

LSC Redbook

Analysis of the Executive Budget Proposal

State Medical Board

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READER'S GUIDE

The Legislative Service Commission prepares an analysis of the executive budget proposal for each agency. These analyses are commonly called "Redbooks." This brief introduction is intended to help readers navigate the Redbook for the State Medical Board, which includes the following four sections.

1. **Overview:** Provides a brief description of the Board, an overview of the executive budget recommendations for the Board, and a discussion of the Board's license fee revenue.
2. **Analysis of Executive Proposal:** Provides a detailed analysis of the executive budget recommendations for the Board, including funding and the activities supported by the funding.
3. **Requests Not Funded:** Compares the Board's budget request with the executive budget recommendations.
4. **Attachments:** Includes the catalog of budget line items (COBLI) for the Board, which briefly describes the Board's line item, and the LSC budget spreadsheet for the Board.

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ATTACHMENTS:

- Catalog of Budget Line Items
- Budget Spreadsheet By Line Item

State Medical Board

- Non-GRF agency; funded by fee revenues
- Flat funded at the FY 2009 level
- Over 59,000 active licenses

OVERVIEW

Agency Overview

The State Medical Board was established in 1896. Originally responsible for licensing doctors of medicine, the Board's responsibilities were expanded to include doctors of podiatric medicine (1915), cosmetic and massage therapists (1916), doctors of osteopathic medicine (1944), physician assistants (1976), and acupuncturists and anesthesiology assistants (2000). The Board also regulates mechanotherapists and naprapaths licensed before March 1992. In 2009, the Board will begin regulating radiologist assistants. The Board establishes standards for education, pre-professional training, and examination. The Board also sets standards of practice for its licensees, investigates complaints, holds administrative hearings, determines appropriate disciplinary actions, and monitors continuing education compliance among licensees. Over 59,000 licenses issued by the Board are currently active.

The Board's governing authority consists of 12 members appointed by the Governor, including nine physicians (seven who hold a doctor of medicine degree, one who holds a doctor of podiatric medicine degree, and one who holds a doctor of osteopathy degree) and three public members (one who is at least 60 years old). Members are appointed for five-year terms and may be reappointed without limit. R.C. 4730.05 creates the seven-member Physician Assistant Policy Committee (PAPC), appointed by the President of the State Medical Board, including three physicians (one who is a member of the State Medical Board), three physician assistants, one consumer representative, and, when the committee is developing or revising policy and procedures for physician assistant prescriptive authority, two pharmacists (one who is a member of the State Pharmacy Board). The Committee is designed to review education and licensing requirements for physician assistants. Committee members are appointed to two-year terms and may serve no more than three consecutive terms. The Board meets monthly and PAPC meets about five times per year. In addition to travel reimbursement, board and PAPC members receive hourly compensation for the performance of official duties. The Board spends about \$125,000 a year for board and PAPC member payroll expenses.

The Board's daily operations are the responsibility of an executive director who is appointed by the 12-member governing authority. Including the Executive Director, the Board has 87 full-time employees with an annual budget of \$8.2 million in

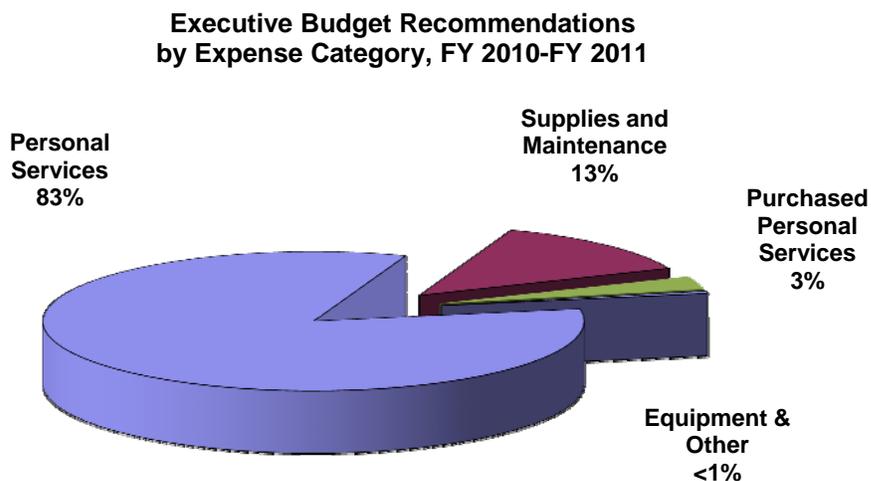
FY 2009. The Board receives no General Revenue Fund (GRF) money; it is entirely supported by fees.

