

**As Introduced**

**CORRECTED VERSION**

**133rd General Assembly  
Regular Session  
2019-2020**

**S. B. No. 348**

**Senators Schaffer, Roegner  
Cosponsor: Senator Brenner**

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**A BILL**

To amend sections 3709.03, 3709.05, 3709.07, 1  
3709.41, and 3709.99 and to enact sections 2  
3709.221 and 4745.041 of the Revised Code to 3  
prohibit local boards of health from using 4  
certain threatening words in notifications to 5  
the public, to allow local boards of health to 6  
reject Department of Health orders during an 7  
emergency, to allow health care professionals 8  
who serve on a board of health to receive 9  
continuing education credit, and to change the 10  
makeup of local boards of health. 11

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3709.03, 3709.05, 3709.07, 12  
3709.41, and 3709.99 be amended and sections 3709.221 and 13  
4745.041 of the Revised Code be enacted to read as follows: 14

**Sec. 3709.03.** (A) There is hereby created in each general 15  
health district a district advisory council. A council shall 16  
consist of the president of the board of county commissioners, 17

the chief executive of each municipal corporation not 18  
constituting a city health district, and the chairperson of the 19  
board of township trustees of each township. The board of county 20  
commissioners, the legislative body of a municipal corporation, 21  
and the board of township trustees of a township may select an 22  
alternate from among themselves to serve if the president, the 23  
chief executive, or the chairperson is unable to attend any 24  
meeting of the district advisory council. When attending a 25  
meeting on behalf of a council member, the alternate may vote on 26  
any matter on which the member is authorized to vote. 27

The council shall organize by selecting a chair and 28  
secretary from among its members. The council shall adopt bylaws 29  
governing its meetings, the transaction of business, and voting 30  
procedures. 31

The council shall meet annually in March at a place 32  
determined by the chair and the health commissioner for the 33  
purpose of electing the chair and the secretary, making 34  
necessary appointments to the board of health, receiving and 35  
considering the annual or special reports from the board of 36  
health, and making recommendations to the board of health or to 37  
the department of health in regard to matters for the betterment 38  
of health and sanitation within the district or for needed 39  
legislation. The secretary of the council shall notify the 40  
district health commissioner and the director of health of the 41  
proceedings of such meeting. 42

Special meetings of the council shall be held on the order 43  
of any of the following: 44

(1) The director of health; 45

(2) The board of health; 46

(3) The lesser of five or a majority of district advisory council members. 47  
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The district health commissioner shall attend all meetings of the council. 49  
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(B) The district advisory council shall appoint five members of the board of health, unless the board of health has established a health district licensing council under section 3709.41 of the Revised Code, in which case, the district advisory council shall appoint four members of the board of health, and the health district licensing council shall appoint one member of the board of health. ~~At-~~ 51  
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For boards of health with five members, at least one member of the board of health shall be a physician, one shall be a registered nurse, and one shall be a licensed health care professional. If the board of health has not established a health district licensing council under section 3709.41 of the Revised Code, the district advisory council shall appoint a member who represents the interests of businesses within the health district. 58  
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For boards of health with more than five members, the majority shall include at least one physician and one registered nurse, with the remainder of the majority consisting of licensed health care professionals. For boards of health with seven members, if the board of health has not established a health district licensing council under section 3709.41 of the Revised Code, the district advisory council shall appoint two members who represent the interests of businesses within the health district. For boards of health with greater than seven members, the district advisory council shall appoint three members who represent the interests of businesses within the health 66  
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district. Members of boards of health who were appointed before 77  
the effective date of the amendment of this section, on boards 78  
of health not in compliance with the membership requirements of 79  
this section, may finish their terms. Appointments shall be made 80  
with due regard to equal representation of all parts of the 81  
district. 82

