



State Medical Board of
Ohio

State Medical Board of Ohio Update

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November 12, 2021

Objectives

- Identify the Medical Board's mission and core services.
- Know about the resources available for substance abuse and physical or mental health issues.
- Understand the duty to report to the Medical Board and new CME requirement.



About the Medical Board

To protect and enhance the health and safety of the public through effective medical regulation.



Statutes

Laws enacted by Ohio legislature
Ohio Revised Code (ORC)

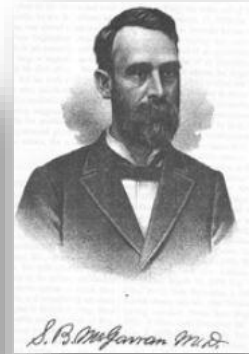
Rules

Regulations developed and enacted by Medical Board
Ohio Administrative Code (OAC)

Rules clarify & amplify provisions in the Ohio Revised Code

125th Anniversary

This February, the Medical Board celebrated 125 years of public service!



The Board

The Medical Board is the state agency charged with regulating the practice of medicine and other selected health professions.

12 members appointed by the governor to 5-year terms:

- 9 doctors: 7 MDs, 1 DO, and 1 DPM
- 3 consumer members

The board meets the second Wednesday of each month in the Rhodes Tower and livestreams the meetings on its YouTube channel.



License Types

The Medical Board regulates more than 92,000 licensees.

Allopathic Physicians 44,217	Anesthesiologist Assistants 338	Massage Therapists 11,367
Osteopathic Physicians 7,552	Physician Assistants 5,189	Dietitians 4,662
Podiatric Physicians 985	Radiologist Assistants 16	Acupuncturists 328
Training Certificates MD-DO-DPM 7,825	Genetic Counselors 562	Respiratory Care 8,723

November 1, 2021



State Medical Board of

Ohio



Licensure



Confidential investigations



Disciplinary actions



Probationary monitoring



Education & Outreach

Medical Board Core Services



Licensure

Maintaining a License

Renewal

- ⑩ Required every 2 years
- ⑩ CME should be completed at time of renewal

Reinstatement

- ⑩ Expired < 2 years
- ⑩ Reinstatement fee incurred

Restoration

- ⑩ Expired > 2 years
- ⑩ Restoration fee incurred
- ⑩ Background check required
- ⑩ Board may require additional training or examination

Renewal Schedule

Licenses issued before 10/17/21

First initial of licensee's last name	Licensure expiration date	CME cycle
A-B	July 1 – odd years	7/1/2023
C-D	April 1 – odd years	4/1/2023
E-F-G	January 1- odd years	1/1/2023
H-I-J-K	October 1 even years	10/1/2022
L-M	July 1 – even years	7/1/2022
N-O-P-Q-R	April 1 – even years	4/1/2022
S	January 1 – even years	1/1/2022
T-U-V-W-X-Y-Z	October 1 – odd years	10/1/2023

Renewal Schedule

As a reminder, the renewal date for licenses issued **after 10/17/21** is based on the date of issuance.

For example: A license issued on November 20, 2020 will expire on November 20, 2022.

Interstate Medical Licensure Compact

Senate Bill 6 authorized the Medical Board to enter the Interstate Medical Licensure Compact:

- Senate Bill 6 gives the SMBO until September 29, 2022 to implement the system to begin processing and issuing licenses through this path.
- The board will continue to provide updates as the implementation unfolds.