For the FY 2010-FY 2011 biennium, licensing and enforcement activities will continue to be a priority. The Board also plans to address the general physician shortage and shortages in certain practice specialties and in underserved areas of the state.

Appropriation Overview

The executive recommends flat funding at the FY 2009 level of \$8.3 million for FY 2010 and FY 2011. The executive budget funds 93% of the Board's request for FY 2010 and 88% for FY 2011. According to the Executive Director, it will be challenging for the Board to maintain current operations and staffing levels during the FY 2010-FY 2011 biennium; some layoffs may be necessary.

As a regulatory agency, personal services is the largest expense category of the Board. As seen from the chart, 83% of the executive budget recommendation for the biennium are for personal services, 13% for supplies and maintenance, 3% for purchased personal services, and less than 1% is for equipment and other.



Fee Revenues and Fund 5C60

The Board issues 15 different types of licenses and certificates. In addition, the Board regulates mechanotherapists and naprapaths licensed before March 1992. Table 1 shows the current fee and renewal amount for each type of license. Licenses issued by the Board must be renewed biennially. License fees have not increased since 1999.

Type	Initial	Renewal
Doctor of Medicine, Osteopathy, or Podiatric Medicine	\$305	\$305
Limited Practitioner ¹	\$250	\$250
Telemedicine Certificate	\$300	\$305
Visiting Medical Faculty	\$125	\$125
Special Activity License	\$125	\$125
Doctor Training Certificate	\$75	\$35
Physician Assistant	\$200	\$100
Physician Assistant Certificate to Prescribe	\$100	\$50
Anesthesiologist Assistant	\$100	\$100
Acupuncturist	\$100	\$100

¹ Includes mechanotherapists, naprapaths, and cosmetic, restricted cosmetic, and massage therapists

The executive proposal includes provisions that allow the Board to begin charging two additional fees for services already provided at no charge: \$35 for a duplicate wallet card and \$50 for a letter of good standing verification. The Board receives approximately 600 requests a year for duplicate wallet cards and provides approximately 6,500 letter of good standing verifications. Ohio is one of the only states that does not currently charge for these services. The Board has estimated additional annual revenues of \$346,000 as a result of the new fees.

Fee revenue collected by the Board is deposited into the State Medical Board Operating Fund (Fund 5C60), which was established by H.B. 215 of the 122nd General Assembly. Prior to that time, the Board was part of the Occupational Licensing and Regulatory Board Fund (Fund 4K90). Fund 5C60 is the Board's operating account into which receipts are deposited and from which expenses are paid. R.C. 4731.24 states that all funds deposited into Fund 5C60 be used solely for the operations of the Board. Table 2 below shows a simplified cash balance statement for the Board from FY 2005 through FY 2011.

Table 2. Revenues, Expenditures, and Cash Balances

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009 (estimate)	FY 2010 (estimate)	FY 2011 (estimate)
Beginning Cash Balance	\$5,338,148	\$5,393,983	\$6,003,835	\$5,441,475	\$5,508,715	\$4,330,715	\$4,644,715
Revenue	\$7,088,378	\$7,817,537	\$6,962,904	\$8,068,196	\$7,430,000	\$8,656,000	\$7,908,000
Expenditures	\$7,032,543	\$7,207,685	\$7,525,264	\$8,000,956	\$8,608,000	\$8,342,000	\$8,342,000
Net of Rev. & Exp.	\$55,835	\$609,852	(\$562,360)	\$67,240	(\$1,178,000)	\$314,000	(\$434,000)
Ending Cash Balance	\$5,393,983	\$6,003,835	\$5,441,475	\$5,508,715	\$4,330,715	\$4,644,715	\$4,210,715

ANALYSIS OF EXECUTIVE PROPOSAL

The Board's operations are funded by a single line item appropriation from the General Services Fund Group. Table 3 shows the Governor's recommended funding for the line item.

