

## Major Stakeholder Concerns Addressed in Professional Licensing Bill

**Concern #1:** Changes to the composition of boards (reduction of board members and change in membership classifications). *Provisions removed – composition of each board will remain as stated in its enabling act.*

**Concern #2:** The groupings of boards under the various authorities. *The authorities and their composition have been amended several times in an attempt to satisfy all stakeholders. They are now grouped in a way that will create better balance in the number of licensees that each will serve. (See org chart)*

**Concern #3:** Regulations would be drafted and filed by each authority's executive director. Each board would serve in an advisory capacity to the executive director. *Boards will, as is currently the case, promulgate their own regulations and submit them to their respective executive director for review. The executive director's review is limited to: (1) does the proposed regulation comply with clearly articulated state policy as provided by the General Assembly and (2) is the proposed regulation narrowly tailored to avoid unnecessary barriers to market entry.*

**Concern #4:** The Medical, Nursing, and Pharmacy authorities need to be able to select their own Executive Directors. *Medical, Nursing, and Pharmacy boards will appoint the executive directors with the consent of the Secretary.*

**Concern #5:** Board members would be limited to three consecutive three-year terms. *Provision removed – term limits, if any, will remain as stated in the board's enabling act.*

**Concern #6:** The newly created Office of Inspector General lacks expertise to provide the quality of service needed. *The provision creating the Office of Inspector General was removed. Each board's inspectors will remain in place.*

**Concern #7:** Standards for automatic disqualification of a board member. *Standards are set forth in proposed legislation; however, disqualification is not automatic but rather subject to a vote of the board. Further, removed provision that stated ceasing to be a resident of the Commonwealth was grounds for disqualification.*

**Concern #8:** Automatic licensure if application was not processed within a certain time frame. *Provision removed - however, the Department's goal remains timely and efficient licensure as we work to streamline and create efficiencies.*

**Concern #9:** Mandatory discipline review committees and standard complaint procedures. *Provision removed.*

**Concern #10:** New language regarding nominating groups and board appointments by the Governor. *Provision removed – all appointments and nominations will remain as stated in a board's enabling act.*

**Concern #11:** Boards must allow licensees to complete at least half of their continuing education requirements by means other than in-person training. Further, standards set forth for when a board must waive continuing education training. *Provisions removed.*

**Concern #12:** The name "General Licensing Authority." *Changed "General Licensing Authority" to "Professional Licensing Authority."*

**Concern #13:** Mandatory evaluation of each regulated occupation and board at least once every five years. *Provision removed.*

**Concern #14:** Minimum of two year licensure period. *Provision removed.*

**Concern #15:** Capped board member compensation at \$100 per day. *Provision removed.*

**Note:** The 2018 version, HB 465, was 270 pages. The revised draft contains 174 pages. This bill is substantially different from previous versions.

# || PROFESSIONAL LICENSING MODERNIZATION ACT

## Modernization Overview

- State licensing boards will be organized in authorities within the Department of Professional Licensing (“Department”) in the Public Protection Cabinet (“Cabinet”).
- Each authority will have an executive director to provide state supervision and oversight.
- Each licensing board will continue to regulate and license its respective profession with state supervision from the Executive Director and the Commissioner of the Department.
- Each authority will have a general counsel to provide legal services for member licensing boards.
- Each board will be assigned an administrative coordinator to assist in the board’s day-to-day operations.
- Each individual licensing board will have the authority currently set forth in enabling statutes; including:
  - Grant and renew licenses;
  - Promulgate regulations – subject to review and approval by the executive director;
  - Investigate complaints and issue disciplinary action;
  - Set and approve budgets – subject to review and approval by the executive director;
  - Establish advisory councils;
  - Require continuing education; and
  - Delegate responsibilities to committees or staff who serve the board.

## Benefits of Modernization

- Provides board members with immunity from personal liability in anti-trust lawsuits.
- Ensures compliance with procurement and personnel requirements.
- Allows for cross-board collaboration and the opportunity to develop best practices.
- Improved efficiencies and centralization of resources will result in cost savings. Those savings could be passed on to the licensee.
- Ensures the public has a means to express concerns regarding board actions and policies.
- Budget oversight will ensure that board spending is an effective use of licensing fees. This will also ensure that travel reimbursement and personal service contracts are in-line with budgetary goals.
- Personnel oversight will ensure that salaries, hiring decisions, and other staffing matters are efficiently and correctly executed.
- Promotes Kentucky professionals and businesses - enhancements to professional licensing practices will promote economic opportunity.
- Consistent regulation and elimination of unnecessary barriers to entry. Ensures free markets and bolsters competition.
- Improved compliance - balanced enforcement and administration of regulations and statutes (enabling acts as well as KRS Chapter 13B).
- Improved customer service and responsiveness to licensees. Oversight will ensure:
  - Quicker processing of license applications and renewals. Further, the Department has experience with online renewal processes for those boards still in need.
  - Investigations of complaints are conducted in a timely and thorough manner.
  - Cross training and succession management so that boards and licensees are served contentiously.