Complaint Process



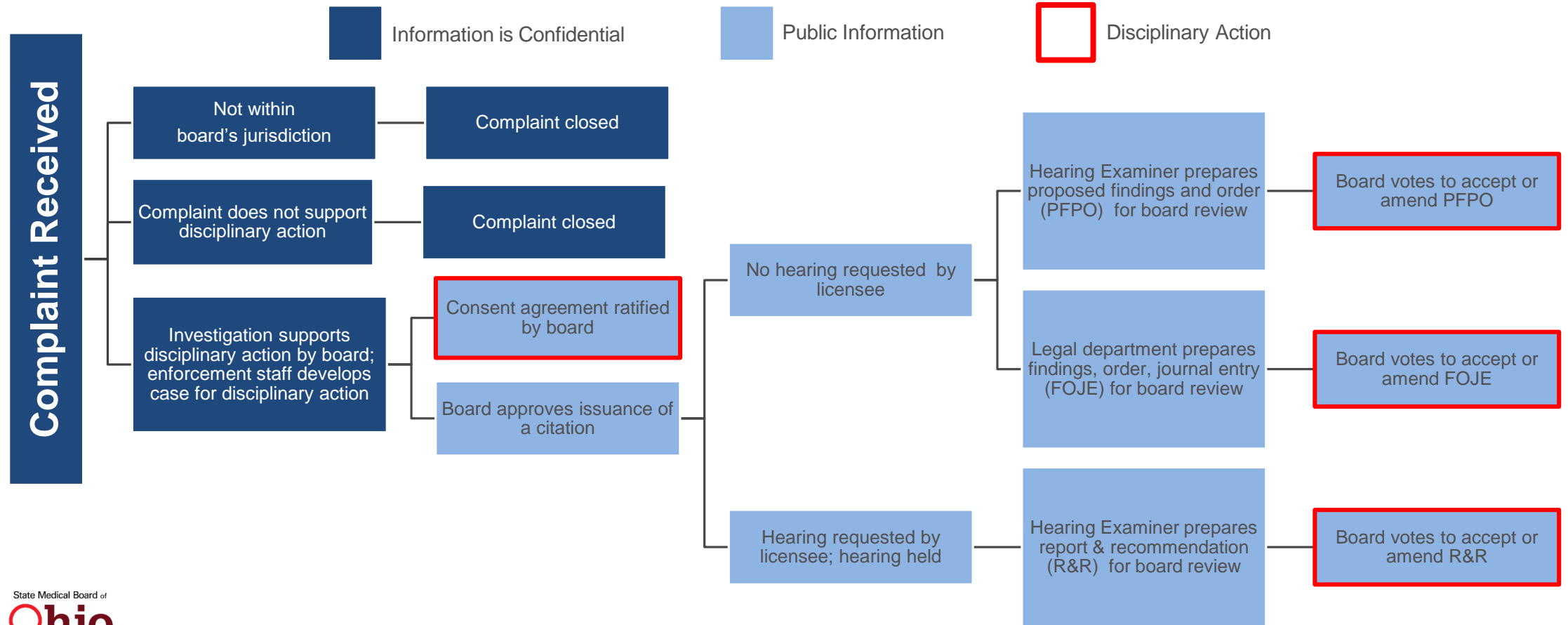
What is a complaint?

Any allegation of licensee misconduct received by the Medical Board

The board received 6,363 complaints in FY21

Complaints are **confidential**

Complaint, Investigation, Enforcement and Disciplinary Process





Disciplinary Actions

Ohio statute identifies **51** grounds for board disciplinary action.

Board action examples:
dismissal, reprimand,
suspension, probation,
permanent revocation, etc.

LAWriter® Ohio Laws and Rules

Route: [Ohio Revised Code](#) » [Title 47 OCCUPATIONS - PROFESSIONS](#) » [Chapter 4731: PHYSICIANS- LIMITED PRACTITIONERS](#)

4731.22 Disciplinary actions.

(A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board.

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to issue a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate for one or more of the following reasons:

- (1) Permitting one's name or one's license or certificate to practice to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;
- (2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;
- (3) Except as provided in section [4731.97](#) of the Revised Code, selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;
- (4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections [307.621](#) to [307.629](#) of the Revised Code to a child fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section [3701.70](#) of the Revised Code; does not include written notice to a mental health professional under section [4731.62](#) of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section [2305.33](#) of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section [2305.33](#) or [4731.62](#) of the Revised Code upon a physician who makes a report in accordance with section [2305.33](#) or notifies a mental health professional in accordance with section [4731.62](#) of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section [2305.33](#) of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any license or certificate to practice issued by the board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

