Occupational Licensing Review

Board Questionnaire

Board Name ODH Radioactive Materials Program

Point of Contact Michael Snee/Stephen James/Lisa Griffin

Describe the board's primary purpose and its various goals and objectives

The Radioactive Materials Program within the Bureau of Environmental Health and Radiation Protection issues licenses for the handling of radioactive materials at various medical, research, academic, and industrial facilities in Ohio. The authority for this activity is granted to the Ohio Department of Health (ODH) under ORC. 3748.03 which allowed for the establishment of an agreement between Ohio and the U.S. Nuclear Regulatory Commission (NRC) for regulation of radioactive materials use in this state.

The requirement for submission of an application for handling of radioactive materials is found in ORC 3748.07(A). A Handler (for radioactive materials purposes) is defined in OAC 3701:1-38-01(A)(76) as: "a facility that handles sources of radiation unless possession is solely for the purpose of transportation." The holder of a radioactive materials license is known as a Licensee, defined in 3701:1-38-01(A)(89) as: "a person to whom a license is issued." The term Person is further defined in 3701:1-38-01(A)(114) as: "any individual, corporation, association, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, association, business enterprise, or other legal entity." Radioactive materials licenses are issued to a business entity and not to specific individuals as handlers of radioactive materials.

There is no governing board or entity for the Radioactive Materials Program.

No occupational licenses are issued to specific individuals as handlers of radioactive materials.

Describe and identify the board's past and anticipated workload, number of staff required to complete workload, and total number of staff

The Radioactive Materials Program has been in existence within various Department of Health operational units since the signing of the agreement between Ohio and the NRC in1999. The Program has 16 dedicated FTE's that issue licenses and inspect radioactive materials licensee programs.

There is no governing board or entity for the Radioactive Materials Program.

No occupational licenses are issued to specific individuals as handlers of radioactive materials.

Describe and identify the board's past and anticipated budgets and its sources of funding

Radioactive Materials Program staff activities are funded by fees collected in accordance with OAC 3701:1-38-02, as authorized by ORC 3748.04.

There is no governing board or entity for the Radioactive Materials Program.

No occupational licenses are issued to specific individuals as handlers of radioactive materials.

Identify the number of members of its governing board or other governing entity and their compensation, if any
n/a

Is the preservation of the board necessary to protect the public's health, safety, or welfare? If so, is the authority of the board narrowly tailored to protect the public's health against present, recognizable, and significant harms to the public's health safety and welfare?

Yes, the preservation of this program is necessary to protect the public. The authority of this program is narrowly tailored to protect the public.

Could the public be protected or served in an alternate or less restrictive manner?

No. If the issuance of radioactive materials licenses were issued by the NRC, that process would be more costly and less efficient than what is provided by the ODH Radioactive Materials Program. This was a major factor in pursuing the agreement with the NRC to self-regulate materials in this state.

Does the board serve a specific private interest?

No.

Are the board's rules consistent with the legislative mandate expressed in the statutes that created and empowered the board?

Ohio's rules for regulation of radioactive materials handlers are required to be essentially identical to those promulgated by the NRC. This requirement is reviewed during federal audits of the Radioactive Materials Program.

If applicable, please identify any licenses or functions of the board that could be eliminated or consolidated

There are no functions of the Radioactive Materials Program that should be eliminated.

Describe the extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards.

There is no duplication of the efforts of the Radioactive Materials Program with those of other boards, agencies, or programs.

How many other states regulate the occupation or occupations under the board's jurisdiction? Is a license required to engage in that occupation or those occupations in other states? Are the initial licensing and license renewal requirements for the occupation or occupations substantially equivalent in every state? How does the amount of regulation exercised by the board compare to the regulation of the occupation or occupations, if any, in other states?

There are currently 38 Agreement States that have accepted regulatory authority from the NRC for radioactive materials use within their own states.

Would significant changes in the board's rules prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction?

n/a

Does the board recognize national uniform licensure requirements for one or more occupations under the board's jurisdiction?

All radioactive materials use in the US is required to be compatible across all 38 Agreement States and the NRC to ensure continuity of health, safety, and security.

Could private contractors be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board?

No, private contractors could not be used.

Has the operation of the board inhibited economic growth, reduced efficiency, or increased the cost of government?

No.

Describe the authority of the board regarding fees, inspections, enforcement, and penalties.

Fees and penalties that may be assessed by the Radioactive Materials Program are described in OAC 3701:1-38-02.

Describe the extent to which the board has permitted qualified applicants to serve the public.

n/a

Describe the extent to which the board has permitted individuals to practice elements of the occupation without a license.

n/a

Assess the cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present.

n/a.

Has the board's operation been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices?

n/a.

Has the board recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and have those recommendations and other policies been adopted and implemented?

No. The program must mirror federal requirements.

Has the board required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery?

n/a

Are persons regulated by the board, if any, required to assess problems in their business operations that affect the public?

n/a

Has the board encouraged public participation in its rule-making and decision-making?

The Radioactive Materials Program follows the requirements for public participation in all rule-making activities.

Assess the efficiency with which formal public complaints filed with the board have been processed to completion.

n/a

Has the purpose for which the board was created been fulfilled? Has it changed? Does it still exist?

The Radioactive Materials Program issues radioactive materials licenses and inspects handlers programs for compliance with rules. The need for these activities still exists.

Does federal law require that the board be renewed in some form?

The agreement between the NRC and Ohio calls for review of the adequacy and compatibility of the Ohio Radioactive Materials Program on a regular schedule. These audits are performed every four years. This may be extended out to five years for programs with demonstrated outstanding compliance.

Assess the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights.

The Radioactive Materials Program follows the process outlined for administrative hearings.

Is the requirement for the occupational license or licenses under the board's jurisdiction consistent with the policies expressed in section 4798.02 of the Revised Code? Does the license serve a meaningful, defined public interest? Does it provide the least restrictive form of regulation that adequately protects the public interest?

n/a

Assess the extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession.

n/a

Assess the extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

n/a

Are changes needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in this questionnaire?

No.

Additional Notes

Occupational Licensing Review

Board Questionnaire

Board Name ODH - Radiologic Licensing

Point of Contact James Castle/Lisa Griffin

Describe the board's primary purpose and its various goals and objectives

The radiologic licensing regulations in Ohio Administrative Code (O.A.C.) Chapter 3701-72 were promulgated under Ohio Revised Code (O.R.C) 4773. These regulations were established to ensure individuals medically exposing human beings to ionizing radiation meet educational standards and demonstrate knowledge by passing an examination in the specific category of license. This in turn minimizes radiation exposure to operators, patients and the public to reduce the likelihood of radiation induced health effects or injury. The categories of licensing are Nuclear Medicine Technologists, Radiation Therapists, Radiographer and General X-ray Machine Operator (GXMO).

Describe and identify the board's past and anticipated workload, number of staff required to complete workload, and total number of staff

The Ohio Department of health reviews and processes license applications for 16,737 individuals. Currently, this breaks down to:

1,280 Nuclear Medicine Technologists,
879 Radiation Therapists,
13,603 Radiographers
975 General X-ray Machine Operators.

The annual tasks to process license applications requires 2.4 full-time employee hours. The 2.4 full-time employee hours are spread over 23 employees who multi-task other operational needs as well.

Describe and identify the board's past and anticipated budgets and its sources of funding

There is no board required for this program. Past annual budget $393,000 and anticipated annual budget increase of 2.5% per year.

The sources of funding come from an initiation application (license) fee of $65.00 and a renewal application fee of $45.00 every two years.