## Questions?

- ❖ K. Gail Russell, Acting Secretary - Gail.Russell@ky.gov - (502) 564-7760
- ❖ Carmine Iaccarino, General Counsel - Carmine.Iaccarino@ky.gov – (502) 782-0764
- ❖ Joseph Fawns, Legislative Liaison - Joseph.Fawns@ky.gov – (502) 782-0762

# Department of Professional Licensing

**Medical Licensure (~19,000)**

- Board of Medical Licensure

**Nursing (~90,000)**

- Board of Nursing

**Pharmacy (~28,000)**

- Board of Pharmacy

**Health and Restoration (~27,000)**

- Dentistry
- Optometric Examiners
- Podiatry
- Chiropractic Examiners
- Examiners of Psychology
- Medical Imaging
- Physical Therapy
- Respiratory Care

**Land Development (~26,000)**

- Architects
- Landscape Architects
- Engineers/Land Surveyors
- Geologists

**Professional Licensing (~38,000)**

- Embalmers and Funeral Directors
- Private Investors
- Barbering
- Cosmetologists
- Prosthetics, Orthotics, and Pedorthics
- Durable Medical Equipment Suppliers
- Specialists in Hearing Instruments

**Behavioral Health and Wellness (~25,000)**

- Occupational Therapy
- Speech-Language Pathology
- Massage Therapy
- Dieticians
- Interpreters
- Diabetes Educators
- Alcohol Counselors
- Professional Counselors
- Marriage/Family Therapists
- Applied Behavior Analysts
- Art Therapists
- Pastoral Counselors
- Social Work
- Long-Term Care Administrators
- Ophthalmic Dispensers

\*State Board of Accountancy (Department of Financial Institutions)

\*Board of Veterinary Examiners (Department of Agriculture)

Chris Harlow, Chair  
Chris Palutis, President  
Don Kupper, President-Elect



Brooke Hudspeth, Secretary  
Duane Parsons, Treasurer  
Mark Glasper, Executive Director

November 5, 2018

Acting Secretary Gail Russell  
Public Protection Cabinet of Kentucky  
700 Capital Avenue, Suite 100  
Frankfort, KY 40601

Dear Secretary Russell:

We appreciate you taking time to engage KPhA in discussions regarding the reorganization of state licensing boards in response to the U.S. Supreme Court decision in the *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. For nearly two years, you and your staff have worked as honest brokers with our organization to address our specific concerns about your proposed reorganization plan. On behalf of the more than 2,000 members across the state who are committed to improving public health and serving our patients' health care needs, we support the proposed 2019 legislation reorganizing professional licensing boards. After thoughtful discussions and significant changes you propose, there is nothing left for the pharmacy community to be concerned about. We understand goal of the administration is to make state government operate more efficiently and effectively. We support these efforts to find synergies within state government. Given that the U.S. Supreme Court held state supervision as is necessary for voluntary board members to receive civil immunity, we support oversight of KBOP by the Public Protection Cabinet.

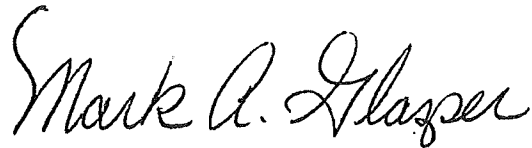
Pharmacy is a complex health arena, as is the regulation of pharmacy, which encompasses not only the licensing of pharmacists, but also the permitting and regular inspection of pharmacies, the licensing of wholesalers and manufacturers who distribute drugs and the registration of pharmacy technicians. We appreciate your recognition of the potential value of having a pharmacist lead staff activities. For these reasons, KPhA requested that there be no change in the requirement for the KBOP executive director to be a pharmacist, and you listened. Not only did you make this significant change, since the end of last session you have made other significant changes that we suggested and for that we thank you.

We appreciate your invitation for continued open dialogue on this topic and we offer you this same courtesy if we can be a resource as you finalize and implement the reorganization. Also, we extend our gratitude for making our suggested changes. We look forward to seeing and reading an entire draft of the proposed legislation at a time as you see fit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris Palutis".