(C) If at an annual or special meeting at which a member 83  
of the board of health is to be appointed fewer than a majority 84  
of the members of the district council are present, the council, 85  
by the majority vote of council members present, may organize an 86  
executive committee to make the appointment. An executive 87  
committee shall consist of five council members, including the 88  
president of the board of county commissioners, the council 89  
chair, the council secretary, and two additional council members 90  
selected by majority affirmative vote of the council members 91  
present at the meeting. The additional members selected shall 92  
include one representative of municipal corporations in the 93  
district that are not city health districts and one 94  
representative of townships in the district. If an individual is 95  
eligible for more than one position on the executive committee 96  
due to holding a particular office, the individual shall fill 97  
one position on the committee and the other position shall be 98  
filled by a member selected by a majority affirmative vote of 99  
the council members present at the meeting. A council member's 100  
alternate for annual meetings may serve as the member's 101  
alternate at meetings of the executive committee. 102

Not later than thirty days after an executive committee is 103  
organized, the committee shall meet and the council chair shall 104  
present to the committee the matter of appointing a member of 105  
the board of health. The committee shall appoint the board 106  
member by majority affirmative vote. In the case of a combined 107

health district, the executive committee shall appoint only 108  
members of the board of health that are to be appointed by the 109  
district advisory council, unless the contract for 110  
administration of health affairs in the combined district 111  
provides otherwise. If a majority affirmative vote is not 112  
reached within thirty days after the executive committee is 113  
organized, the director of health shall appoint the member of 114  
the board of health under the authority conferred by section 115  
3709.03 of the Revised Code. 116

If the council fails to meet or appoint a member of the 117  
board of health as required by this section or section 3709.02 118  
of the Revised Code, the director of health may appoint the 119  
member. 120

(D) As used in this section, "licensed health care 121  
professional" means a physician, podiatrist, pharmacist, 122  
dentist, chiropractor, doctor of osteopathic medicine, or 123  
optometrist who has been licensed, accredited, or certified to 124  
perform health care services in this state. 125

**Sec. 3709.05.** (A) Unless an administration of public 126  
health different from that specifically provided in this section 127  
is established and maintained under authority of its charter, or 128  
unless a combined city health district is formed under section 129  
3709.051 of the Revised Code, the legislative authority of each 130  
city constituting a city health district shall establish a board 131  
of health. The board of health shall be composed of five members 132  
appointed by the mayor and confirmed by the legislative 133  
authority, unless the board of health has established a health 134  
district licensing council under section 3709.41 of the Revised 135  
Code, in which case, the mayor shall appoint four members of the 136  
board of health, confirmed by the legislative authority, and the 137

health district licensing council shall appoint one member of 138  
the board of health. If the the board of health has not 139  
established a health district licensing council under section 140  
3709.41 of the Revised Code, the district advisory council shall 141  
appoint one member who represents the interests of businesses 142  
within the health district. 143

For boards of health with five members, at least one 144  
member of the board of health shall be a physician, one shall be 145  
a registered nurse, and one shall be a licensed health care 146  
professional. For boards of health with more than five members, 147  
the majority shall include at least one physician and one 148  
registered nurse, with the remainder of the majority consisting 149  
of licensed health care professionals. For boards of health with 150  
seven members, if the the board of health has not established a 151  
health district licensing council under section 3709.41 of the 152  
Revised Code, the district advisory council shall appoint two 153  
members who represent the interests of businesses within the 154  
health district. For boards of health with greater than seven 155  
members, the district advisory council shall appoint three 156  
members who represent the interests of businesses within the 157  
health district. 158

Members of boards of health who were appointed before the 159  
effective date of the amendment to this section, on boards of 160  
health not in compliance with the membership requirements of 161  
this section, may finish their terms. 162

(B) Each member of the board shall be paid a sum not to 163  
exceed eighty dollars a day for the member's attendance at each 164  
meeting of the board. No member shall receive compensation for 165  
attendance at more than eighteen meetings in any year. 166

(C) Each member of the board shall receive travel expenses 167

at rates established by the director of budget and management 168  
pursuant to section 126.31 of the Revised Code to cover the 169  
actual and necessary travel expenses incurred for travel to and 170  
from meetings that take place outside the county in which the 171  
member resides, except that any member may receive travel 172  
expenses for registration for any conference that takes place 173  
inside the county in which the member resides. 174