Identify the number of members of its governing board or other governing entity and their compensation, if any

There is no governing board for this program established in rule or statute.

Is the preservation of the board necessary to protect the public's health, safety, or welfare? If so, is the authority of the board narrowly tailored to protect the public's health against present, recognizable, and significant harms to the public's health safety and welfare?

The requirement that individuals meet education and examination standards for the specific scope-of-practice to medically expose individuals to ionizing radiation must be preserved for public health and safety.

State licensing is a proactive, preventative measure to minimize unnecessary or excessive ionizing radiation exposure to human beings by enforcing education and examination standards for those individuals medically exposing human beings to ionizing radiation. By minimizing or keeping medical radiation exposure as low as reasonably achievable reduces the likelihood of radiation induced long term health effects or injury. Errors in radiation therapy can result in injury or death.

The effectiveness of Ohio's radiologic licensing enforcement can be measured by a high incidence of compliance and a low incidence of radiation induced health effects and injury. Ohio finds approximately 12 unlicensed operators a year through routine inspections or investigating complaints. Also, less than one-tenth of a percent of all the radiation therapy procedures performed result in a reportable medical event.

Without state regulation and enforcement to ensure education and examination standards are met, the potential for radiation induced health effects or injury to patients would most likely rise. There are 39 other states that have radiologic licensing requirements.

Could the public be protected or served in an alternate or less restrictive manner?

The Ohio Department of Health requires licensees to meet nationally recognized professional certification programs as part of their education and training. Currently, Ohio Administrative Code Chapter 3701-72 recognizes certification from American Registry of Radiologic Technologists (ARRT) and Nuclear Medicine Technology Certification Board (NMTCB) as meeting the state education and examination requirements to obtain an Ohio license. Approximately, 94% of Ohio licensees meet the state license requirement by being certified by one of these organizations. The remaining 6% are General X-ray Machine Operators (limited scope) licensees where the education and examination requirements are established in administrative code due to lack of national standards for this level of X-ray equipment operation. There is no alternate or less restrictive process that can provide the same level of public safety.

Does the board serve a specific private interest?

The program does not serve a specific private interest.

Are the board's rules consistent with the legislative mandate expressed in the statutes that created and empowered the board?

The program rules established in Ohio Administrative Code for licensure are consistent with the requirements established under Ohio Revised Code Chapter 3748.

If applicable, please identify any licenses or functions of the board that could be eliminated or consolidated

The program has not identified any functions that should be eliminated or consolidated in order to ensure protection of public health.

Describe the extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards.

There are no other government agencies in Ohio requiring radiologic licensing. Statute requires the Ohio Department of Health to implement this program.

How many other states regulate the occupation or occupations under the board's jurisdiction? Is a license required to engage in that occupation or those occupations in other states? Are the initial licensing and license renewal requirements for the occupation or occupations substantially equivalent in every state? How does the amount of regulation exercised by the board compare to the regulation of the occupation or occupations, if any, in other states?

There are 39 other states that require state licenses. 29 States accept American Registry of Radiologic Technologists (ARRT) certification as meeting the education and examination requirements to obtain a state license.

The amount of regulation by Ohio is the minimum required to protect the health and safety of Ohioans.

Would significant changes in the board's rules prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction?

The program is not familiar with the reciprocity specifics of other states.

Does the board recognize national uniform licensure requirements for one or more occupations under the board's jurisdiction?

Currently, Ohio Administrative Code Chapter 3701-72 recognizes certification from American Registry of Radiologic Technologists and Nuclear Medicine Technology Certification Board (NMTCB) as meeting the education and examination requirements to obtain an Ohio license.

Could private contractors be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board?

The functions of this program are conducted by health physicists employed in the program. These staff work on other aspects of the program and use of program staff provides efficiency and consistency in the applicant review process. Use of a private contractor would not provide greater efficiency.

Has the operation of the board inhibited economic growth, reduced efficiency, or increased the cost of government?

This program uses health physicists who perform a variety of other functions in the program to review the applicant's information according to established protocols and the requirements of the administrative code providing for staff efficiency and consistency in the review process. In this case, the benefit of keeping medical radiation exposure as low as reasonably achievable to reduce the likelihood of radiation induced health effects to the public, warrants the costs of the program.

Describe the authority of the board regarding fees, inspections, enforcement, and penalties.

Ohio Revised Code (O.R.C.) 4773.08 provides the Director of Health the authority to establish fees that do not exceed the cost of issuing a license. In accordance with O.R.C. 4773.99 whoever violates the license requirements of O.R.C. 4773.02 is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

Describe the extent to which the board has permitted qualified applicants to serve the public.

Individuals who meet the education and examination requirements to obtain an Ohio license serve the public by understanding how to operate radiation-generating equipment or handle radioactive materials to safely expose patients to ionizing radiation.

Describe the extent to which the board has permitted individuals to practice elements of the occupation without a license.

Ohio Administrative Code 3701-72-04(E) provides a mechanism for licensure of persons already practicing limited aspects of radiology prior to adoption of the Ohio Administrative Code. Specifically, registered nurses, registered cardiovascular invasive specialists, and general x-ray machine operators licensed prior to September 30, 1995, who have completed all radiation safety training required by rules adopted pursuant to Chapter 3748. of the Revised Code, and who have been continuously licensed in accordance with this chapter to practice in the area of fluoroscopy pursuant to the conditional license requirements of section 4773.05 of the Revised Code, may perform, under the personal supervision of a licensed practitioner present in the room, the following tasks of a cardiac catheterization fluoroscopic procedure:

(1) Move or position the patient;

(2) Move or position the fluoroscopic unit; and

(3) Reset the audible signal on the cumulative radiation exposure timer.

Assess the cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present.

Due to the efficiencies of computer technology, application processing procedures and having staff multi-task with other job duties, the state program has increased efficiency in administering the program. The administrative costs have increased over time with no resulting increase in licensure fees in over 10 years.

Has the board's operation been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices?

n/a

Has the board recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and have those recommendations and other policies been adopted and implemented?

No. Occupational workers do incur the cost of the license but the statute and changes to the statute are to ensure and enforce education and knowledge standards that benefit the patient, occupational worker, and the public.

As a whole, the statute and changes to the statute are to enforce education and examination standards of individuals medically exposing human beings to ionizing radiation to minimize radiation exposure to reduce the likelihood of radiation induced health effects or injury to the patient, occupational worker, and the public.

Proposed rule revisions are developed and reviewed with the Radiation-Generating Equipment Committee (REC) a subcommittee of the Governor appointed Radiation Advisory Council. The department does review the rules in accordance with statutory rule review requirements and coordinates with stakeholders through these committees as part of the rule review process. Persons regulated under these rules have an opportunity to comment through these committees and councils and the public rule comment process.

Has the board required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery?

Proposed rule revisions are developed and reviewed with the Radiation-Generating Equipment Committee (REC), a subcommittee of the Governor-appointed Radiation Advisory Council. This committee is comprised of experts in the field of radiation who represent medical, non-medical, dental and academic stakeholders of radiation-generating equipment. The REC meetings are open to the public for further public stakeholder input and impact review. Plus proposed rule revisions are subject to a 30 to 45 day public comment period where further input and impact review can occur.

Are persons regulated by the board, if any, required to assess problems in their business operations that affect the public?

Not a requirement of the license but there is regulation to address operations that affect radiation safety to the public.

