

Testimony by Interim Executive Director and General Counsel Mary Beth Foley
Ohio Police & Fire Pension Fund
Before the House Financial Institutions Committee
on H.B. 184
June 2021

Introduction:

Chair Jordan, Vice-Chair Ferguson, Ranking Minority Member Crossman, and members of the House Financial Institutions Committee, thank you for the opportunity to offer testimony on House Bill 184, which is an administrative change to the Ohio Police & Fire Pension Fund's disability determination procedures that would provide broader options to assist police and firefighters, facing a medical condition which impacts their ability to serve. This change adopts statutory language in place for the Ohio Highway Patrol Retirement System since 2003.

About OP&F:

The Ohio Police & Fire Pension Fund is committed to securing the future for Ohio police and firefighters. Created by the legislature in 1965, OP&F is one of five state retirement systems in Ohio. It has provided pension and disability benefits to the state's full-time firefighters and police officers for more than 50 years.

Currently, OP&F serves approximately **27,000** active members and more than **30,000** retirees and their beneficiaries. OP&F's investment portfolio is currently valued at approximately **\$18 billion**. OP&F's disability benefit program and investment portfolio management has routinely been recognized for excellence. It is a model among retirement systems, providing a high-level of customer service and peace of mind to our members.

The Core Values of the Ohio Police & Fire Pension Fund are Empathy, Integrity, and Prudence. Prudence is cautious, sound judgment in the operational practices of delivering benefit services. Fulfillment of this core value is what brings us here today.

On behalf of the Board of Trustees of the Ohio Police & Fire Pension Fund, we are here today asking for a change in statute to provide better operational efficiency to our members.

Background:

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Currently, on entry into a police or fire department, a prospective employee takes a pre-employment physical exam. The physical includes a health history and checks for conditions like heart disease, cancer for firefighters and/or any cardiovascular or respiratory disease of a chronic nature for all members. This sets a base line demonstrating the origin of member disease or injury during their careers. Upon an application for disability by an OP&F member, our process requires a demonstration of the injury, extent of the impairment and whether the condition is duty-related or not, and the effect of the injury on the applicant's earnings capacity. Under the current statute, only a competent and disinterested physician can conduct these member exams.

Proposed Change:

The Ohio Police & Fire Pension Fund is requesting updated language which could allow physicians, or other licensed, competent, and disinterested health care professionals, to conduct the OP&F exams. The current language limits the Fund, members and employers by only allowing physician. Members are often required to travel hours with a disabling condition due to the lack of physicians available to OP&F.

The change is necessary due to the changing health care landscape and medical providers available to assist OP&F administer its disability program. The Board requests the change to reflect the current situation and future needs.

The Ohio Police & Fire Pension Fund has increasing difficulty in finding independent physicians to perform these physical examinations, for a number of reasons.

First, there is a shortage of physicians, which is expected to increase. Nationwide, the Association of American Medical Colleges estimates a shortage of more than 55,000 primary care physicians by 2032. But this is not a challenge a decade into the future. In Ohio, the need for physicians is growing faster than the supply. And before the pandemic, the U.S. Department of Health and Human Services projected Ohio would be short 1200 primary care physicians by 2025. This situation is more pronounced in the area of psychiatry.

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In addition, health care itself is trending away from the independent, private practice physicians and increasingly toward practice groups, hospital organizations, and the like. Some of these organizations utilize specifically-trained and licensed health care professionals, known as physician extenders, to provide basic medical services like physicals. Physician Assistants and Nurse Practitioners are examples of physician extenders. They are licensed and qualified to perform examinations, order tests and prescribe medication under the supervision of a licensed physician. In addition, over fifty percent of OP&F first responder members' disabilities are granted on the basis of muscular skeletal and orthopedic injuries (neck, back, hips, knees, shoulders) which preclude them for continuing to lift people and objects, and interfere with peace officers qualifying for carrying a weapon. Most of these injuries are determined by MRI and X-ray. Licensed physical therapists, occupational therapists and sports medicine specialists specialize in this field. Regardless of the type of healthcare professional who performs an examination, a licensed physician will continue to do the file review for OP&F. OP&F will retain its Medical Advisor for appeals of initial disability determinations. (Currently Dr. Greg Jewell, formerly of the BWC).

Members of the Committee have previously asked several questions about the language in the bill. One issue that has been raised relates to the broadness of the term "healthcare professional." This concern is addressed by the language in the bill, which would require the types of healthcare professionals the Board may assign to conduct examinations to be specified in Administrative Rule. Again, this language is identical to the language that already exists in the State Highway Patrol Retirement System's disability statute (Ohio Revised Code Section 5505.18). In 2003, the HPRS statute was amended to replace the term "physician" with "healthcare professional." The HPRS statute also provides that its Board of Trustees may adopt Rules to specify the types of healthcare professionals the Board may appoint, which is the same as House Bill 184. In addition, OP&F currently uses the American Medical Association's *Guides to the Evaluation of Permanent Impairment (the Guides, 5th Edition)* for use by our physicians as the standard framework for evaluating permanent impairments. The AMA *Guides* will continue to control any examinations performed by other healthcare professionals for consistent determinations.

Another issue was raised concerning the potential for fraud with psychological claims. OP&F currently requires physicians to use the American Medical

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Association Guides, 6th Edition, for determining psychiatric impairment percentages. This will continue to be required for consistent determinations. OP&F also requires examiners to utilize standard tests for alleged psychological conditions, such as the PAI (Personality Assessment Inventory) and MSVT (Medical Symptom Validity Test), which can indicate malingering. These standard tests mitigate the potential for fraud. OP&F also has a fraud hotline for any suspected disability fraud and has the statutory to require a member to be re-examined.

Conclusion:

The health, welfare and future security of our members is paramount.

The proposed language change in House Bill 184 modernizes the statute to reflect both a current and future need to serve our members efficiently and effectively in their time of health crises. The bill preserves the current model, where possible and practical, while allowing a transition – over time – as necessary. We anticipate a measured phase-in, using our current physicians for as long as we can while supplementing with new opportunities like telehealth, in-home visits and use of health care extenders.

Thank you for your time. I would be happy to answer any questions.