Table 3. Governor's Recommended Funding for the Board				
Fund	ALI and Name		FY 2010	FY 2011
General Services Fund Group				
5C60	883609	State Medical Board Operating	\$8,341,545	\$8,341,545

Through this one line item, the Board pays all of its expenses. The executive recommends flat funding at the FY 2009 level of \$8.3 million for FY 2010 and FY 2011, which is 93% of the Board's request for FY 2010 and 88% for FY 2011. According to the Executive Director, given the executive recommendation, it will be challenging for the Board to maintain current operations during the FY 2010-FY 2011 biennium; layoffs may be necessary.

Licenses

To carry out its regulatory responsibility, the Board establishes standards and licenses and certifies qualified medical practitioners. Table 4 below shows the Boards active licenses in FY 2008 compared with FY 2007. Medical doctors and limited practitioners had the largest increase in numbers, growing by 645 (1.8%) and 580 (5.7%), respectively. The total number of active licenses increased by 3.1% from FY 2007 to FY 2008.

Table 4. Active Licenses as of June 30th			
License Type	FY 2007	FY 2008	% Change
Doctor of Medicine	35,226	35,871	1.8%
Doctor of Osteopathy	4,630	4,762	2.9%
Doctor of Podiatric Medicine	954	953	-0.1%
Limited Practitioners	10,201	10,781	5.7%
Telemedicine Certificate	84	78	-7.1%
Visiting Medical Faculty	2	4	100%
Special Activity License	59	46	-22.0%
Training Certificate	4,773	4,798	0.5%
Physician Assistant	1,766	1,777	0.6%
Physician Assistant Certificate to Prescribe ¹	—	384	N/A
Anesthesiologist Assistant	117	122	4.3%
Acupuncturist	121	139	14.9%
Total	57,933	59,715	3.1%

¹ The first certificate to prescribe is a provisional certificate, which was first available in FY 2008. Of the number shown, 378 are provisional certificates.

Licenses and certificates issued by the Board are required to be renewed every two years, on varying cycles. For example, doctors renew based on the licensee's last name; limited practitioners renew in odd-numbered years; and acupuncturists, anesthesiologist assistants, and physician assistants renew their licenses in even-numbered years. Table 5 shows the number of licenses and certificates issued by the Board during FY 2008. Including both initial licenses and renewals, the Board issued 37,517 licenses that year. For those types that show a "—" in the renewal column, the license is not renewable or, in the case of physician assistant certificate to prescribe, the first round of renewals will not occur until calendar year 2010.

Type	Initial	Renewal	Total
Doctor of Medicine	1,964	17,452	19,416
Doctor of Osteopathy	332	2,231	2,563
Doctor of Podiatric Medicine	21	446	467
Limited Practitioners	1,697	5,074	6,771
Telemedicine Certificate	82	0	82
Visiting Medical Faculty	6	—	6
Special Activity License	93	—	93
Training Certificate	2,030	3,551	5,581
Physician Assistant	166	1,722	1,888
Physician Assistant Certificate to Prescribe	386	—	386
Anesthesiologist Assistant	8	114	122
Acupuncturist	30	112	142
Total	6,815	30,702	37,517

Legislative Changes

Effective March 24, 2008, H.B. 104 of the 127th General Assembly requires certain boards to wait to issue an initial license until they receive the results of a criminal records check from both the Ohio Bureau of Criminal Identification and Investigation and the Federal Bureau of Investigation. The new law has impacted the timing it takes to process an initial license application. If a background check returns a criminal record, a complaint is generated and must be investigated. This has increased the number of investigations conducted by the Board.