In accordance with Ohio Administrative Code 3701:11-38-09(C)(C) any worker or representative of workers believing that a violation of Chapter 3748. of the Revised Code or rules adopted thereunder, license condition or order, or any unnecessary exposure of an individual to sources of radioactive material or radiation-generating equipment under the licensee's or registrant's control has occurred in the handling of radioactive material or radiation-generating equipment relative to working conditions may request an inspection by giving notice of the alleged violation to the director. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the department no later than at the time of inspection except that, upon the request of the worker giving such notice, such worker's name and the name of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the department, except for good cause shown.

Has the board encouraged public participation in its rule-making and decision-making?

Yes. Rules are drafted by the program with the Radiation-Generating Equipment Committee (REC) a subcommittee of the Governor appointed Radiation Advisory Counsel. This committee consists of experts in the field of radiation who represent medical, non-medical, dental and academic stakeholders of radiation-generating equipment. The REC meetings are open to the public and include input from health physicists, medical physicists, physicians, dentists, oncologists, radiologists, radiation therapists, nuclear medicine technologists, radiographers and other members of the public attending the meetings.

Assess the efficiency with which formal public complaints filed with the board have been processed to completion.

All complaints regarding unqualified or uncertified radiation experts are investigated to completion by program staff and reviewed by program managers and legal counsel. Recommendations for disciplinary action are prepared and reviewed and approved by the Director of Health.

Has the purpose for which the board was created been fulfilled? Has it changed? Does it still exist?

Yes, the purpose of radiologic licensing still exists today.

The radiologic licensing regulations of Ohio Administrative Code (O.A.C.) Chapter 3701-72 were promulgated under Ohio Revised Code (O.R.C.) 4773. in 1995. These regulations were established to ensure individuals medically exposing human beings to ionizing radiation meet educational standards and demonstrate knowledge through passing an examination. This in turn minimizes radiation exposure to operators and patients; and reduces the likelihood of radiation induced health effects or injury. The categories of licensing are Nuclear Medicine Technologists, Radiation Therapists, Radiographer and General X-ray Machine Operator (GXMO).

The requirement that individuals must meet education and examination standards to medically expose individuals to ionizing radiation must be preserved for public health and safety.

Does federal law require that the board be renewed in some form?

n/a

Assess the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights.

Any actions recommended by the department are subject to an administrative hearing process in accordance with Ohio Revised Code Chapter 119.

Is the requirement for the occupational license or licenses under the board's jurisdiction consistent with the policies expressed in section 4798.02 of the Revised Code? Does the license serve a meaningful, defined public interest? Does it provide the least restrictive form of regulation that adequately protects the public interest?

The program is consistent with polices established under Section 4798.02 of the Revised Code.

The radiologic licensing regulations of Ohio Administrative Code (O.A.C.) Chapter 3701-72 were promulgated under Ohio Revised Code (O.R.C.) 4773. in 1995. These regulations were established to ensure individuals medically exposing human beings to ionizing radiation meet educational standards and demonstrate knowledge through passing an examination. This in turn minimizes radiation exposure to operators and patients; and reduces the likelihood of radiation induced health effects or injury. The program provides the least restrictive form of regulation to adequately protect public health.

Assess the extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession.

Educational programs for radiography and radiation therapy must meet one of the following:

1) Appendix A of 42 CFR 75 (as published in the October 1, 2005, Code of Federal Regulations); or
2) The program is accredited by the "Joint Review Committee on Education in Radiologic Technology;" or
3) The program is housed in a college accredited by the "North Central Association of Colleges and Schools" or other United States department of education approved regional accrediting agencies.

Educational programs for nuclear medicine must meet one of the following:

1) Appendix A of 42 CFR 75 (as published in the October 1, 2005, Code of Federal Regulations); or
2) The program is accredited by the "Joint Review Committee on Educational Programs in Nuclear Medicine Technology; or
3) The program is housed in a college accredited by the "North Central Association of Colleges and Schools" or other United States department of education approved regional accrediting agencies.

Educational program for general x-ray machine operators (limited scope) must meet one of the following:

1) The program is accredited by the "Joint Review Committee on Education in Radiologic Technology;" or
2) The program is housed in a college accredited by the "North Central Association of Colleges and Schools;" or
3) The program is accredited by an organization recognized by the United States department of education; or
4) The program is a professional association of and recognized by licensed practitioners, and has a curriculum that includes a didactic training section which, as a minimum, includes the items listed in Ohio Administrative Code 3701-72-03(E)(5).

State licensing is a proactive, preventative measure to minimize unnecessary or excessive ionizing radiation exposure to human beings by enforcing education and examination standards for those individuals medically exposing human beings to ionizing radiation. By minimizing or keeping medical radiation exposure as low as reasonably achievable reduces the likelihood of radiation induced long term health effects or injury. Errors in radiation therapy can result in injury or death. There are 39 other states that require state licenses.

These training programs are offered at a variety of accredited learning institutions across the state. Access to federal and state government assistance for education, based on income, is the same as other occupations.

Assess the extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

There is a $65.00 initial license fee and a $45.00 renewal fee every two years. The fee applies to individuals and does not impact competition or consumer choice.

Are changes needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in this questionnaire?

No.

Additional Notes

Occupational Licensing Review

Board Questionnaire

Board Name ODH Radon Licensing Program

Point of Contact Shamus Estep/Lisa Griffin

Describe the board's primary purpose and its various goals and objectives

Radon Licensing Program:

Radon Mitigation Specialist: Is responsible for the evaluation of a structure and the soils on which the structure is built in conjunction with radon testing results, to then design and install or oversee the installation of radon mitigation systems, to ensure the radon levels are reduced to as low as reasonably achievable (ALARA). This practice is a vital part of ensuring healthy indoor air environments in the state of Ohio. A radon mitigation specialist can also perform initial, follow-up, and post-mitigation radon testing to determine, whether radon mitigation is necessary within a particular structure. This allows for educated decisions to be made related to providing a healthy indoor air environment for the structures occupants. The Radon Mitigation Specialist may also perform post-mitigation system testing to ensure the instillation of a radon mitigation system has adequately addressed the hazard posed by excessive radon levels.

Radon Tester: Performs initial, follow-up, and post-mitigation radon testing to determine, whether radon mitigation is necessary within a particular structure. This allows for educated decisions to be made related to providing a healthy indoor air environment for the structures occupants. The Radon Tester may also perform post-mitigation system testing to ensure the instillation of a radon mitigation system has adequately addressed the hazard posed by excessive radon levels.

Radon Mitigation Contractor: Is a business entity who performs (Sole Proprietor) or who employees radon professionals to perform the evaluation of a structure and the soils on which the structure is built, in conjunction with radon testing results, to then design and install or oversee the installation of radon mitigation systems, to ensure the radon levels are reduced to as low as reasonably achievable (ALARA). This practice is a vital part of ensuring healthy indoor air environments in the state of Ohio. A Radon Mitigation Contractor's employees can also perform initial, follow-up, and post-mitigation radon testing to determine, whether radon mitigation is necessary within a particular structure. This allows for educated decisions to be made related to providing a healthy indoor air environment for the structures occupants. The Radon Mitigation Contractors' employee's may also perform post-mitigation system testing to ensure the instillation of a radon mitigation system has adequately addressed the hazard posed by excessive radon levels.

Radon is a radioactive soil gas prevalent throughout Ohio due to naturally occurring Uranium in the soil. Radon is colorless and odorless, Ohio radon professionals are required to take great care and perform extensive quality control and quality assurance operation when testing for radon, in part due to the undetectable nature of the gas.

