



### **Senate Judiciary Committee**

Testimony of Stephanie M. Loucka, Executive Director, State Medical Board of Ohio  
September 20, 2023

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson and members of the Senate Judiciary Committee, thank you for the opportunity to speak today regarding Senate Bill 109. My name is Stephanie Loucka, and I serve as the Executive Director for the State Medical Board of Ohio (“the board” or “SMBO”).

The board licenses and regulates approximately 98,000 medical professionals – a growth in volume of over 35% in the past decade. Our licensees include physicians, physician assistants, respiratory care professionals, dietitians, massage therapists and many other allied health professionals. The board has approximately 64,000 licensed physicians and medical residents.

The SMBO enforces standards of care for safe medical practice. These standards ensure that licensees are qualified to provide medical care in this state and are the basis for discipline when those standards are violated. When the board receives complaints against a licensee, it investigates the alleged violations and takes disciplinary action - when necessary - to deny, revoke, or restrict a licensee’s right to practice medicine in Ohio.

On May 20, 2019, Governor Mike DeWine issued Executive Order 2019-16D, establishing the Governor’s Working Group on Reviewing of the Medical Board’s Handling of the Investigation Involving Richard Strauss. Beginning on May 29, 2019 through July 24, 2019 the Working Group held nine total meetings, interviewing current and former board staff and University staff, and conducting a review of past board decisions, policies and procedures. The Working Group made a series of recommendations to help the board improve its handling of sexual misconduct complaints.

In the time since the Working Group’s recommendations, the board has worked diligently to improve internal practices and policies to better protect the public. These improvements include:

- A revamp of process for the handling of sexual misconduct complaints, including a prioritization of sexual misconduct complaints starting when the complaint first comes to the board.
  - Development and implementation of a strategic staffing plan, which resulted in the hiring of a victim coordinator, sexual misconduct enforcement attorneys and additional investigators.
  - A comprehensive review of 25 years of closed sexual misconduct cases, some of which resulted in board discipline.
  - The creation of a mandatory ‘Duty to Report’ continuing medical education requirement and corresponding course.
  - The launch of a public information campaign to inform and educate the public about the board’s
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role to protect the public.

- Increased board and staff training relative to the unique nature of sexual misconduct complaints.
- The increased use of summary suspensions to provide immediate protection to the public.

While these updated internal practices and policies have had a noticeable positive impact on board productivity, including an increase in the number of citations issued for allegations of sexual misconduct, more can be done to protect the public. Accordingly, the board has identified a series of legislative changes. As introduced, Senate Bill 109 accomplishes three main goals:

First, SB 109 revises the criminal code to aid future SMBO enforcement actions for predatory licensees. It adds licensed medical professionals acting in the course of medical treatment to the list of types of offenders, such as teachers, coaches and mental health professionals, already contained in the sexual battery statute. It adds sexual contact, in addition to the existing sexual conduct provision, in the sexual battery statute to capture inappropriate sexual touching. The bill also updates the offense of rape to include when an offender knows that the victim is impaired due to drugs administered in the course of treatment.

Second, the bill increases public protection in the form of transparency and mandatory reporting requirements. The SMBO is a complaint driven entity; we typically don't know of violations of our rules and laws unless they are reported to us. SB 109 increases reporting requirements for prosecutors and courts when there are indictments or convictions for sex offenses committed by our licensees. It also increases reporting requirements for health care entities and all Medical Board licensees for sexual misconduct and/or criminal conduct by a Medical Board licensee. The bill also creates an exception to the peer-review protection of hospital records by allowing the board to subpoena records related to sexual misconduct and criminal conduct. In-house records showing violations of the board's rules and laws will aid the board in catching board licensees who have committed sexual misconduct or criminal conduct earlier. Finally, any non-licensed medical professional or citizen who has knowledge or reasonable suspicion that a violation of sex offense laws by a licensed medical professional has taken place will be required to report this to law enforcement.

In addition to requiring more reporting to the board, SB 109 also creates more transparency. While all complaints and investigations will remain confidential, the bill permits the board to provide status updates to complainants. SB 109 also requires a licensee to notify patients if they are placed on probation with the board. These increased transparency requirements not only provide critical information to patients, complainants and/or victims, they also help reassure the public that the board is doing its best to protect the public.

### **Conclusion**

The SMBO has worked diligently to improve our policies and practices in how we handle sexual misconduct complaints. However, our work to improve is not, and never will be, finished. Senate Bill 109 allows the board to hold egregious offenders accountable in a more efficient manner. It also allows the board to give patients and complainants critical information about their providers.

Thank you again for allowing me to speak to you today. I will gladly answer any questions you have at this time.

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