



Chairman Smith, Vice Chairman Ryan, Ranking Member Cera, and members of the House Finance Committee, the above Associations would like to offer the following as written testimony in reference to a proposal in House Bill 49 which would eliminate several healthcare professional boards and consolidate them under three new proposed boards. House Bill 49 also includes a separate proposal to establish a process to protect state regulatory boards against allegations of antitrust violations. It is important to note that the above associations view these proposals as two entirely separate issues and do not oppose the antitrust review proposal.

Licensure Board Consolidation

There are currently 113,130 roughly licensees within 12 regulatory boards and commissions impacted by this proposal. To completely change the structure of healthcare professional boards is not in the best interests of these licensees or the healthcare consumers that the Boards are sworn to protect.

This board consolidation proposal is being supported under the guise of cost savings and administrative efficiencies. First, it is critical to note that **these regulatory boards do not operate using general revenue funds**. Licensure fees paid by licensees support the operations and activities of the boards, as each Board is required to be self-sustaining. This legislation would save no money for taxpayers; there is no cost savings to be realized under this proposal.

These boards are already operating at efficient staffing levels. On average, among the 12 affected boards, every staff member currently serves 2135 licensees. Board investigators are already stretched thin. Among the 12 affected boards, there is currently an average of one investigator for every 8081 licensees. Investigators with a specific knowledge and expertise in the field are critical. Current members of licensure boards lend their time and expertise in investigations. Consolidated boards mean less expertise to assist in ensuring licensees are practicing according to Ohio Law and relevant practice acts.

The consolidation plan severely undermines the boards' core duty to protect and enhance the health, safety, and general welfare of the public. By allowing individuals with no training or education in a certain field to determine the education, oversight, and discipline of that field, practice standards in these fields could become unacceptable and therefore jeopardize consumer safety. Currently, boards in Ohio are structured in a manner that ensures integrity of the healthcare professionals they regulate. **To our knowledge, there has not been a demonstrated need for change to a structure that is currently working as intended.**

In addition to a less effective and slower disciplinary process, consolidated boards will also slow down the licensure process for new graduates and transfers into Ohio. We cannot afford to create any barriers to getting qualified practitioners licensed in Ohio, as we currently have a serious workforce shortage in many of these healthcare disciplines. This is especially true as it relates to those working within the behavioral health fields, where we need every available practitioner to help combat the opiate epidemic.

Other states with consolidated licensure boards have experienced significant problems. For example, Oregon and Colorado consolidated licensure boards only to later return to independent boards because of problems with lower levels of service being provided to consumers under the Centralized Regulatory Agency. Licensees in Florida, South Carolina, and Illinois have voiced countless problems with efficient administration under the consolidated boards. In addition, it is important to note that many other states – California, Maryland, Minnesota, Pennsylvania, Utah and Rhode Island – have considered consolidated board structures, only to ultimately decide not to proceed with consolidation.

The associations listed do not believe a compelling rationale exists to consolidate licensing boards and that the current proposal is unnecessary. Our respective licensing boards function properly, adequately protect the public, and operate at or under budget annually. These regulatory bodies should be showcased as an effective and efficient arm of state government, rather than being targeted for elimination. Additionally, if adopted, consolidation potentially weakens the state's ability to protect the public by establishing boards which lack the expertise to oversee the professions they are charged with regulating.

Antitrust Review

The proposals for board consolidation and the antitrust review process contained in HB 49 are separate issues. The oft-cited US Supreme Court ruling in *North Carolina Board of Dental Examiners v. FTC* does not trigger the need for licensing board consolidation or restructuring, and any claims otherwise are not accurate.

At no point does the Court suggest that states consolidate or reconfigure licensing board composition to remove a majority of active marketplace participants. In fact, shortly after the decision, the Federal Trade Commission (FTC) issued guidance on the case for states. Part of that guidance warns that even those regulatory boards that do not have a majority of active market participants could still be subject to claims of anti-competitive behavior and be required to have "active supervision" from the state in order to receive protection. This is due to the presumption that board members who are not market participants in the area being regulated would defer to the expertise of the active market participant board members on complex issues.

The provisions of HB 49, which provide DAS oversight of certain decisions of the medical regulatory boards, will meet the Court's standard of "active state supervision" by itself and provide protection to all boards, regardless of composition. Furthermore, if proponents of board consolidation truly believed that reconfiguring the composition of the boards was necessary to

comply with the Court's decision, one must ask why the largest medical licensing boards are not changed by the legislation. These boards regulate a higher volume of licensees and generally govern a broader scope of activity making them even more susceptible to allegations of anti-competitive activity based on size and scope alone.

Upon review, our organizations believe the DAS review system as proposed in HB 49 is an adequate protection for the state and its regulatory boards, therefore we do not oppose this initiative. It meets the Court's standard on "active supervision" and will offer the strongest protection against antitrust allegations.

Our Associations thank you for your attention and dedication to these proposals included in House Bill 49. Again, we fail to see any motive for such a drastic change in healthcare licensure boards. We are requesting that you oppose the board consolidation provisions that are not in the best interest for Ohioans.

Respectfully,

American Association for Marriage and Family Therapy, Ohio Division
Hearing Healthcare Alliance of Ohio
National Association of Social Workers, Ohio Chapter
Ohio Academy of Audiology
Ohio Academy of Nutrition and Dietetics
Ohio Alliance of Recovery Providers
Ohio Association of Alcoholism & Other Drug Addiction Counselors
Ohio Athletic Trainers' Association
Ohio Counseling Association
Ohio Occupational Therapy Association
Ohio Optometric Association
Ohio Physical Therapy Association
Ohio Psychological Association
Ohio School Psychologists Association
Ohio School Speech Pathology and Educational Audiology Coalition
Ohio Speech-Language-Hearing Association
Ohio Society for Respiratory Care
Opticians Association of Ohio