The Radon Licensing Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which strives to educate and protect the health of all Ohioans.

The Ohio Department of Health (ODH) Radon Education and Licensing Program is federally funded, and works in cooperation with the U.S. Environmental Protection Agency (US EPA) and a network of local health departments across Ohio.

Elevated levels of indoor radon are the primary cause of lung cancer among non-smokers.

The program licenses companies and persons directly involved with the radon testing and mitigation industry. ODH regulates contractors that install radon mitigation systems, mitigation specialists who design and supervise the installation of mitigation systems, and radon testers who identify the need for mitigation systems and determine the effectiveness of radon mitigation systems.

Describe and identify the board's past and anticipated workload, number of staff required to complete workload, and total number of staff

Radon Licensee's perform an average of 50,000 radon test per year, with and average of 10,000 radon mitigation systems being installed throughout the state annually.
There are at present:
584 Licensed Radon Testers
197 Licensed Radon Mitigation Specialists
120 Licensed Radon Contractors

ODH Staff:
2 full-time employees
1 program supervisor at 40%

Describe and identify the board's past and anticipated budgets and its sources of funding

The Radon Licensing Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which strives to educate and protect the health of all Ohioans.

The Radon Licensing Program budget is approximately $240,000 annually and receives approximately 40% of its funding form the US EPA, with the remaining funding being made up by licensure fees. The program anticipates its budget and funding sources to remain stable.

Identify the number of members of its governing board or other governing entity and their compensation, if any
N/A

Is the preservation of the board necessary to protect the public's health, safety, or welfare? If so, is the authority of the board narrowly tailored to protect the public's health against present, recognizable, and significant harms to the public's health safety and welfare?

Yes & Yes.

Could the public be protected or served in an alternate or less restrictive manner?

No.

Does the board serve a specific private interest?

No.

Are the board's rules consistent with the legislative mandate expressed in the statutes that created and empowered the board?

Yes.

If applicable, please identify any licenses or functions of the board that could be eliminated or consolidated

N/A

Describe the extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards.

N/A

How many other states regulate the occupation or occupations under the board's jurisdiction? Is a license required to engage in that occupation or those occupations in other states? Are the initial licensing and license renewal requirements for the occupation or occupations substantially equivalent in every state? How does the amount of regulation exercised by the board compare to the regulation of the occupation or occupations, if any, in other states?

Twenty-Five states have licensure requirements, with twenty-nine states requiring disclosure of a radon hazard at the time of a real-estate transaction. The program is not familiar with the licensure requirements of every state. The amount of regulation by the program is the minimum required to protect the health and safety of Ohioans, the program is not familiar with the specifics of the regulations across the twenty-five other regulated states.

Would significant changes in the board's rules prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction?

Yes.

Does the board recognize national uniform licensure requirements for one or more occupations under the board's jurisdiction?

n/a

Could private contractors be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board?

No.

Has the operation of the board inhibited economic growth, reduced efficiency, or increased the cost of government?

No.

Describe the authority of the board regarding fees, inspections, enforcement, and penalties.

The Radon Licensing Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which strives to educate and protect the health of all Ohioans.

The Ohio Revised Code 3723 grants the Ohio Department of Health the authority to administer, perform, and/or propose all of the above actions.

Describe the extent to which the board has permitted qualified applicants to serve the public.

The Ohio Department of Health's licensed radon professionals serve the public routinely throughout the state of Ohio to identify and correct hazardous levels of radon gas, within all types of structures.

Describe the extent to which the board has permitted individuals to practice elements of the occupation without a license.

Building owners may perform work without a license, but ODH recommends these individuals attend the recommended training prior to performing radon mitigation or testing.

Radon mitigation system installers (workers) may work without a license while being supervised by a licensed radon mitigation specialist who has designed the radon mitigation system.

Assess the cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present.

The Radon Licensing Program is effective and efficient in its efforts to render compliance assistance and enforcement (when necessary) to promote a healthy indoor air environment for the citizens of Ohio.

Has the board's operation been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices?

n/a

Has the board recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and have those recommendations and other policies been adopted and implemented?

Yes, this statute along with its associated rule set is designed and implemented to protect the respiratory health of all the citizens of Ohio.

Has the board required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery?

While the program does not require this reporting, all affected parties are provided the opportunity to comment during the 5 year rule review process, or other such proposed changes to the rules. Additionally, the program interacts with the regulated community regularly, through participation in various annual trainings and trade organization meetings.

Are persons regulated by the board, if any, required to assess problems in their business operations that affect the public?

While the program does not require this assessment, all affected parties are provided the opportunity to comment during the 5 year rule review process, or other such proposed changes to the rules. Additionally, the program interacts with the regulated community regularly, through participation in various annual trainings and trade organization meetings.

Has the board encouraged public participation in its rule-making and decision-making?

Yes.

Assess the efficiency with which formal public complaints filed with the board have been processed to completion.

Processing of complaints are a priority for the program and handled efficiently.

Has the purpose for which the board was created been fulfilled? Has it changed? Does it still exist?

The Radon Licensing Program is a stand alone licensing, compliance assistance, and regulatory enforcement program, which continues to protect the health of all Ohioans.

Does federal law require that the board be renewed in some form?

No, the Radon Licensing Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which strives to educate and protect the health of all Ohioans. There are performance standards which are required related to the federal grant dollars the program receives.

Assess the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights.

The program complies with the requirements of O.R.C chapter 119.

Is the requirement for the occupational license or licenses under the board's jurisdiction consistent with the policies expressed in section 4798.02 of the Revised Code? Does the license serve a meaningful, defined public interest? Does it provide the least restrictive form of regulation that adequately protects the public interest?

The license conforms with section O.R.C. 4798.02, and serves a meaningful, defined public interest. The license provided the least restrict form of regulation that is adequate to protect the health of Ohioans.

Assess the extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession.

Licensure ensures a minimum level of training has been performed with a minimum level of understanding achieved, confirmed by the testing requirement following completion of the training. Licensees have continuing education requirements each licensing period to ensure they stay current in their particular area of expertise. These licensure requirements are in place to protect the health and safety of Ohioans and ensure the consumer receives a quality product and that the product was necessary in the first place. Course fees are minimal.

Assess the extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

Occupational licensure, and the regulatory compliance associated with it, promotes competition. Licensure helps to ensure the consumer has a choice of individuals with a minimum baseline of understanding related to the industry. The program protects the health and safety of the consumer.

Are changes needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in this questionnaire?

No.

Additional Notes

Occupational Licensing Review

Board Questionnaire

Board Name ODH Person in Charge and Manager Certification in Food Protection

Point of Contact Jamie Higley/Lisa Griffin

Describe the board's primary purpose and its various goals and objectives

The Ohio Department of Health's mission is to protect and improve the health of all Ohioans by preventing disease, promoting good health and assuring access to quality care. The person in charge and manager certification in food protection programs supports this mission by establishing standards for education and training provided to food managers to promote food safety practices for preventing foodborne illness.

Describe and identify the board's past and anticipated workload, number of staff required to complete workload, and total number of staff

There is no board for the person in charge and manager certification programs; All program duties are completed by Ohio Department of Health Food Program staff. There are five ODH staff completing these duties. It is anticipated that five staff will be needed for this program.

Describe and identify the board's past and anticipated budgets and its sources of funding

The ODH Food Program budget, which is derived from food service operation license fees, is used to pay food program staff salaries, benefits, supplies, etc. ODH does not charge fees for the person in charge and manager certification programs.