(D) A majority of the members constitutes a quorum, and 175  
the mayor shall be president of the board. 176

(E) The term of office of the members shall be five years 177  
from the date of appointment, except that of those first 178  
appointed, one shall serve for five years, one for four years, 179  
one for three years, one for two years, and one for one year, 180  
and thereafter one shall be appointed each year. 181

A vacancy in the membership of the board shall be filled 182  
in like manner as an original appointment and shall be for the 183  
unexpired term. 184

(F) As used in this section, "licensed health care 185  
professional" means a physician, podiatrist, pharmacist, 186  
dentist, chiropractor, doctor of osteopathic medicine, or 187  
optometrist who has been licensed, accredited, or certified to 188  
perform health care services in this state. 189

**Sec. 3709.07.** Except as provided in section 3709.071 of 190  
the Revised Code, when it is proposed that one or more city 191  
health districts unite with a general health district in the 192  
formation of a single district, the district advisory council of 193  
the general health district shall meet and vote on the question 194  
of union. It shall require a majority affirmative vote of the 195  
members of the district advisory council to carry the question. 196

The legislative authority of each city shall likewise vote on 197  
the question. A majority voting affirmatively shall be required 198  
for approval. When the majority of the district advisory council 199  
and the legislative authority have voted affirmatively, the 200  
chair of the council and the chief executive of each city shall 201  
enter into a contract for the administration of health affairs 202  
in the combined district. Such contract shall state the 203  
proportion of the expenses of the board of health or health 204  
department of the combined district to be paid by the city or 205  
cities and by the original general health district. The contract 206  
may provide that the administration of the combined district 207  
shall be taken over by either the board of health or health 208  
department of one of the cities, by the board of health of the 209  
general health district, or by a combined board of health. Such 210  
contract shall prescribe the date on which such change of 211  
administration shall be made. A copy of such contract shall be 212  
filed with the director of health. 213

The combined district shall constitute a general health 214  
district, and the board of health or health department of the 215  
city, the board of health of the original general health 216  
district, or the combined board of health, as may be agreed in 217  
the contract, shall have, within the combined district, all the 218  
powers granted to, and perform all the duties required of, the 219  
board of health of a general health district. 220

The district advisory council of the combined general 221  
health district shall consist of the members of the district 222  
advisory council of the original general health district and the 223  
chief executive of each city constituting a city health 224  
district, each member having one vote. 225

If the contract provides that the administration of the 226

combined district shall be taken over by a combined board of 227  
health, rather than the board of health of the original health 228  
district, the contract shall set forth the number of members of 229  
such board, their terms of office, and the manner of appointment 230  
or election of officers. ~~One~~ For a combined board of health with 231  
five members, at least one of the members of such combined board 232  
of health shall be a physician, ~~and~~ one shall be a registered 233  
nurse, and one shall be a licensed health care professional. For 234  
such boards of health with more than five members, the majority 235  
shall include at least one physician and one registered nurse, 236  
with the remainder of the majority being licensed health care 237  
professionals. One member shall be an individual appointed by 238  
the health district licensing council, if such council is 239  
established under section 3709.41 of the Revised Code. If the 240  
board of health has not established a health district licensing 241  
council under section 3709.41 of the Revised Code, the district 242  
advisory council shall appoint a member who represents the 243  
interests of businesses within the health district. For such 244  
boards of health with seven members, the district advisory 245  
council shall appoint two members who represent the interests of 246  
businesses within the health district, and for such boards of 247  
health with greater than seven members, the district advisory 248  
council shall appoint three members who represent the interests 249  
of businesses within the health district. 250

Members of boards of health who were appointed before the 251  
effective date of the amendment of this section, on boards of 252  
health not in compliance with the membership requirements of 253  
this section, may finish their terms. The contract may also 254  
provide for the representation of areas by one or more members 255  
and shall, in such event, specify the territory to be included 256  
in each such area. 257