H.B. 119 of the 127th General Assembly authorized the Board to adopt rules specifying an acceptable examination, and establishing a minimum score, for demonstrating proficiency in spoken English for foreign medical students wishing to receive a certificate to practice medicine and surgery or osteopathic medicine and surgery in Ohio. In FY 2008, the Board adopted O.A.C. 4731-6-04 establishing the required scores that must be achieved on the "Test of English as a Foreign Language, Internet-based Test." The rule became effective February 28, 2008.

Effective September 11, 2008, S.B. 229 of the 127th General Assembly requires the State Medical Board to regulate the practice of radiologist assistants and establish criminal penalties for unauthorized practice. Radiologist assistants will be able to perform fluoroscopic procedures; assess and evaluate the responsiveness of patients undergoing radiologic procedures; evaluate image quality, make initial image observations, and communicate observations to the supervising radiologist; administer contrast media, radio-isotopes, and other prescribed drugs directly related to the procedure being performed; and perform other procedures as authorized by Board rule. The Board will begin accepting applications for licensure in March 2009 and regulation of radiologist assistants will begin in June.

On-line Licensure and Renewal

The Board implemented the eLicensing system in 2004 and currently utilizes the on-line renewal component of the eLicensing system. This component allows licensees to apply for renewal on-line and to pay the renewal fee with a credit card. In FY 2008, over 96% of renewal licenses were processed on-line through the eLicensing system. The eLicensing system is administered through the Central Service Agency of the Department of Administrative Services. Each board that participates in the eLicensing system receives a basic component of the system that includes a database of all licensees and their license status. Boards have the option of purchasing additional components of the system including initial licensure, renewal, image storing and indexing, and complaint tracking.

Those applying for initial licensure as a doctor of medicine or doctor of osteopathic medicine may do so via a link on the Board's web site that takes the applicant to the web site for the Federation of State Medical Boards where the applicant may use the common license application form (CLAF). The CLAF was developed by a workgroup of state medical board representatives, with support from the Federation of State Medical Boards. The CLAF benefits physicians by reducing the amount of paperwork necessary when applying for a license in multiple states. When a physician enters information into the system, it is stored and incorporated into the CLAF used by each state leaving only the state specific information to be completed. The Ohio State Medical Board was the first regulatory board in the country to implement the use of the CLAF for medical and osteopathic physicians.

Investigation and Enforcement

The Board's regulatory obligations also include investigating complaints about violations of the Board's rules and laws. Complaints to the Board must be submitted in writing. The Board only has the legal authority to investigate complaints that indicate a violation of the Medical Practices Act and the rules adopted pursuant to it. Every complaint is reviewed by the Board but not all complaints result in formal investigations or disciplinary action. If sufficient evidence of a violation exists, the

members of the Board's governing authority review the complaint and vote on whether to take formal action. The investigative and disciplinary process involves five units of the Board: Enforcement, Standards Review, Compliance, Investigations, and Hearing. In FY 2008, of the 3,456 cases the Board investigated, the complaints that account for 77% of the cases were: minimal standards of care violations (941), issues involving licensure or renewal (879), office practice management violations (435), and unprofessional conduct (415). In calendar year 2008, the Board took 187 disciplinary actions. The most common disciplinary actions were license revocation (36), suspension (54), and being placed on probationary status (46).

Legislative Changes

Effective August 22, 2007, S.B. 33 of the 127th General Assembly, permits the Board, subject to Controlling Board approval, to enter into a personal service contract with one or more attorneys admitted to the practice of law in Ohio to serve on a temporary basis as hearing examiners. In FY 2009, the Board received approximately \$250,000 in additional appropriations to fund contracts with five to six hearing examiners. The Board expects that most of the additional appropriation for this purpose will be utilized. As seen in Table 6, these funds have allowed the hearing unit to dispose of more cases, particularly complex ones.

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009 (estimate)
Complex Cases	4	8	8	7	16
Total Cases Disposed	76	80	83	81	112

Effective June 20, 2008, H.B. 314 of the 127th General Assembly, authorizes the Board to take disciplinary action against a physician if that physician, under certain circumstances, fails to provide a woman receiving an abortion the opportunity to view the active ultrasound image of the embryo or fetus, and offer to provide a woman with a physical picture of the image. To date, this law has had no impact on the Board's enforcement activities.