Identify the number of members of its governing board or other governing entity and their compensation, if any
n/a

Is the preservation of the board necessary to protect the public's health, safety, or welfare? If so, is the authority of the board narrowly tailored to protect the public's health against present, recognizable, and significant harms to the public's health safety and welfare?

The programs are necessary to ensure persons in charge and managers are properly trained and certified to provide safe food to consumers and reduce the prevalence of foodborne illness.

Could the public be protected or served in an alternate or less restrictive manner?

The person in charge and manager certification programs ensure that persons in charge and managers are properly trained and certified in food protection to provide safe food to consumers and reduce the prevalence of foodborne illness. Food service employees do not need these certifications in order to begin work in this industry.

Does the board serve a specific private interest?

n/a

Are the board's rules consistent with the legislative mandate expressed in the statutes that created and empowered the board?

ORC 3717.09 grants authority to the Director of Health to approve courses of study for certification in food protection as it pertains to retail food establishments and as it pertains to food service operations. The director shall certify individuals in food protection who successfully complete a course of study approved under this section and meet all other certification requirements specified in rules adopted under section 3717.51 of the Revised Code.

The rules for the certification programs are adopted in OAC 3701-21-25 and are consistent with the ORC.

If applicable, please identify any licenses or functions of the board that could be eliminated or consolidated

The programs are necessary to establish standards for education and training provided to persons in charge and managers to promote food safety practices for preventing foodborne illness.

Describe the extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards.

n/a

How many other states regulate the occupation or occupations under the board's jurisdiction? Is a license required to engage in that occupation or those occupations in other states? Are the initial licensing and license renewal requirements for the occupation or occupations substantially equivalent in every state? How does the amount of regulation exercised by the board compare to the regulation of the occupation or occupations, if any, in other states?

There are a number of other states, counties and cities outside of Ohio that certify individuals who complete a certification in food protection course and exam. ODH is not aware of their specific laws, rules, or practices.

Would significant changes in the board's rules prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction?

n/a

Does the board recognize national uniform licensure requirements for one or more occupations under the board's jurisdiction?

The Director of Health has approved national courses of study that comply with OAC 3701-21-25 and examinations that comply with Conference for Food Protection national standards.

Could private contractors be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board?

n/a

Has the operation of the board inhibited economic growth, reduced efficiency, or increased the cost of government?

The certification programs are part of ODH staff duties and do not increase agency cost or reduce efficiency.

Describe the authority of the board regarding fees, inspections, enforcement, and penalties.

ODH does not charge fees related to the person in charge or manager certification. Persons who wish to receive this training choose an ODH approved provider to receive the training and take the examination.

The ORC does authorize the Director of Health to audit courses and providers, and disapprove a course or provider that no longer complies with OAC. Any denials are afforded due process through chapter 119 of the Revised Code.

Describe the extent to which the board has permitted qualified applicants to serve the public.

The Director of Health approves person in charge and manager certification courses and providers to instruct and test persons in charge and managers working in the food industry on food safety issues that will enable them to provide safer food to consumers.

Any individual that has completed a manager certification course and exam from a provider that is not approved by the Director of Health is afforded the opportunity to submit an application for certification.

Describe the extent to which the board has permitted individuals to practice elements of the occupation without a license.

A license is not required to engage in the occupation of person in charge or manager. An individual can be employed as a person in charge or manager without having completed a certification course.

Assess the cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present.

The certification program has been part of ODH staff duties since 1973 and does not increase cost. There are five employees working in the certification program. The services provided by program staff allows certification course providers to educate individuals in food safety to provide safer food to consumers.

Has the board's operation been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices?

n/a

Has the board recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and have those recommendations and other policies been adopted and implemented?

ODH has not recommended statutory changes for certification in food protection.

Has the board required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery?

n/a

Are persons regulated by the board, if any, required to assess problems in their business operations that affect the public?

Individuals who work in the food industry, including those who complete a certification course and exam, will use their skills and knowledge to assess and correct problems in their facility to provide safer food to consumers.

Has the board encouraged public participation in its rule-making and decision-making?

All stakeholders that would be affected by any rules proposed by the Director are provided a copy of the proposed rules and are encouraged to provide comments on the rules. Program is available to meet with all stakeholders to receive feedback on certifications.

Assess the efficiency with which formal public complaints filed with the board have been processed to completion.

Any complaints received by the program would be reviewed and responded to in a timely manner.

Has the purpose for which the board was created been fulfilled? Has it changed? Does it still exist?

The program's purpose to protect the public from foodborne illness is an ongoing mission.

Does federal law require that the board be renewed in some form?

n/a

Assess the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights.

If the Director of Health disapproves a course of study or provider for failure to comply with the OAC, the course or provider may request that the Director reconsider and may submit additional materials to the Director. Parties receiving disapprovals or denials are afforded due process through Chapter 119 of Revised Code.

Is the requirement for the occupational license or licenses under the board's jurisdiction consistent with the policies expressed in section 4798.02 of the Revised Code? Does the license serve a meaningful, defined public interest? Does it provide the least restrictive form of regulation that adequately protects the public interest?

Certifications are necessary for individuals who choose to receive this training in order to better protect the public from foodborne illness.

Assess the extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession.

A certification is not required to engage in the occupation of person in charge or manager. Individuals from all backgrounds can work as a person in charge or manager without completing a certification course.

Assess the extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

The Director of Health has approved multiple courses and providers. There are many choices available to consumers that wish to complete a course.

Are changes needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in this questionnaire?

No.

Additional Notes

Occupational Licensing Review

Board Questionnaire

Board Name Lead Licensure and Accreditation Program

Point of Contact Shamus Estep/Lisa Griffin

Describe the board's primary purpose and its various goals and objectives

Lead Licensure and Accreditation Program:

The Lead Licensure Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which strives to educate and protect the health of all Ohioans.

The lead program also provides high efficiency particulate air (HEPA) vacuums for loan to the general public through health and housing agencies. The program dispenses information and educational pamphlets about lead poisoning and its prevention upon request as well as conducts training sessions for lead professionals, training providers, landlords, tenants, real estate agents, re-modelers, licensed personnel, medical personnel and the general public.

The Ohio Department of Health Lead Poisoning Prevention Program ensures that the public receives safe and proper lead abatement, detection and analytical services. The program licenses lead risk assessors, lead abatement contractors, lead abatement workers, lead clearance technicians, lead inspectors and lead project designers.

A lead abatement contractor is licensed to do the following on residential units,child care facilities and schools, or the soil surrounding them, or both:

(1)Conduct lead abatement;

(2)Provide professional advice regarding lead abatement;

(3)Supervise one or more lead abatement workers;

(4)Write pre-abatement plans and lead abatement specifications; and

(5)Perform interim controls, and paint stabilization.

A lead abatement project designer is licensed to do the following on residential units, child care facilities and schools, or the soil surrounding them, or both:

(1) Design lead abatement projects;

(2) Conduct lead abatement;

(3) Provide professional advice regarding lead abatement;

(4) Supervise one or more lead abatement workers;

(5) Write pre-abatement plans and lead abatement specifications; and

(6) Perform lead abatement, interim controls, and paint stabilization.

A lead abatement worker is licensed to perform lead abatement. In a residential unit,child care facility or school, or the soil surrounding it, or both, a lead abatement worker may perform:

(1) Lead abatement;

(2) Interim controls; and

(3) Paint stabilization.

A lead inspector is licensed to perform:

(1)Lead inspections;

(2)Lead-based paint sampling; and

(3)Clearance examinations.