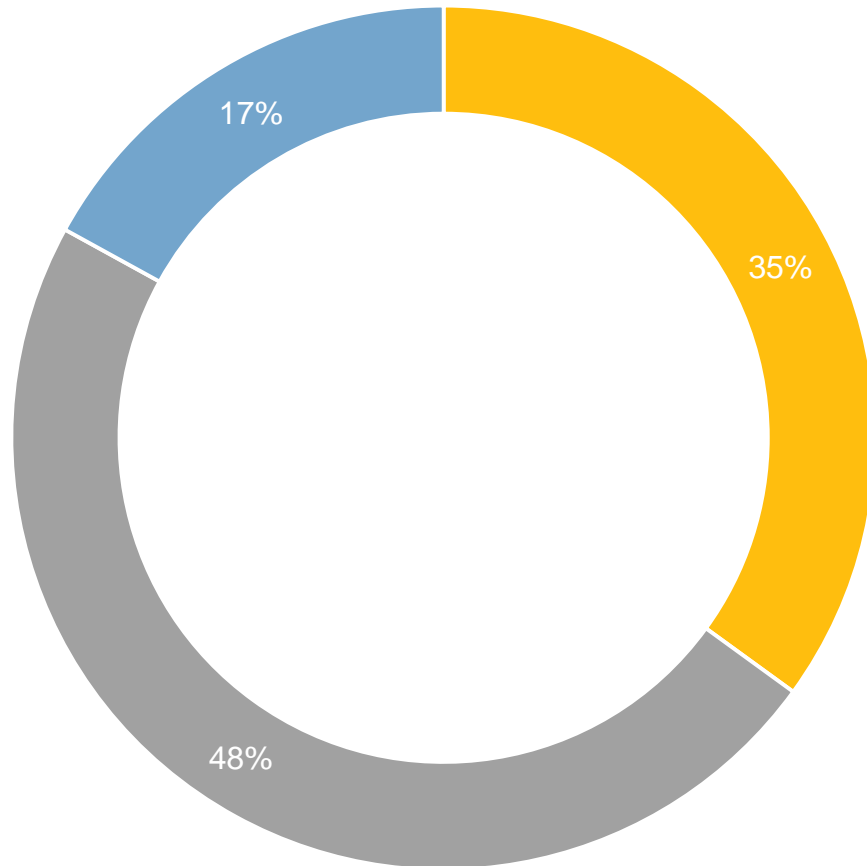
- (6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;
- (7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;
- (8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;
- (9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;
- (10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;
- (11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;
- (12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;
- (13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

ORC 4731.22 (B)

Medical Board Investigations

- Ohio law makes complaints received by the Medical Board and board investigations confidential
- The board may only share investigative information with law enforcement agencies, other licensing boards, or other governmental agencies that are prosecuting, adjudicating or investigating alleged violations of statutes or rules
- Board disciplinary actions are public record – posted on med.ohio.gov and licensee profile on elicense.ohio.gov

Complaint Outcomes FY 2021



- **No action warranted – 35%**
2,738 complaints closed as the issue involved professions not regulated by the board or no further review needed
- **Investigated then closed – 48%**
3,073 complaints were closed after investigation as information obtained about allegation did not support board action
- **Board action – 17%**
1,425 complaints resulted in disciplinary action by the board



Impairment

Inability to practice according to acceptable standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice

One-bite Program

One-bite Program is a confidential program for the treatment of impaired licensees of the Medical Board - established in section 4731.251 of the Revised Code

It makes recovery a non-disciplinary program for initial incidents and self-reported impairment by licensees

To participate, licensees must meet all three requirements:

1. Diagnosed with substance use disorder and impaired in inability to practice
2. First time participant in the program
3. No prior disciplinary action for substance use disorder or impairment by any licensing board in Ohio

Confidential Monitoring Program

Mental or physical condition impacting ability to practice

Board Secretary & Supervising Member oversee agency investigation and enforcement processes

Secretary & Supervising Member may determine that an individual being investigated concerning a mental or physical illness, is appropriate for ongoing investigative observation and monitoring by the board rather than formal public disciplinary action

Licensee signs a confidential participation agreement with the board



Prescribing

Red flags

Look for signs of drug seeking behavior

- Appearing impaired or overly sedated during office visit
- Traveling with others to office; requesting specific prescriptions
- Travelling abnormally long distances to the physician's office

Listen for signs of drug seeking behavior

- Reports of lost prescriptions; requests for early refills
- Comments about sharing medications with family or friends
- Recurring visits to ER's, urgent care centers, or walk-in clinics to get meds

Check for signs of drug seeking behavior

- Drug screen results inconsistent with drugs on treatment plan
- History of chemical abuse or dependency; illegal drug use
- Suffering an overdose
- Receiving abused drugs from multiple prescribers



Problem Prescribing



- Inappropriately prescribing drugs to patients
- Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes
- Self & family prescribing of controlled substances
- OARRS (Ohio Automated Rx Reporting System) violations

Prescribing Tips



State Medical Board of
Ohio

- ✓ Learn to say “NO!” - It’s important
- ✓ Complete and maintain accurate medical records
- ✓ Never pre-sign or post-date a prescription
- ✓ Never allow staff to sign your name to a prescription
- ✓ Never prescribe a controlled substance to yourself, your spouse or a member of your immediate family
- ✓ Never prescribe a controlled substance to a non-patient colleague, co-worker or acquaintance
- ✓ Be a part of a health care team
- ✓ Stay current
- ✓ Obey all federal and state laws applicable to office stocks of drugs
- ✓ Obey the Medical Board rules (med.ohio.gov – laws rules tab/Chapter 4731)
- ✓ Stick to your specialty



Professionalism

Social Media & Digital Communications

Participation in social media is, for many, a personal activity **BUT** can often extend into the professional domain.