The appointment of any member of the combined board who is 258  
designated by the provisions of the contract to represent a city 259  
shall be made by the chief executive and approved by the 260  
legislative authority of such city. If a member is designated by 261  
the contract to represent more than one city, the member shall 262  
be appointed by majority vote of the chief executives of all 263  
cities included in any such area. Except for the member 264  
appointed by the health district licensing council, if such 265  
council is established, the appointment of all members of the 266  
combined board who are designated to represent the balance of 267  
the district shall be made by the district advisory council. 268

The service status of any person employed by a city or 269  
general health district shall not be affected by the creation of 270  
a combined district. 271

As used in this section, "licensed health care 272  
professional" means a physician, podiatrist, pharmacist, 273  
dentist, chiropractor, doctor of osteopathic medicine, or 274  
optometrist who has been licensed, accredited, or certified to 275  
perform health care services in this state. 276

Sec. 3709.221. During a period of emergency endangering 277  
the public health caused by an epidemic, an infectious or a 278  
communicable disease, or a disaster emergency condition or 279  
event, and notwithstanding section 3701.13, 3701.342, 3701.352, 280  
or 3701.56 of the Revised Code, a board of health may, after a 281  
collaborative consultation with the department of health, and 282  
with the approval of a supermajority of its members, reject an 283  
order issued by the director of health or the department of 284  
health as it applies in the board's health district. Any 285  
resident of a health district in which the board of health has 286  
rejected an order of the director of health or the department of 287

health is not required to obey the director's or the 288  
department's order. 289

As used in this section, "supermajority" means at least 290  
two-thirds of the members of a board of health, which is four 291  
out of five members of a board of health with five members, five 292  
out of seven members of a board of health with seven members, 293  
and so on. 294

**Sec. 3709.41.** (A) The board of health of each city and of 295  
each general health district may establish a health district 296  
licensing council, to be appointed by the entity that has 297  
responsibility for appointing the board of health in the health 298  
district. The members of the council shall consist of one 299  
representative of each business activity for which the board of 300  
health operates a licensing program. To be appointed and remain 301  
a member, an individual shall be a resident of the health 302  
district for which the council was created. 303

The appointing authority shall make initial appointments 304  
to the council not later than thirty days after the board of 305  
health establishes the council. Of the initial appointments to 306  
the council, one-third of the members, rounded to the nearest 307  
whole number, shall serve for a term ending three years after 308  
the date of appointment; one-third, rounded to the nearest whole 309  
number, shall serve for a term ending four years after the date 310  
of appointment; and the remaining members shall serve for a term 311  
ending five years after the date of appointment. Thereafter, 312  
terms of office shall be five years, with each term ending on 313  
the same day of the same month as did the term that it succeeds. 314

Each member shall hold office from the date of the 315  
member's appointment until the end of the term for which the 316  
member was appointed. Members may be reappointed. 317

Vacancies shall be filled in the manner provided for 318  
original appointments. Any member appointed to fill a vacancy 319  
occurring prior to the expiration of the term for which the 320  
member's predecessor was appointed shall hold office as a member 321  
for the remainder of that term. A member shall continue in 322  
office subsequent to the expiration date of the member's term 323  
until the member's successor takes office or until a period of 324  
sixty days has elapsed, whichever occurs first. 325

Members shall serve without compensation, except to the 326  
extent that serving on the council is part of their regular 327  
duties of employment. 328

(B) Each health district licensing council shall organize 329  
by selecting from among its members a chairperson, a secretary, 330  
and any other officers it considers necessary. Each council 331  
shall adopt bylaws for the regulation of its affairs and the 332  
conduct of its business. 333

Each council shall meet at least annually or at more 334  
frequent intervals if specified in its bylaws. In addition to 335  
the mandatory meetings, a council shall meet at the call of the 336  
chairperson or the request of a majority of the council members. 337

(C) Pursuant to sections 3709.03, 3709.05, and 3709.07 of 338  
the Revised Code, the health district licensing council, if 339  
established by the board of health, shall appoint one member of 340  
the board of health for boards of health with five members, two 341  
members for boards of health with seven members, and three 342  
members for boards of health with more than seven members. The 343  
council shall appoint one or more of its members to serve as an 344  
alternate board of health member if for any reason the original 345  
member is or members are required to abstain from voting on a 346  
particular issue being considered by the board of health. While 347

serving on behalf of the original member, the alternate member 348  
has the same powers and duties as the original member. 349