A lead risk assessor is licensed to conduct:

(1)Lead inspections;

(2)Lead-based paint sampling;

(3)Clearance examinations;

(4)Lead risk assessments;

(5)Lead hazard screen risk assessments;

(6)Other lead assessment activities; and

(7)Identify lead hazard control strategies to reduce or eliminate lead exposures.

Describe and identify the board's past and anticipated workload, number of staff required to complete workload, and total number of staff

The Lead Licensure and Accreditation Program Licenses approximately 1100 lead professionals in the state of Ohio. There were 4,635 regulated lead abatement activities reported between October 1, 2017 and September 30, 2018. These activities would include Lead abatement projects, Lead Inspections, Lead Risk Assessments, Lead Hazard Screens, and Lead Clearances. The Program receives on average between 800-900 Lead Abatement Prior Notifications Annually. The Program performs unannounced compliance inspections on these project throughout the state of Ohio. The Program also performs records reviews of the documentation required related to the lead abatement activities. The Program provides education and compliance assistance to its Licensees on a regular and ongoing basis, and proposes enforcement action as necessary to ensure compliance with the Ohio Administrative Code, once compliance assistance attempts have run their course.

ODH Staff:
4 Full time employee's
1 administrative assistant at 50%
1 program supervisor at 60%

Describe and identify the board's past and anticipated budgets and its sources of funding

The Lead Licensure Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which strives to educate and protect the health of all Ohioans.

The Lead Licensure Programs Budget is approximately $600,000 annually, with approximately 60% of its funding coming from US EPA grants, with the remaining funding being made up by licensure fees. The program anticipates its budget and funding sources to remain stable.

Identify the number of members of its governing board or other governing entity and their compensation, if any
N/A

Is the preservation of the board necessary to protect the public's health, safety, or welfare? If so, is the authority of the board narrowly tailored to protect the public's health against present, recognizable, and significant harms to the public's health safety and welfare?

Yes, the program authority is narrowly tailored and is necessary to protect the public's health, safety, and welfare.

Could the public be protected or served in an alternate or less restrictive manner?

n/a

Does the board serve a specific private interest?

No.

Are the board's rules consistent with the legislative mandate expressed in the statutes that created and empowered the board?

Yes.

If applicable, please identify any licenses or functions of the board that could be eliminated or consolidated

N/A

Describe the extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards.

N/A

How many other states regulate the occupation or occupations under the board's jurisdiction? Is a license required to engage in that occupation or those occupations in other states? Are the initial licensing and license renewal requirements for the occupation or occupations substantially equivalent in every state? How does the amount of regulation exercised by the board compare to the regulation of the occupation or occupations, if any, in other states?

Thirty-nine states states have been delegated authority by the US EPA, to implement regulatory programs regarding lead as outlined in the Toxic Substance Control Act. The remaining 11 states are regulated directly by the US EPA. The program is not familiar with the licensure requirements of every state. The amount of regulation by the program is the minimum required to protect the health and safety of Ohioans. The US EPA has set minimum standards, which the 39 delegated states have to meet.

Would significant changes in the board's rules prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction?

Yes.

Does the board recognize national uniform licensure requirements for one or more occupations under the board's jurisdiction?

The program extends reciprocity with other regulated states in cases where the standards for licensure or approval in other states are substantially equivalent to those established under O.R.C. 3742 and O.A.C. 3701-32.

Could private contractors be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board?

No.

Has the operation of the board inhibited economic growth, reduced efficiency, or increased the cost of government?

No.

Describe the authority of the board regarding fees, inspections, enforcement, and penalties.

The Lead Licensure Program is a stand alone licensing, compliance assistance, and regulatory enforcement program, which strives to educate and protect the health of all Ohioans.

The Ohio Revised Code 3742 grants the Ohio Department of Health the authority to administer, perform, and/or propose all of the above actions.

Describe the extent to which the board has permitted qualified applicants to serve the public.

The Ohio Department of Health's licensed lead professionals serve the public routinely throughout the state of Ohio to identify and correct lead hazards in residential units, child care facilities, and schools.

Describe the extent to which the board has permitted individuals to practice elements of the occupation without a license.

License requirements do not apply to activities performed by a property owner of a residential unit to which both of the following apply:

1. It is a freestanding single-family home used as the property owner's private residence;

2. No child under six years of age who has lead poisoning resides in the unit.

Assess the cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present.

The Lead Licensure Program has been and will continue to be effective and efficient in its efforts to render compliance assistance and enforcement (when necessary) to promote a healthy living environment for all Ohioans.

Has the board's operation been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices?

Not at this time.

Has the board recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and have those recommendations and other policies been adopted and implemented?

This statute along with its associated rule set is designed and implemented to protect the health of all the citizens of Ohio, with Ohio's children being the most susceptible to lead exposure and its life long negative consequences.

Has the board required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery?

While the program does not require this reporting, all affected parties are provided the opportunity to comment during the 5 year rule review process, or other such proposed changes to the rules. Additionally, the program interacts with the regulated community regularly, through participation in various annual trainings and trade organization meetings.

Are persons regulated by the board, if any, required to assess problems in their business operations that affect the public?

While the program does not require this assessment, all affected parties are provided the opportunity to comment during the 5 year rule review process, or other such proposed changes to the rules. Additionally, the program interacts with the regulated community regularly, through participation in various annual trainings and trade organization meetings.

Has the board encouraged public participation in its rule-making and decision-making?

Yes.

Assess the efficiency with which formal public complaints filed with the board have been processed to completion.

Processing of complaints are a priority for the program and handled efficiently.

Has the purpose for which the board was created been fulfilled? Has it changed? Does it still exist?

The Lead Licensure Program is a stand alone licensing, compliance assistance and regulatory enforcement program, which continues to protect the health of all Ohioans.

Does federal law require that the board be renewed in some form?

No, the Lead Licensure Program is a stand alone licensing, compliance assistance, and regulatory enforcement program, which strives to educate and protect the health of all Ohioans. There are performance standards which are required related to the federal grant dollars the program receives.

Assess the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights.

The program complies with the requirements of O.R.C. Chapter 119.

Is the requirement for the occupational license or licenses under the board's jurisdiction consistent with the policies expressed in section 4798.02 of the Revised Code? Does the license serve a meaningful, defined public interest? Does it provide the least restrictive form of regulation that adequately protects the public interest?

The license conforms with section O.R.C. 4798.02, and serves a meaningful, defined public interest. The license provided the least restrict form of regulation that is adequate to protect the health of Ohioans.

Assess the extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession.

Licensure ensures a minimum level of training has been performed with a minimum level of understanding achieved, confirmed by the testing requirement following completion of the training. Licensees have continuing education requirements each licensing period to ensure they stay current in their particular area of expertise. These licensure requirements are in place to protect the health and safety of Ohioans and ensure the consumer receives a quality product and that the product was necessary in the first place.

Assess the extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

Occupational licensure and the regulatory compliance associated with it, ensures a level playing field, which in turn leads to competition while still protecting the public's health and safety. Licensure helps to ensure the consumer has a choice of individuals with a minimum baseline of understanding related to the industry. The leveling of the playing field helps to ensure that the costs are competitive, but the work product still protects the health and safety of the consumer.

Are changes needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in this questionnaire?

Not at this time.

