

As Introduced

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

S. B. No. 348

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

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 47

council members. 48

The district health commissioner shall attend all meetings 49
of the council. 50

(B) The district advisory council shall appoint five 51
members of the board of health, unless the board of health has 52
established a health district licensing council under section 53
3709.41 of the Revised Code, in which case, the district 54
advisory council shall appoint four members of the board of 55
health, and the health district licensing council shall appoint 56
one member of the board of health. ~~At~~ 57

For boards of health with five members, at least one 58
member of the board of health shall be a physician, one shall be 59
a registered nurse, and one shall be a licensed health care 60
professional. If ~~the~~ the board of health has not established a 61
health district licensing council under section 3709.41 of the 62
Revised Code, the district advisory council shall appoint a 63
member who represents the interests of businesses within the 64
health district. 65

~~For boards of health with more than five members, the 66
majority shall include at least one physician and one registered 67
nurse, with the remainder of the majority consisting of licensed 68
health care professionals. For boards of health with seven 69
members, if ~~the~~ the board of health has not established a health 70
district licensing council under section 3709.41 of the Revised 71
Code, the district advisory council shall appoint two members 72
who represent the interests of businesses within the health 73
district. For boards of health with greater than seven members, 74
the district advisory council shall appoint three members who 75
represent the interests of businesses within the health 76
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
the board of health has not established a health district 241
licensing council under section 3709.41 of the Revised Code, the 242
district advisory council shall appoint a member who represents 243
the 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