8	3
<b>Automatic Suspensions</b>	2	3
<b>Immediate Suspensions</b>	2	4
<b>No Penalty Imposed</b>	0	4
<b>Interim Agreement</b>	0	0

# Disciplinary Sanction Definitions

---

Disciplinary sanctions imposed by the Medical Board include the following:

**PERMANENT REVOCATION**

The permanent loss of a certificate to practice in Ohio and the inability, at any time, to reapply for or hold any certificate to practice in Ohio. An individual whose certificate has been permanently revoked shall forever thereafter be ineligible to hold any certificate to practice, and the board shall not accept from that individual an application for reinstatement or restoration of the certificate or for issuance of a new certificate. (Chapter 4731-13-36 (A), Ohio Administrative Code)

**REVOCATION**

The loss of a certificate to practice in Ohio. An individual whose certificate has been revoked shall be eligible to submit an application for a new certificate. All disciplinary action taken by the board against the revoked certificate shall be made a part of the board's records for any new certificate granted under this rule. (Chapter 4731-13-36 (B), Ohio Administrative Code)

**SUSPENSION**

The temporary loss of a certificate to practice in Ohio. A suspension shall be imposed for either a definite or an indefinite period of time. (Chapter 4731-13-36 (C), Ohio Administrative Code)

**LIMITATION**

Precludes the certificate holder from engaging in a particular conduct or activity, to impose conditions on the manner in which that conduct or activity may be performed, or to require the certificate holder to abide by specific conditions in order to continue practicing medicine. A limitation shall be either temporary or permanent. (Chapter 4731-13-36 (D), Ohio Administrative Code)

**PROBATION**

A situation whereby the certificate holder shall continue to practice only under conditions specified by the board. Failure of the certificate holder to comply with the conditions of probation may result in further disciplinary action being imposed by the board. The probation period shall be for either a definite or indefinite term. If probation is for an indefinite term, the board shall establish a minimum probation period and the board shall release the certificate holder from the conditions of probation upon completion of the minimum probation period and upon the board's determination that the purpose of probation has been fulfilled. (Chapter 4731-13-36 (E), Ohio Administrative Code)

**PERMANENT DENIAL**

The permanent denial of an application for a certificate to practice in Ohio. An individual whose application for a certificate has been permanently denied shall forever thereafter be ineligible to apply to the board for any certificate to practice, and the board shall not accept from that individual an application for issuance of a certificate. (Chapter 4731-13-36 (J), Ohio Administrative Code)

**REPRIMAND**

The certificate holder is formally and publicly reprimanded in writing. (Chapter 4731-13-36 (F), Ohio Administrative Code)

## Disciplinary Sanction Definitions

---

<b>DENIAL</b>	The denial of an application for a certificate to practice in Ohio. An individual whose application for a certificate has been denied shall be eligible to submit a new application for a certificate. In determining whether to grant a new application, the board may consider any statutory violations that were committed by the individual before or after the denial of the individual's previous application, including those that formed the basis for the denial. (Chapter 4731-13-36 (K), Ohio Administrative Code)
<b>CONSENT AGREEMENT</b>	Conditions and limitations placed on licensee's practice by mutual agreement with the Medical Board.
<b>VOLUNTARY SURRENDER</b>	Practitioner surrenders license to practice in lieu of further disciplinary proceedings; may authorize the Board to revoke the practitioner's license without further legal proceedings.
<b>DISMISSAL</b>	The board finds that no violation has occurred. (Chapter 4731-13-36 (H), Ohio Administrative Code)
<b>SUMMARY SUSPENSION</b>	License to practice is suspended prior to a hearing based on clear and convincing evidence that continued practice by the licensee poses a danger of immediate and serious harm to the public. (Section 4731.22 (G), Ohio Revised Code)
<b>AUTOMATIC SUSPENSION</b>	License to practice is suspended prior to a hearing when a licensee pleads guilty to, is found by a judge or jury to be guilty of, or is found eligible for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for specified crimes of violence. (Section 4731.22 (I), Ohio Revised Code)
<b>IMMEDIATE SUSPENSION</b>	License to practice is suspended prior to a hearing pursuant to Section 3719.121, Ohio Revised Code, when a licensee pleads guilty to, is found by a judge or jury to be guilty of, or is found eligible for treatment in lieu of conviction of a felony drug abuse offense.
<b>INTERIM AGREEMENT</b>	Licensee agrees to cease practice or to practice with limitations until the administrative hearing process is completed and the Board issues a Final Order imposing a disciplinary sanction.
<b>CITATION LETTER</b>	In compliance with Ohio's Administrative Procedures Act (Chapter 119, Ohio Revised Code), a citation letter is the formal notice sent to an individual informing them that the Medical Board intends to take disciplinary action based upon the reasons listed in the letter. The letter also advises the individual that they may request a hearing on the matter but the hearing request must be received within 30 days of the date the notice was mailed by the Board.

Medical Board disciplinary actions are published each month in the *Formal Action Report* available on the Medical Board's website – [med.ohio.gov](http://med.ohio.gov).