Additional Notes

Occupational Licensing Review

Board Questionnaire

Board Name ODH - Radiation Expert Certification

Point of Contact James Castle/Lisa Griffin

Describe the board's primary purpose and its various goals and objectives

The radiation expert certification regulations in Ohio Administrative Code (O.A.C.) 3701-66-03 were promulgated under Ohio Revised Code (O.R.C.) 3748.12. These regulations were established to ensure individuals developing, overseeing, and auditing a hospital's radiation quality assurance program meet educational standards. Having qualified individuals testing radiation-generating equipment and overseeing radiation protection at hospitals protects public health and safety.

Describe and identify the board's past and anticipated workload, number of staff required to complete workload, and total number of staff

The Ohio Department of Health reviews and processes applications for certification of 260 individuals in the categories of diagnostic, therapeutic and mammography radiation-generating equipment.

The annual tasks to process certification applications requires 0.30 full-time employee hours. The full-time employee hours are spread over 3 employees who multi-task other operational needs as well.

Describe and identify the board's past and anticipated budgets and its sources of funding

Past annual budget $17,590.00 and anticipated annual budget increase of 2.5% per year.

The sources of funding come from an initiation application (certification) fee $100.00 and a renewal application fee of $100.00 every two years.

Identify the number of members of its governing board or other governing entity and their compensation, if any

There is no governing board for this program established in rule or statute.

Is the preservation of the board necessary to protect the public's health, safety, or welfare? If so, is the authority of the board narrowly tailored to protect the public's health against present, recognizable, and significant harms to the public's health safety and welfare?

The radiation expert certification regulations in Ohio Administrative Code (O.A.C.) 3701-66-03 were promulgated under Ohio Revised Code (O.R.C.) 3748.12. These regulations were established to ensure individuals developing, overseeing and auditing a hospital's radiation quality assurance program meet educational standards. Having qualified individuals testing radiation-generating equipment and overseeing radiation protection at hospitals protects public health and safety.

Could the public be protected or served in an alternate or less restrictive manner?

The Ohio Department of Health requires Certified Radiation Experts (CREs) to meet nationally recognized professional certification programs as part of their education and training. This ensures that CREs obtain training and experience that meets the minimum national standards to provide protection of patients and employees from exposure to radiation. Currently, Ohio Administrative Code 3701:1-66-03 recognizes certification from the following organizations to meet the requirements to become certified as an Ohio radiation expert.

1) American Board of Radiology,
   - Therapeutic radiologic physics
   - Therapeutic medical physics
   - Roentgen-ray and gamma-ray physics
   - X-ray and radium physics
   - Radiologic physics
   - Diagnostic radiologic physics
   - Diagnostic medical physics
2) American Board of Medical Physics in Radiation Oncology Physics, or
3) Canadian College of Physicists in Medicine in Radiation Oncology;
4) American Board of Medical Physics" in medical physics with a specialty in diagnostic imaging physics; or
5) Education and experience leading up to certification by one of these Professional certification Organizations

CREs must meet and maintain these standards as part of their certification process. Establishing a standard that does not meet national certification standards presents a potential risk that individuals could be managing radiation safety programs at hospitals that are not qualified. This could lead to over or under exposure of patients resulting in serious health impacts. There is no alternate or less restrictive process that can provide the same level of public safety.

Does the board serve a specific private interest?

No.

Are the board's rules consistent with the legislative mandate expressed in the statutes that created and empowered the board?

The rules established in Ohio Administrative Code for the Certified Radiation Expert program are consistent with the requirements established under Ohio Revised Code Chapter 3748.

If applicable, please identify any licenses or functions of the board that could be eliminated or consolidated

The program has not identified any functions in the program that should be eliminated or consolidated in order to ensure protection of public health.

Describe the extent to which the board's jurisdiction and programs overlap or duplicate those of other boards, the extent to which the board coordinates with those other boards, and the extent to which the board's programs could be consolidated with the programs of other state departments or boards.

There are no other government agencies in Ohio requiring radiation experts to be certified. The statute requires the Ohio Department of Health to implement this program.

How many other states regulate the occupation or occupations under the board's jurisdiction? Is a license required to engage in that occupation or those occupations in other states? Are the initial licensing and license renewal requirements for the occupation or occupations substantially equivalent in every state? How does the amount of regulation exercised by the board compare to the regulation of the occupation or occupations, if any, in other states?

The information regarding other states requirements for certifying or licensing radiation experts (medical physicists) has not been collected. It can be reasonably assumed that most states accept certification from nationally recognized professional certification organizations.

The amount of regulation by Ohio is the minimum required to protect the health and safety of Ohioans.

Would significant changes in the board's rules prevent an individual licensed in Ohio from practicing, or allow an individual licensed in Ohio to practice, the same occupation in another jurisdiction without obtaining an occupational license for that occupation in that other jurisdiction?

The department is not familiar with the reciprocity specifics of other states, but is willing to consider recognition of other state programs.

Does the board recognize national uniform licensure requirements for one or more occupations under the board's jurisdiction?

Ohio Administrative Code 3701:1-66-03(C) recognizes certification from the following to be certified as an Ohio radiation expert in therapeutic radiation-generating equipment in Ohio.

1) American Board of Radiology in
   (a) Therapeutic radiologic physics;
   (b) Therapeutic medical physics;
   (c) Roentgen-ray and gamma-ray physics;
   (d) X-ray and radium physics;
   (e) Radiologic physics;
2) American Board of Medical Physics in Radiation Oncology Physics, or
3) Canadian College of Physicists in Medicine in Radiation Oncology, or
(4) A master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and
   (a) Have completed a clinical residency applicable to this category from an accredited program, or one year of full time training in medical physics and an additional year of full time work experience under the supervision of a board certified medical physicist who meets the qualifications of paragraph (C)(1), (C)(2) or (C)(3) of this rule at a medical institution. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy external beam radiation therapy with photons and electrons with energies greater than or equal to one MV or one MeV;
   (b) The individual shall have performed the applicable tasks listed in rules 3701:1-67-08 and 3701:1-67-09 of the Administrative Code under the supervision of a qualified medical physicist during the year of work experience; and
   (c) Obtain certification pursuant to paragraph (C)(1), (C)(2), or (C)(3) of this rule within five years of qualifying under paragraph (C)(4) of this rule.

Ohio Administrative Code 3701:1-66-03(D) recognizes certification from the following to be certified as an Ohio radiation expert in diagnostic radiation-generating equipment.

(1) Certification by the "American Board of Radiology" in radiologic physics, diagnostic radiologic physics or diagnostic medical physics;
(2) Certification by the "American Board of Medical Physics" in medical physics with a specialty in diagnostic imaging physics;
(3) A master's degree or doctorate from an accredited college or university in physics, biophysics, medical physics, radiological physics or health physics, engineering, or applied mathematics with a minor in physics; and completed a clinical residency applicable to this category from an accredited program, or completed one year of full time training in medical physics and an additional year of full time work experience under the direct supervision of a certified individual as provided in paragraph (D)(1) or (D)(2) of this rule or a radiation expert certified in diagnostic radiation-generating equipment in developing and performing oversight of quality assurance for diagnostic radiation-generating equipment.

Ohio Administrative Code 3701:1-66-03(D) recognizes certification from the following to be certified as an Ohio radiation expert in mammography radiation-generating equipment.

(1) Certification by the "American Board of Radiology" in radiologic physics, diagnostic radiologic physics or diagnostic medical physics;
(2) Certification by the "American Board of Medical Physics" with a specialty in diagnostic imaging physics;
(3) A master's degree or higher in a physical science from an accredited college or university, and at least the following:
   (a) Twenty semester hours or thirty quarter hours of graduate or undergraduate level physics;
   (b) Twenty contact hours of documented specialized training in conducting surveys of mammography facilities; and
   (c) Have the experience of conducting surveys of at least ten mammography x-ray units under the direct supervision of a certified individual as provided in paragraph (E)(1) or (E)(2) of this rule or a radiation expert certified in mammography.

