

CONCLUSION: Regulation of the medical profession is necessary to reduce risks to the public. PEER determined several areas in which the Mississippi State Board of Medical Licensure's (MSBML's) regulation of its licensees could be improved (e.g., through amendments in state laws and changes to MSBML's enforcement process). Further, there are policy options for the Legislature to consider—whether an alternative regulatory structure could benefit the state and ways in which the state could better address scope of practice issues within the healthcare profession.



BACKGROUND

The Medical Practice Act (MISS. CODE ANN. Section 74-43-1 et seq. [1972]) defines the practice of medicine and the authority of MSBML. Serious health and safety risks associated with the practice of medicine create a need for state government to protect the public from unprofessional, improper, and incompetent actions.

MSBML regulates physicians, podiatrists, physician assistants, acupuncturists, radiologist assistants, and limited x-ray operators by issuing licenses and establishing and enforcing its rules and regulations.

MSBML is composed of nine physician members that serve six-year terms. As of July 2024, MSBML employed 28 employees.

MSBML is a special fund agency supported by funds collected primarily from licensing and renewal fees. Its revenues and expenditures for FY 2024 were approximately \$5.7 million and \$3.9 million respectively.

Risk factors associated with the practice of medicine create a need for state government to protect the public from unprofessional, improper, and incompetent actions.

As of July 2024, MSBML regulated 15,950 licensees, the majority of which are medical doctors (MDs).



KEY FINDINGS

- **The Medical Practice Act is no longer aligned with current best practices for regulating physicians and other licensees overseen by MSBML.**

The statutes regulating physicians have not been updated in many years, and as a result do not reflect current best practices for regulating physicians. Examples include: a lack of full membership for consumer board members, limits on who may nominate a candidate to serve on the Board, outdated examination requirements, and a lack of Board authority to issue fines as disciplinary actions.

- **MSBML's enforcement process fosters an environment in which potential for bias could occur or be perceived.**

In particular, the Executive Director's discretionary authority in the investigation of complaints and MSBML's failure to utilize a penalty matrix in disciplinary proceedings can increase the risk of potential appearance of bias and unfair treatment.

- **The Board does not adequately oversee the Mississippi Physician Health Program (MPHP) to ensure that MPHP is achieving its mission to help struggling physicians achieve recovery from addictive disorders while also protecting the public.**

MSBML does not conduct regular performance audits to ensure that physicians in the program are being treated fairly and that MPHP is achieving its goals, nor does it utilize performance metrics to evaluate the MPHP program's compliance and effectiveness.

- **MSBML has improved the Board's internal controls and compliance with state laws since the State Auditor's 2017 compliance review.**

MSBML addressed compliance and internal control issues related to submission of the *Public Depositors Annual Report*, proper recording of meeting minutes, the timely deposit of cash receipts, procurement card purchases, approval of travel expenses, and recording of employee leave.

- **As of June 30, 2024, MSBML had an estimated ending cash balance of \$10.8 million.**

Maintaining a large cash balance while continuing to collect fees and fines could undermine licensees' and the public's trust in MSBML.

Possible Alternatives to Current Regulatory Structure for Healthcare Professionals

While some states, including Mississippi, regulate healthcare professionals through independent boards, other states utilize an umbrella agency that oversees licensing or licensing boards of multiple professions, including healthcare professionals. The degree of regulatory authority granted to an umbrella agency varies by state, ranging from administrative shared services duties to comprehensive regulatory authority.

Policymakers should consider whether establishing some form of an umbrella agency in Mississippi could benefit the state by increasing efficiency of resources and improving consistency in regulation across healthcare professions.

Issues with the MSBML's Current Office Location

MSBML leases its approximately 11,000 square foot office space from a private owner for approximately \$148,000 per year. Not being located in state-owned office space could be an inefficient use of public funds. Further, the office is larger than recommended by DFA policy for an agency the size of MSBML. However, until more state office space and shared service spaces are made available for smaller special fund agencies, MSBML's options for relocating to maximize efficiency are limited.

Options for Addressing Scope of Practice Questions

In Mississippi and nationwide, the expansion of scopes of practice for non-physician healthcare is an emergent issue that must be addressed by state legislatures. Mississippi lacks an objective body responsible for providing recommendations to the Legislature to address such critical scope of practice issues (e.g., overlapping boundaries of practice) within the various healthcare professions. Without such a body, the Legislature may not have the information it needs to make informed scope of practice policy decisions.

Spotlight on Connecticut's Process for Addressing Scope of Practice Issues

A person or entity may request a scope of practice change by submitting a written request to the Connecticut State Department of Public Health (CTDPH) no later than August 15. If the request meets requirements, the CTDPH Commissioner shall establish and appoint at least four members to a scope of practice review committee, and the CTDPH Commissioner serves as an ex-officio member. The committee considers the request, including its potential impact on the health and safety of members of the public, and provides its written findings to the Joint Public Health Committee of the General Assembly, which is responsible for matters relating to public health.

SUMMARY OF RECOMMENDATIONS

The Legislature should consider:

- amending state law to update the Medical Practice Act to bring it in line with modern best practices for regulating physicians and other professionals regulated by MSBML and implement a repealer to encourage periodic review;
- amending MISS. CODE ANN. § 73-25-27 (1972) to require that MSBML implement a penalty matrix to guide the Board's decisions regarding appropriate penalties for violations;
- creating a shared services relationship between the boards regulating healthcare professions (e.g., MSBML, Board of Nursing, Board of Pharmacy), and also consider whether to place boards regulating healthcare professions under an umbrella agency with some level of regulatory authority; and,
- adopting a formal system to review and provide legislators with recommendations for how to resolve scope of practice questions as they arise, such as through the creation of a new committee representing all healthcare professions that would have the authority to develop findings and recommendations related to the modifications of scopes of practice for the Legislature to consider implementing through legislation.

MSBML should:

1. implement further checks and balances into the complaint investigation process in the event that there is disagreement between the Executive Director, Chief of Staff, and Board Attorney regarding the proper course of action;
2. implement practices that ensure that labels within its enforcement database are relevant to the investigation being conducted;
3. implement formal, written policies and procedures defining instances of potential bias for MSBML members and staff, and the appropriate steps for a Board member or staff member to recuse themselves from an investigation or hearing;
4. establish performance metrics that MSBML can use to effectively evaluate MPHP, and mandate regular performance audits of the program to ensure its effectiveness and compliance with its grant authorization;
5. develop plans to expend the licensees' funds held in reserve in an efficient and effective manner for the accomplishment of the agency's goals and objectives and for the benefit of its licensees; and,
6. work with DFA, when space is made available, to move MSBML into state-owned office space that is both more affordable and more efficient in its use of space.