The Medical Board of Ohio has the authority to discipline for unprofessional behavior relating to the inappropriate use of social media and electronic communication ranging from a letter of concern to the revocation of a license.



Sexual Misconduct

Sexual Misconduct

OAC 4731-26-01 definition:

“conduct that exploits the licensee-patient relationship in a sexual way, whether **verbal or physical**, and may include the **expression of thoughts, feelings, or gestures** that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes sexual impropriety, sexual contact, or sexual interaction”

This Includes...

Making comments that are not clinically relevant about or to the patient, including but not limited to, making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance

Soliciting a date or romantic relationship with a patient

Kissing in a romantic or sexual manner

Offering to provide health care services, such as drugs, in exchange for sexual favors

And Any Other Behavior that is Defined in OAC 4731-26



Duty to Report

Duty to Report

Licensees have a personal duty to report to the State Medical Board of Ohio when they believe an individual licensed by the Board has violated the Board's laws or rules including **sexual misconduct, impairment, practice below the minimal standards of care, and improper prescribing of controlled substances.**

Reports of misconduct to supervisors, law enforcement or health care system management do **NOT** fulfill the duty to report to the Board; failure to report could result in formal disciplinary action.



Duty to Report

All licensed physicians are required to complete one hour of continuing medical education on the topic of a licensee's duty to report misconduct each renewal period (OAC 4731-10-02).

The board's video and additional resources are available at med.ohio.gov/Duty-to-Report.



State Medical Board of Ohio's Confidential Complaint Hotline

1-833-333-SMBO (7626)



Telemedicine Update

The board has extended the suspension of enforcement for in-person regulation through **December 31, 2021**.

The board approved FAQs to provide guidance on telemedicine in Ohio and the Medical Board's resumption of enforcement of its laws and rules requiring in-person visits in certain situations. Available on med.ohio.gov.



State Medical Board of
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Telemedicine Frequently Asked Questions

(Note: These FAQs were approved by the State Medical Board of Ohio on August 11, 2021 and reflect the laws and rules in effect on that date.)

Since the telemedicine FAQs were published on July 16, 2021, the Medical Board has received several situation specific questions. While the Board is unable to give specific legal advice, we would like to provide the general decision-making framework of telemedicine in Ohio to help licensees and other interested parties apply that to their particular situations. This first set of General Questions are intended to provide that framework for understanding telemedicine as well as references to more specific information in other FAQs in this document.

General Questions:

Q1: I am a physician who wants to treat a patient via telemedicine. When can I treat patients through telemedicine in Ohio?

A: A physician who wants to treat a patient through telemedicine must answer "yes" to these questions for each particular patient situation in which telemedicine is being considered:

- (1) Am I licensed as a physician or physician assistant in Ohio? See FAQs 12-16 for more information about licensure and telemedicine in Ohio and in other states.
- (2) Can I meet the standard of care for providing telemedicine in this particular situation? See FAQs 19 and 20 for more information on the standard of care for telemedicine in Ohio.
- (3) If the telemedicine patient visit will involve or is likely to involve prescribing, am I able to comply with the Medical Board's prescribing laws and rules? See FAQs 21-29 for more information about the Medical Board's prescribing laws and rules affecting telemedicine in Ohio.

Q2: I am a physician assistant licensed in Ohio who last did an in-person physical examination of a patient in January of 2020. Can I see that patient via telemedicine now?

A: It depends. Can you meet the standard of care for providing telemedicine to this patient for the particular medical issue that is the subject of the upcoming visit? See FAQs 19 and 20 for more information.

If the standard of care can be met, will this telemedicine visit likely involve prescribing? If the telemedicine visit will not involve prescribing and the standard of care can be met, you should be able to see that patient via telemedicine.

If the telemedicine visit will likely involve prescribing, then you should refer to FAQs 21-29 for more information on the Medical Board laws and rules affecting whether you can do telemedicine in your particular situation.