Quality Intervention Program

The Quality Intervention Program (QIP) was implemented in 1996; it is a confidential alternative to formal disciplinary proceedings. The mission of the Quality Intervention Program is to effectively address licensees with quality of care and communication issues that may have developed due to poor practice patterns or failure to keep up with current standards of practice. QIP is under the umbrella of the Board's investigatory process and for this reason participation in the program is confidential and not subject to discovery in any civil proceeding. If the intervention is successful, the licensee should benefit by improving their practice patterns and the standard of care

available to their clients. During 2008, the program staff reviewed 130 licensees. Table 7 below shows QIP review outcomes that year.

Table 7. QIP Review Outcomes for 2008	
Recommended Closure (no quality of care concerns/no further action necessary)	60
Referred to Board Secretary and Supervising Member for Further Action (deficiencies not remedial through QIP)	6
Referred for Remedial Education	29
Caution Letter Sent (no other action needed)	35
Total	130

Continuing Education

The Board requires continuing medical education (CME) hours for license renewals. The content requirement and number of credits needed vary by license type. Failure to obtain the required number of CME hours can result in board sanctions, including a fine of up to \$5,000 for physicians and physician assistants. Additional CME hours may be required by the Board as part of the sanction. Sanctions issued by the Board remain as a permanent part of the licensee's record. In calendar year 2008, four physicians were sanctioned for noncompliance with CME requirements; fines totaled \$8,000.

REQUESTS NOT FUNDED

The Board requested additional funds to assist in maintaining its current operations and fulfilling statutory duties. Table 8 shows the amount of appropriation requested by the Board and the executive recommendation.

Fund Line Item	FY 2010 Recommended	FY 2010 Requested	Difference	FY 2011 Recommended	FY 2011 Requested	Difference
5C60 833609	\$8,341,545	\$9,007,578	(\$666,033)	\$8,341,545	\$9,504,923	(\$1,163,378)

The Board requested additional funds that would allow the Board to maintain current employees and to address additional staffing needs, including the hiring of two nurse examiners, an attorney hearing examiner, and a fiscal and human resources assistant. According to the Executive Director, the additional staff members are necessary to accommodate the Board's increasing responsibilities. Given the executive recommendations, the Board will be unable to fill existing vacancies and may need to consider a layoff of six to ten employees, which will hinder the Board's ability to carry out its regulatory responsibilities.

In addition, the Board had requested funding to increase the hourly rate paid to medical experts for testimony and case review. The Board had also planned to upgrade its computer software to Microsoft® Office 2007. Given the executive recommendations, it will be difficult for the Board to proceed as planned.

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General Services Fund Group

5C60 883609 Operating Expenses

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$7,207,685	\$7,525,265	\$8,000,928	\$8,341,545	\$8,341,545	\$8,341,545
	4.4%	6.3%	4.3%	0.0%	0.0%

Source: GSF: License fees and other assessments collected by the state's professional and occupational licensing boards

Legal Basis: ORC 4730., 4731., 4743.05., 4760., 4762.; Section 331.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A.)

Purpose: This line is used for general operating expenses of the State Medical Board, including personal services, supplies, and equipment.

LSC Budget Spreadsheet by Line Item, FY 2010 - FY 2011

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2008</i>	<i>2009</i>	<i>As Introduced 2010</i>	<i>% Change 2009 to 2010</i>	<i>As Introduced 2011</i>	<i>% Change 2010 to 2011</i>
MED State Medical Board								
5C60	883609	Operating Expenses	\$ 8,000,928	\$ 8,341,545	\$ 8,341,545	0.0%	\$ 8,341,545	0.0%
General Services Fund Group Total			\$ 8,000,928	\$ 8,341,545	\$ 8,341,545	0.0%	\$ 8,341,545	0.0%
Total All Budget Fund Groups			\$ 8,000,928	\$ 8,341,545	\$ 8,341,545	0.0%	\$ 8,341,545	0.0%