Chris Palutis  
KPhA President

A handwritten signature in cursive script, appearing to read "Mark A. Glasper".

Mark A. Glasper  
Executive Director



**Nicholas R. Payne DC**  
Executive Director  
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November 27, 2018

Secretary K. Gail Russell  
Kentucky Public Protection Cabinet  
656 Chamberlin Ave, Suite B  
Frankfort, KY 40601

Dear Secretary Russell:

Thank you for reaching out to the Kentucky Association of Chiropractors ("KAC") to discuss the Public Protection Cabinet's (the "Cabinet") professional licensing bill. The Cabinet has been transparent and responsive to the KAC's concerns throughout this entire process. For that, and many other reasons, the KAC has voted to support this legislation.

We understand that this bill is necessary to provide the active state supervision that is required to provide board members with immunity from personal liability in anti-trust lawsuits. Our members know that this measure is necessary in response to the U.S. Supreme Court decision in the *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. Further, we support the administration's goal of finding and creating efficiencies within state government and know that these efficiencies will benefit not only chiropractors, but all professional licensees.

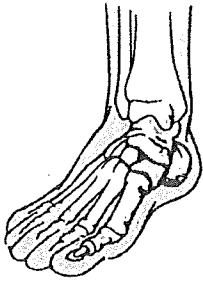
On behalf of the more than 230 members across the state who are committed to serving our patients and improving the quality of life across the Commonwealth, we support the proposed legislation and commend the Cabinet on its efforts. We appreciate the open communication and look forward to a symbiotic relationship between the Kentucky Board of Chiropractic Examiners, the Cabinet, and the KAC.

Yours in Health,

A handwritten signature in blue ink, appearing to read "Nicholas R. Payne DC", is written over a light blue background.

Nicholas R. Payne DC  
Executive Director

The Voice of the profession in  
Kentucky since 1916



**Ann K. Farrer, D.P.M.**  
*Fellow, American College of Foot & Ankle Surgeons*

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September 14, 2018

To Whom It May Concern:

I would like to express my deep pleasure and satisfaction with the entire Department of Professional Licensing during the transition of the State Board of Podiatry from a single remote "executive director" to a full fledged partnership with DPL.

Our board was functioning with one paid staff member working out of her home and utilizing few electronic means to process new licenses and keep a data base accurate.

Our association with DPL employees has allowed for a superior level of efficiency and accuracy of which our members are already reaping the benefits. We now have an electronic data base to retrieve and submit information concerning licensed podiatrists as well as compile records for licensure candidates.

The DPL provides our board with specialty resources that we never had previously. These include an administrative assistant, financial/budget management, legal and IT services. Most importantly, there is an established organization in place with the oversight of Commissioner Isaac VanHoose and the Secretary of the Public Protection Cabinet, Gail Russell. Both of these individuals have met numerous times with myself and our board even prior to signing a contract to express their commitment to a smooth transition.

As the Podiatry State Board president, I have found this organization to be top-notch in serving our needs and I look forward to a long, healthy working relationship.

Respectfully,

Ann Farrer, DPM

President, State Board of Podiatry

Feet First Podiatry, PLLC

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December 4, 2018

K. Gail Russell, Secretary  
Kentucky Public Protection Cabinet  
656 Chamberlin Avenue, Suite B  
Frankfort, KY 40601

Secretary Russell,

I am writing to show my support for the "Red Tape Reduction Initiative" and Governor Bevin's efforts to provide active state supervision and best practices to Kentucky's professional licensing boards. I realize this is an enormous and difficult undertaking however, there will be numerous benefits. This is long overdue and I am eager, as a board member, to put ideals into action in the field of cosmetology. By doing away with some of our onerous regulations, we can still maintain our integrity and provide services that will protect the general public we serve. As an instructor of 25 years, I witness the effects of the over regulation on students transitioning to workforce and former students struggling to make it as business owners.

Further, the Public Protection Cabinet has been responsive to our concerns and our Board has benefited from our voluntary partnership. The Cabinet has worked with us on legal, personnel, and procurement issues and we are functioning at a much higher because of it. I believe that other boards would benefit from this expertise as well.

In conclusion, I understand that there may be some complication in the beginning however, the Cosmetology Board and its staff are willing to do what it takes for a successful transition. We believe this is a necessary step to move professional licensing forward and make Kentucky more business friendly.

Respectfully,



Kay Swanner  
Chair, Kentucky Board of Cosmetology  
SCC Professor and Program Coordinator



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KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM