

## Board Policy ABCs

- A = Adoption of policies
- B = Benefits to public, licensees
- C = Criteria for board creation, maintenance (and possibly clean-up of references)

## Board Roles and Variations

- ✦ Purposes of a board
- ✦ Types of boards
- ✦ Quasi-judicial boards

## Board Purpose

- ✦ What criteria are most important regarding a board's purpose?
- ✦ Is protection of health and safety all that matters or is public welfare in terms of consumer protection also important?
- ✦ Is a general statement OK or is the current method better, of letting each board provide a purpose, if it chooses, because the purpose ends up being specific to the board?

## Board or Department?

- ✦ The Legislature's choice for handling licensing, discipline, and regulation:
  - A board comprised of constituent and usually public members, or
  - A department.

Is there a preferred policy approach?

## Administrative Attachment

- ✦ Should the administrative attachment language in 2-15-121, MCA, be revised to reflect different board types?

## Types of Boards

- ✦ Quasi-Judicial Boards – why some and not others?
- ✦ "Title" vs. "Practice" Boards
- ✦ Autonomy and Administration

## Quasi-Judicial Boards

- ✦ Are clear criteria needed for a quasi-judicial board?
- ✦ Is there a need for quasi-judicial designation only for boards not under Title 37?
- ✦ Is the general authority to subpoena, hold hearings, authorize depositions, investigate, convene screening panels, and take other actions under 37-1-307, MCA, sufficient for licensing boards listed under Title 37?

## "Title" vs. "Practice" Boards

- ✦ Does a "title" board that does not regulate an entire profession serve a public purpose? Should all "title" boards be "practice" boards that require licensing?

## Autonomy & Administration

- ✦ Should policy differentiate among boards?
- ✦ What degree of autonomy is intended for which types of boards?
- ✦ What is the give-and-take between autonomy and the department's responsibility for efficiencies and structure?
- ✦ Is uniformity good for all licensing boards?

## Overlapping Scope of Practice

- ✦ Umbrella boards
- ✦ Oversight and support
- ✦ Administration vs. rulemaking
- ✦ Executive staffing

## Umbrella Boards – yes or no?

- Is there a rationale for creating umbrella boards that:
1. encourage communication among boards; or
  2. help to resolve dual-licensing issues or cross-jurisdictional disputes in areas where there are not clear-cut boundaries?
- Would an umbrella board create more bureaucracy?

## Oversight and Support

- ✦ Administration vs. rulemaking
- ✦ Staffing
- ✦ Rulemaking
- ✦ Approval or control?
- ✦ Rules

## Administration vs. Rulemaking

- ✦ Do boards that have their own hiring capability have more control and independence within the context of the administratively attached language of 2-15-121, MCA, and rulemaking?

## Executive staffing – yes or no?

- ✦ Should legislative policy provide criteria for when a licensing board is entitled to an executive director or executive secretary?
- ✦ If no criteria are needed and the department hires and assigns staff on an as-needed basis, then are the statutes providing specifically for certain staffing still necessary?

## What is approval or control?

- ✦ What does the language in 2-15-121, MCA, referencing independence from departmental approval or control mean?
- ✦ Does the use of department attorneys as board advisers create a hybrid entity that is not quite independent?
- ✦ If a board's actions violate the Administrative Procedures Act, legislative intent, or other statutes, what is the role of the department in dealing with the action?

## Rules

- ✦ Does the current system work?
- ✦ Would changes in timing help work flow?
- ✦ Is there a way to get boards to work together on rules of mutual interest?
- ✦ Are there ways to clean up rules without major changes?

## Budgetary, funding oversight

- ✦ If the department controls budgeting, and the funding is from fees placed on the professions or occupations, what entity should be responsible for making sure that the department's costs are reasonable for all concerned?

## Budgetary Discipline

- ✦ HB 182 included language that said the department is to “notify the appropriate legislative interim committee when a board cannot operate in a cost-effective manner”. What happens then? Policy options include:
  - A directive/suggestion for boards to merge
  - An automatic request for an audit of department recharges and board finances
  - Board dissolution with department assuming licensing and disciplinary functions. Other?

## Creation of New Boards

- ✦ Formerly, a sunrise process required the Legislative Audit Committee to review prospective new licensing boards. Is an alternative process necessary?
- ✦ Should a potential board first request an advisory committee to review costs, coordination with boards over dual licensing, or other licensing issues?
- ✦ Should the department be more involved in the creation of new boards?

## Policies for New Boards?

Should the Legislature:

- ✦ Require mergers if dual licensure exists or the scope of practice overlaps?
- ✦ Allow dual licensure at reduced rates if a person is licensed by more than one board?
- ✦ Provide for an umbrella board that deals with issues of overlapping scopes of practice?
- ✦ Require boards to exercise both licensing and disciplinary functions?