

Senate Bill 109 Frequently Asked Questions

On December 20, 2024, Governor DeWine signed Senate Bill 109 from the 135th General Assembly (SB 109) into law. This law contains new reporting requirements, changes to the criminal code and changes to Medical Board operations that will advance the safety of Ohio patients.

With the passing of SB 109, the Medical Board has been granted more robust enforcement tools to better ensure licensees engaging in sexual misconduct are held accountable.

The below questions are not exhaustive of the changes in SB 109. You are encouraged to review the law [HERE](#). These Frequently Asked Questions are not legal advice. Licensees should contact their legal counsel with specific questions.

Q1: What is the purpose of SB 109?

A: SB 109 aims to enhance laws and penalties for sexual offenses committed by Medical Board licensees. This includes physicians, physician assistants, acupuncturists, anesthesiologist assistants, dietitians, genetic counselors, massage therapists, radiologist assistants, and respiratory therapists.

Q2: When does SB 109 go into effect?

A: SB 109 becomes effective on March 21, 2025, 90 days after Governor DeWine signed the legislation into law.

Q3: Which Medical Board licensees are covered by SB 109?

A: All licensees of the Medical Board are covered by SB 109.

Q4: How does SB 109 change Ohio criminal laws regarding Medical Board licensees?

A: It is now a felony for licensed physician assistants, physicians (MD, DO, DPM and training certificate holders), and massage therapists to engage in sexual activity¹ with a patient, in the course of medical treatment².

The new law amends the crime of rape to include a situation where the offender engages in sexual conduct with another person and knows that the judgment or control of the other person is substantially impaired as a result of the influence of any drug or intoxicant administered with the other person's consent for the purpose of any kind of medical or dental examination, treatment, or surgery.

[R.C. 2921.22](#) is also amended to require any person who knows that a licensed medical professional has committed an offense under [Ohio Revised Code Chapter 2907. Sex Offenses](#) to report it to law enforcement within 30 days.

SB 109 also makes multiple changes to the various sex offenses found in the criminal provisions in the Ohio Revised Code.

Q5: Does SB 109 address the conditions under which intimate exams may be performed?

A: Yes, SB 109 prohibits registered nurses, advanced practice registered nurses, physician assistants, physicians, medical residents, or students from performing an unauthorized intimate exam on a patient that is anesthetized or unconscious. An intimate exam may only be performed when informed consent has been given, when it is within the scope of care for the surgical procedure or diagnostic exam to be performed on the patient, or when the intimate exam is required for diagnostic purposes or treatment of the patient's medical condition.

The new law also provides requirements for informed consent forms including giving a patient the ability to consent to or refuse a student's performance or observation of the intimate exam.

Additionally, the Medical Board's existing sexual misconduct rules in [OAC 4731-26-01](#) still require a Medical Board licensee performing an intimate exam to offer the patient a chaperone or provide one upon request. A Medical Board licensee is prohibited from conducting an intimate exam in the presence of a third party (other than a chaperone) without consent or performing an intimate exam without clinical justification. A licensee must also use proper draping practices and use gloves when examining or touching a patient's genitals.

Q6: Does this new law change the process of filing a sexual misconduct complaint?

A: No, SB 109 does not change the process of filing a complaint. If you are aware of a State Medical Board licensee that has engaged in sexual misconduct, please file a complaint at <https://elicense.ohio.gov/>.

Q7: Are complaints filed against a Medical Board licensee confidential?

A: Yes. [R.C. 4731.22\(F\)\(5\)](#) requires the Medical Board to keep complaints and other investigative information confidential. With the passing of SB 109, anyone that violates the Medical Board's confidentiality statute by disclosing confidential investigatory information can be charged with a first-degree misdemeanor.

Q8: Once a complaint is filed, can any information be shared with the complainant about the status of the investigation?

A: Yes, the board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

Q9: Will the Board's investigations process change in any way?

A: SB 109 allows the Medical Board to vote to allow one of the Medical Board's non-physician consumer members to join the Secretary and Supervising Member of the Board in the process of reviewing any part of any investigation for any complaint against a licensee.

The Medical Board has already implemented a protocol for handling sexual misconduct complaints and will continue to follow the protocol.

Q10: Did the Board receive additional disciplinary tools to handle sexual misconduct complaints?

A: Yes, the Medical Board is now authorized to issue a summary suspension³ against a license if the Medical Board receives verifiable information that a licensee has been charged with a felony and the conduct charged constitutes a disciplinary violation under Ohio law.

A Medical Board licensee may receive an automatic suspension if pleading guilty to, found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for human trafficking.

Additionally, a physician may receive an automatic 90-day suspension if their license is suspended, revoked, surrendered or relinquished in lieu of discipline by a health care professional regulatory agency in Ohio or another state.

Q11: How can I find out if my provider's license has been placed on probation for a sexual misconduct violation?

A: You can view any State Medical Board of Ohio action taken against your provider at elicense.ohio.gov by clicking the "Verify a License" button.