**Sec. 3709.99.** (A) Whoever violates section 3709.20, 350  
3709.21, or 3709.22 of the Revised Code or any order or 351  
regulation of the board of health of a city or general health 352  
district adopted in pursuance of those sections, or whoever 353  
interferes with the execution of an order or regulation of that 354  
nature by a member of the board or person authorized by the 355  
board, shall be fined not more than one hundred dollars or 356  
imprisoned not more than ninety days, or both. No person shall 357  
be imprisoned for the first offense, and the prosecution shall 358  
always be for a first offense unless the affidavit upon which 359  
the prosecution is instituted contains the allegation that the 360  
offense is a subsequent offense. 361

(B) Except in case of an emergency endangering the public 362  
health caused by an epidemic, an infectious or a communicable 363  
disease, or a disaster emergency condition or event, no 364  
prosecution for a violation of any regulation or order adopted 365  
pursuant to section 3709.20, 3709.21, or 3709.22 of the Revised 366  
Code shall take place until twenty days after the board of 367  
health of a city or general health district has notified the 368  
person subject to the regulation or order of the specific 369  
violation alleged. The notification, to the extent it addresses 370  
potential prosecution of an alleged offender, may not state that 371  
a person "will be" or "shall be" prosecuted, but may only state 372  
that a person "may be" prosecuted. Any person notified by the 373  
board of a violation of any regulation or order of that nature 374  
may file an action for declaratory judgment pursuant to Chapter 375  
2721. of the Revised Code to have determined whether the 376  
regulation or order is unreasonable or unlawful. No prosecution 377  
of that nature shall be commenced when, within the twenty-day 378

period described in this division, the violation has been 379  
corrected. No prosecution of that nature shall be commenced 380  
until a declaratory judgment of that nature has been given. 381

When issuing a notification to the public regarding an 382  
emergency endangering the public health caused by an epidemic, 383  
an infectious, or a communicable disease, or a disaster 384  
condition or event, to the extent the notification addresses 385  
potential prosecution of an alleged offender, a board may not 386  
state that a person "will be" or "shall be" prosecuted, but may 387  
only state that a person "may be" prosecuted. 388

**Sec. 4745.041.** (A) As used in this section: 389

(1) "Local health board" means the board of health of a 390  
general health district, city health district, or combined 391  
health district formed under Chapter 3709. of the Revised Code. 392

(2) "Licensing agency that licenses health care 393  
professionals" means all of the following: 394

(a) The state dental board established under Chapter 4715. 395  
of the Revised Code; 396

(b) The board of nursing established under Chapter 4723. 397  
of the Revised Code; 398

(c) The state vision professionals board established under 399  
Chapter 4725. of the Revised Code; 400

(d) The state board of pharmacy established under Chapter 401  
4729. of the Revised Code; 402

(e) The state medical board established under Chapter 403  
4731. of the Revised Code; 404

(f) The state chiropractic board established under Chapter 405

4734. of the Revised Code. 406

(B) Notwithstanding any provision of the Revised Code to 407  
the contrary, a licensing agency that licenses health care 408  
professionals shall apply toward the satisfaction of a portion 409  
of a licensee's continuing education requirement up to five 410  
credit hours per year if the licensee serves on a local board of 411  
health for at least a year. These credit hours shall be credited 412  
at a rate of one credit hour per sixty minutes of service. 413

(C) A licensing agency that licenses health care 414  
professionals shall adopt rules as necessary to implement this 415  
section. The rules shall be adopted in accordance with Chapter 416  
119. of the Revised Code. 417

(D) Continuing education credit received under this 418  
section for serving on a local board of health is not 419  
compensation or any other form of remuneration. 420

**Section 2.** That existing sections 3709.03, 3709.05, 421  
3709.07, 3709.41, and 3709.99 of the Revised Code are hereby 422  
repealed. 423