Telemedicine Use

Ask the three following questions:

- (1) Am I licensed as a physician or physician assistant in Ohio?
- (2) Can I meet the standard of care for providing telemedicine in this particular situation?
- (3) If the telemedicine patient visit will involve or is likely to involve prescribing, am I able to comply with the Medical Board's prescribing laws and rules?





Resources



Social Media & Digital Communication Guidelines

**What is
cultural competence?**



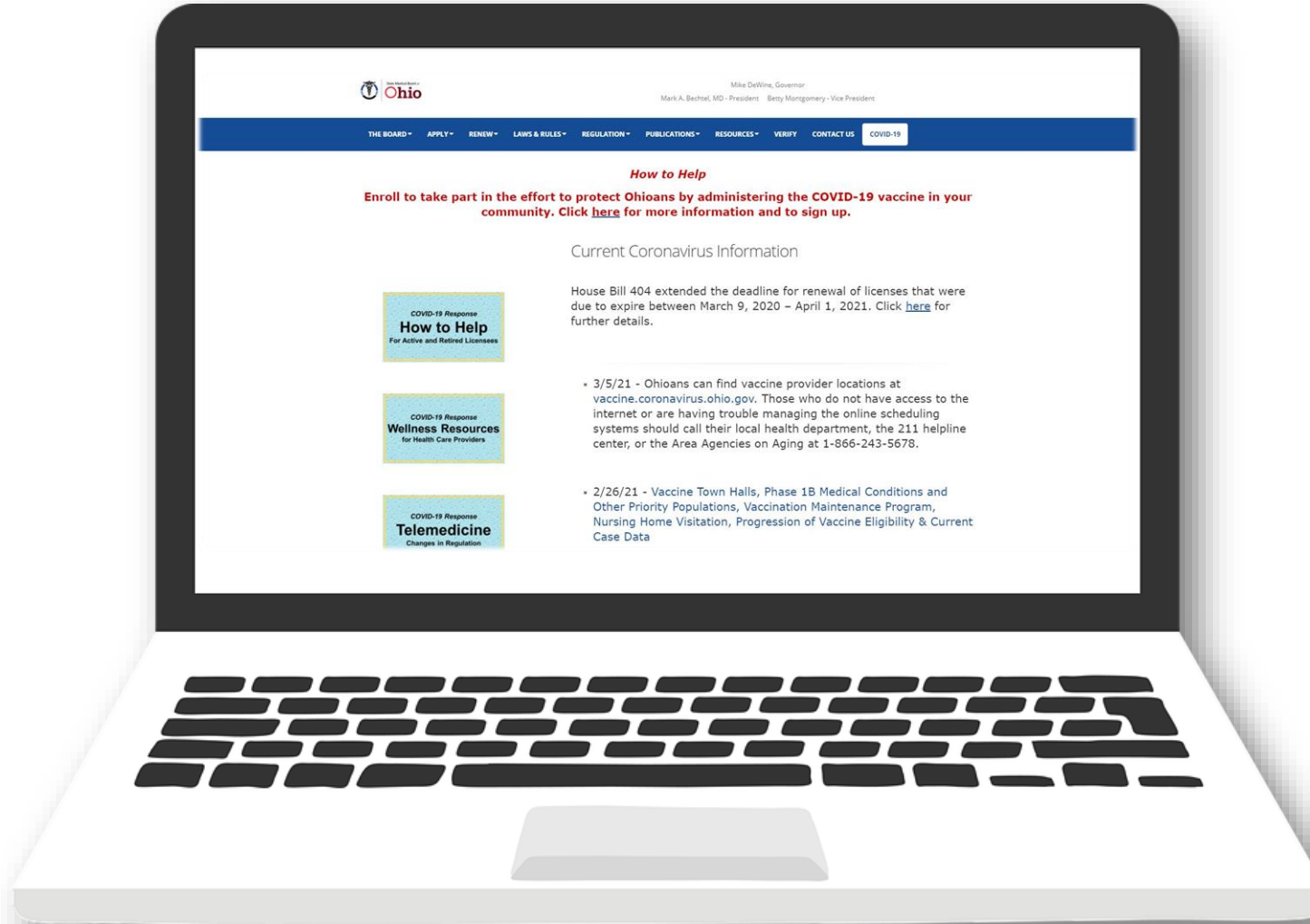
Resources

med.ohio.gov/resources

COVID-19 Response

- Webpage
- Email updates
- Wellness resources and telemedicine regulation

Available at med.ohio.gov



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