The Medical Board may require a licensee who has been placed on probation to provide a written disclosure to each patient, or their guardian or key third party⁴, including:

1. The provider's probation status;
2. The total length of the probation;
3. The probation end date;
4. Practice restrictions on the provider;
5. The Medical Board's telephone number;
6. An explanation of how the patient can find additional information regarding the probation on the provider's eLicense profile page.

The Medical Board may issue this requirement of a licensee if the Medical Board finds the licensee:

1. Committed an act of sexual misconduct with a patient or key third party;
2. Engaged in drug or alcohol abuse that directly resulted in patient harm, or that impaired the ability of the provider to practice safely;
3. Has a criminal conviction that directly resulted in harm to patient health;
4. Inappropriately prescribed and caused patient harm.

If ordered by the Medical Board, the licensee will be required to provide their signed written disclosure to the patient before the patient's first visit following the probationary order. The patient, the patient's guardian or a key third party, must sign the disclosure, and the provider must maintain a signed copy in the patient's medical record.

Q12: What should I do as a Medical Board licensee if I know of or suspect another Medical Board licensee is engaging in sexual misconduct?

A: If you are a licensee of the State Medical Board and know or suspect another licensee has engaged in potential criminal conduct or sexual misconduct, you have a duty to report the conduct to the Medical Board within 30 days. Failure to report can result in a criminal charge for failure to report criminal conduct or sexual misconduct. In addition, the Medical Board may pursue formal discipline such as a reprimand, suspension, or revocation, for failure to report which could include a fine of up to \$20,000.

SB 109 also requires anyone (not just a licensee) who knows that a licensed medical professional has committed a Sex Offense under [Ohio Revised Code Chapter 2907](#), to report it to law enforcement within 30 days.

Q13: Do Medical Board licensees have any new self-reporting requirements?

A: Yes, a Medical Board licensee must self-report to the Medical Board if they are charged with any criminal charges within 30 days of the charge being filed. A licensee may no longer wait until renewal to disclose criminal charges.

Q14: Are health care facilities required to report criminal or sexual misconduct to the Medical Board?

Yes, SB 109 requires that within 30 days of beginning an investigation regarding criminal conduct or sexual misconduct by a Medical Board licensee, a health care facility must report to the Medical Board the name of the licensee and a summary of the underlying facts related to the investigation being conducted.

In addition, health care facilities must report a formal disciplinary action taken against a Medical Board licensee to the Medical Board within 30 days of it being imposed.

Failure to report is a first-degree misdemeanor.

Q15: Does a health care facility's report of provider misconduct satisfy an individual Medical Board licensee's duty to report?

A: Unless a health care facility report includes a report for both the facility and specific names of providers who had knowledge of the misconduct, the individual provider must report to the Medical Board. It is the provider's responsibility to ensure that the health care facility for whom they work has included their name in the report submitted to the Medical Board. The inclusion of names allows the Medical Board to conduct a thorough, efficient, confidential investigation.

Q16: Is a health care facility's report of a Medical Board licensee's misconduct confidential?

A: Yes. [R.C. 4731.22\(F\)\(5\)](#) requires the Medical Board to keep complaints and other investigative information confidential.

Q17: Will any of these new provisions apply to a Medical Board licensee that was disciplined prior to March 21, 2025?

A: No, SB 109 will take effect on March 21, 2025. It will not change a Medical Board disciplinary action that has already been issued.

Q18: How does SB 109 help create communication between the Medical Board, law enforcement and courts when a Medical Board licensee is charged with or convicted of a crime?

A: SB 109 amended various notification statutes for both criminal charges and convictions. For instance, prosecutors must now notify the Medical Board if a physician, PA, or massage therapist is charged or indicted with sexual battery ([R.C. 2907.17](#)). Similarly, courts are required to transmit a certified copy of the conviction for a physician, PA, or massage therapist who is convicted of sexual battery ([R.C. 2907.18](#)).

Prosecutors are required to notify the Medical Board when any Medical Board licensee has pled guilty to or been convicted of a felony, misdemeanor committed in the course of practice, or a misdemeanor involving moral turpitude ([R.C. 2929.42](#)).

Definitions

¹ Sexual activity includes both sexual conduct (intercourse and oral sex) and sexual contact (touching erogenous zone of the patient [e.g. breast, genitals, pubic region, thigh, or buttocks] for the purpose of sexually arousing or gratifying either the licensed medical professional or the patient).

² Medical Treatment means in-person medical services provided by a licensed medical professional under the legal authority conferred by a license or certificate, including in-person examination, consultation, health care, treatment, procedure, surgery, or other in-person procedures.

³ Summary suspension means a suspension of a license to practice prior to a hearing. The suspension must be based on clear and convincing evidence that continued practice by the licensee poses a danger of immediate and serious harm to the public ([Section 4731.22\(G\), Ohio Revised Code](#)).

⁴ Key third party means an individual closely involved in the patient's decision-making regarding health care services, including but not limited to, the patient's spouse or partner, parents, child, sibling, or guardian.