Could private contractors be used, in an effective and efficient manner, either to assist the board in the performance of its duties or to perform these duties instead of the board?

The functions of this program are conducted by health physicists employed in the program. These staff work on other aspects of the program and use of program staff provides efficiency and consistency in the applicant review process. Use of a private contractor would not provide greater efficiency.

Has the operation of the board inhibited economic growth, reduced efficiency, or increased the cost of government?

This program uses health physicists who perform a variety of other functions in the program to review the applicant's information according to established protocols and the requirements of the administrative code providing for staff efficiency and consistency in the review process. The benefit of a qualified individual overseeing the hospital's radiation quality assurance program to protect public health warrants the costs of the program.

Describe the authority of the board regarding fees, inspections, enforcement, and penalties.

Ohio Revised Code (O.R.C.) 3748.12 authorizes the Director of Health to establish an application fee and a biennial renewal fee in rules adopted under O.R.C. 3748.04.

Describe the extent to which the board has permitted qualified applicants to serve the public.

Individuals who meet the certification and educational requirements to obtain an Ohio certification as a radiation expert serve the public by overseeing hospital radiation quality assurance programs to minimize public radiation exposure to reduce the likelihood of radiation induced health effects or injury.

Describe the extent to which the board has permitted individuals to practice elements of the occupation without a license.

Individuals who meet the educational requirements can work and gain experience under the direct supervision of a nationally recognized certified physicists or an Ohio certified radiation expert to meet the experience requirements to become an Ohio certified radiation expert.

Assess the cost-effectiveness of the board in terms of number of employees, services rendered, and administrative costs incurred, both past and present.

Due to the efficiencies of computer technology, application processing procedures, and having staff multi-task with other job duties, the state program has increased efficiency in administering the program. The administrative costs have increased over time, but certification fees have not been increased in over 10 years.

Has the board's operation been impeded or enhanced by existing statutes and procedures and by budgetary, resource, and personnel practices?

n/a

Has the board recommended statutory changes to the general assembly that would benefit the public as opposed to the persons regulated by the board, if any, and have those recommendations and other policies been adopted and implemented?

Proposed rule revisions are developed and reviewed with the Radiation-Generating Equipment Committee (REC), a subcommittee of the Governor-appointed Radiation Advisory Council. The department does review the rules in accordance with statutory rule review requirements and coordinates with stakeholders through these committees as part of the rule review process. Persons regulated under these rules have an opportunity to comment through these committees and councils, as well as the public rule comment process.

Has the board required any persons it regulates to report to it the impact of board rules and decisions on the public as they affect service costs and service delivery?

Proposed rule revisions are developed and reviewed with the Radiation-Generating Equipment Committee (REC), a subcommittee of the Governor-appointed Radiation Advisory Council. This committee is comprised of experts in the field of radiation who represent medical, non-medical, dental and academic stakeholders of radiation-generating equipment. The REC meetings are open to the public for further stakeholder input and impact review. Proposed rule revisions are subject to a 30 to 45 day public comment period where further input and impact review can occur.

Are persons regulated by the board, if any, required to assess problems in their business operations that affect the public?

Yes. Certified Radiation Experts audit hospital quality assurance program for public health and safety.

In accordance with Ohio Administrative Code 3701:1-66-04, the hospital quality assurance program shall be audited at least annually by a certified radiation expert. The certified radiation expert shall develop a written report of the audit findings on forms prescribed by the director and submit the report to the quality assurance committee within thirty days of completing the audit. The quality assurance committee shall review the audit report and implement any corrective actions determined to be necessary. The certified radiation expert shall file the audit report with the director within ninety days of completing the audit. Every audit report shall include a determination of whether the quality assurance program properly addresses the matters described in this rule and whether it is being carried out in accordance with the written quality assurance program, and any corrective actions to be taken to comply with the requirements of this chapter. The audit report shall become a part of the inspection record.

Has the board encouraged public participation in its rule-making and decision-making?

Yes. Rules are drafted by the program with the Radiation-Generating Equipment Committee (REC) a subcommittee of the Governor appointed Radiation Advisory Counsel. This committee consists of experts in the field of radiation who represent medical, non-medical, dental and academic stakeholders of radiation-generating equipment. The REC meetings are open to the public and include input from health physicist, medical physicists, physicians, dentists, oncologists, radiologists, radiation therapists, nuclear medicine technologists, radiographers and other members of the public attending the meetings.

Assess the efficiency with which formal public complaints filed with the board have been processed to completion.

All complaints regarding unqualified or uncertified radiation experts are investigated to completion by program staff and reviewed by program managers and legal counsel. Recommendations for disciplinary action are prepared and reviewed and approved by the Director of Health.

Has the purpose for which the board was created been fulfilled? Has it changed? Does it still exist?

Yes, the purpose of certifying radiation experts still exists today.

The regulations were established to ensure and enforce the education and experience requirements of individuals developing, overseeing, reviewing, and auditing a hospital's radiation therapy quality assurance program for radiation safety to the public.

The Ohio requirement that individuals must meet education and examination standards to medically expose individuals to ionizing radiation must be preserved for public health and safety.

Does federal law require that the board be renewed in some form?

No.

Assess the administrative hearing process of a board if the board has an administrative hearing process, and whether or not the hearing process is consistent with due process rights.

Any actions recommended by the department are subject to an administrative hearing process in accordance with Ohio Revised Code Chapter 119.

Is the requirement for the occupational license or licenses under the board's jurisdiction consistent with the policies expressed in section 4798.02 of the Revised Code? Does the license serve a meaningful, defined public interest? Does it provide the least restrictive form of regulation that adequately protects the public interest?

The program is consistent with polices established under Section 4798.02 of the Revised Code.

The regulations were established to ensure and enforce the education and experience requirements of individuals developing, overseeing, reviewing and auditing a hospital's radiation therapy quality assurance program for radiation safety to the public.

The requirement that individuals must meet education and examination standards to medically expose individuals to ionizing radiation is important to ensure public health and safety. The program provides the least restrictive form of regulation to adequately protect public health.

Assess the extent to which licensing ensures that practitioners have occupational skill sets or competencies that are substantially related to protecting consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare, and the impact that those criteria have on applicants for a license, particularly those with moderate or low incomes, seeking to enter the occupation or profession.

Ohio Administrative Code (O.A.C.) 3701-66-03, promulgated under Ohio Revised Code (O.R.C.) 3748.12, were established to ensure and enforce education and experience requirements of individuals developing, overseeing, reviewing and auditing a hospital's radiation therapy quality assurance program for radiation safety. This in turn minimizes radiation exposure to patients and the public to reduce the likelihood of radiation induced health effects or injury. The program requires applicants to meet the standards of national certifying organizations. There are a variety of schools and programs available across the state that provide training to individuals wishing to obtain these certifications, and these programs would be available similar to other educational programs for those with moderate or low incomes seeking to enter the profession.

Assess the extent to which the requirement for the occupational license stimulates or restricts competition, affects consumer choice, and affects the cost of services.

The $100.00 initial license fee and $100.00 renewal fee every two years, should have minimal effect on the cost of services. The fee applies to individuals and does not impact competition or consumer choice.

Are changes needed in the enabling laws of the board in order for it to comply with the criteria suggested by the considerations listed in this questionnaire?

No.

Additional Notes