Ohio Legislative Service Commission

Bill Analysis

Laura Gengo

H.B. 141

129th General Assembly
(As Introduced)

Reps. Goodwin and Boyd, Antonio, Brenner, Combs, Letson, O'Brien, Okey

BILL SUMMARY

Schedule II prescriptive authority for advanced practice nurses

- Eliminates restrictions on the authority of certain advanced practice nurses (APNs) to prescribe schedule II controlled substances.
- Prohibits an APN from prescribing any schedule II controlled substance to a patient in a convenience care clinic.
- Eliminates the prohibition on an APN prescribing schedule II controlled substances in collaboration with a podiatrist.

Advanced pharmacology prerequisite

- Requires an APN applying for a certificate to prescribe to complete a course of study that consists of at least 45 contact hours in pharmacology and related topics, of which at least 36 (instead of 30) must be contact hours of advanced pharmacology training.
- Requires that the course of study in pharmacology and related topics include training in schedule II controlled substances.
- Requires an APN with prescriptive authority on the bill's effective date to complete at least six contact hours of training on schedule II controlled substances and specifies that the APN is subject to the restrictions in current law until the APN receives a new or renewed certificate to prescribe.

Duties – Committee on Prescriptive Governance and Board of Nursing

- Requires the Committee on Prescriptive Governance to make recommendations that include provisions regarding schedule II controlled substances.

- Requires the Board of Nursing to adopt rules as necessary to implement the authority of APNs to prescribe schedule II controlled substances.

CONTENT AND OPERATION

Overview

The bill covers three topics: (1) the ability of advanced practice nurses (APNs) with prescriptive authority to prescribe schedule II controlled substances, (2) courses of study in advanced pharmacology and related topics for APNs with prescriptive authority, and (3) additional duties for the Committee on Prescriptive Governance and the Board of Nursing (Nursing Board) to implement the bill's provisions.

Schedule II prescriptive authority of APNs

Elimination of restrictions on prescribing

The bill eliminates most of the restrictions in current law governing certain APNs' ability to prescribe schedule II controlled substances. Specifically, the bill eliminates provisions that do both of the following:[1]

(1) Restrict an APN with prescriptive authority to prescribing schedule II controlled substances only if (a) the patient to whom the controlled substance is prescribed is in a terminal condition, (b) the collaborating physician initially prescribed the substance for the patient, and (c) the amount prescribed does not exceed the amount necessary for the patient's use in a single, 24-hour period.

(2) Prohibit an APN with prescriptive authority from prescribing schedule II controlled substances in collaboration with a podiatrist.

The practical effect of these changes is that the bill, except as discussed below (see "**Convenience care clinics**" and "**Transition for existing APN prescribers**"), authorizes an APN with prescriptive authority to prescribe a schedule II controlled substance in any circumstance as long as the APN is doing both of the following:

(1) Acting in the course of professional practice;

(2) Acting in collaboration with a physician or podiatrist and in accordance with other applicable laws. To practice collaboratively, the APN must have entered into a "standard care arrangement" with the collaborating physician or podiatrist. This

[1] R.C. 3719.06(A)(2) and 4723.481(C).

arrangement is generally required to set forth the terms of the collaborative practice.[2] An APN's prescriptive authority may not exceed the prescriptive authority of the APN's collaborating physician or podiatrist.[3]

Schedule II controlled substances; affected APNs

A schedule II controlled substance is a substance the U.S. Attorney General finds (1) has a high potential for abuse, (2) has a currently accepted medical use in treatment in the U.S. or a currently accepted medical use with severe restrictions, and (3) may lead to severe psychological or physical dependence if abused.[4] Examples of schedule II controlled substances include hydrocodone, oxycodone, morphine, methadone, and methamphetamine.[5]

Whenever the U.S. Attorney General adds a compound, mixture, preparation, or substance to a schedule of the federal law; transfers any of the same items between one schedule of the federal law to another; or removes a compound, mixture, preparation, or substance from the schedule of the federal law, the addition, transfer, or removal is automatically effected in the corresponding schedule under Ohio law.[6] Thus, a substance classified as a schedule II controlled substance under federal law is a schedule II controlled substance under Ohio law.[7]

The APNs who are affected by the bill are clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners who have prescriptive authority because they hold one of two certificates issued by the Board of Nursing that authorize the APN to prescribe drugs. The initial certificate is issued as an externship certificate. Thereafter, the APN receives a certificate to prescribe.[8]

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[2] R.C. 4723.431 (not in the bill).

[3] R.C. 4723.481(B).

[4] 21 U.S.C. § 812(b).

[5] 21 Code of Federal Regulations 1308.12.

[6] R.C. 3719.43, as discussed in *State v. Klinck* (1989), 44 Ohio St.3d 108, 109.

[7] See R.C. 3719.41.

[8] R.C. 4723.48.

Convenience care clinics

The bill prohibits an APN from prescribing any schedule II controlled substance to a patient in a convenience care clinic. The bill does not specify the meaning of "convenience care clinic."[9]

Transition for existing APN prescribers

For an APN who holds a certificate to prescribe issued prior to the bill's effective date, the bill requires, as a condition of obtaining certificate renewal or a new certificate (in the case of an APN holding an externship certificate), that the APN complete a minimum of six contact hours of training pertaining to schedule II controlled substances (see "**Advanced pharmacology prerequisite**," below). For certificate renewals, the six hours are in addition to all other continuing nursing education that must be completed by August 31, 2013.[10]

The bill provides that an APN who holds a certificate to prescribe on the bill's effective date is subject to current restrictions governing an APN's ability to prescribe schedule II controlled substances until the APN renews the certificate or receives a new certificate after completing an externship.[11]

Advanced pharmacology prerequisite

The bill requires an APN seeking prescriptive authority to complete a "course of study" in advanced pharmacology and related topics consisting of at least 45 contact hours. Current law refers instead to "instruction" in advanced pharmacology and related topics and does not specify a minimum number of contact hours.[12] The bill maintains, without changes, requirements that the course of study be approved by the Nursing Board in accordance with standards adopted by the Board in rules and that the content be specific to the applicant's nursing specialty, among other things.[13]

The bill also increases, from 30 to 36, the minimum number of contact hours of instruction an APN seeking prescriptive authority must complete in advanced pharmacology and related topics that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in illness prevention and

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[9] R.C. 4723.486.

[10] Section 3 and Ohio Administrative Code 4723-9-07.

[11] Section 3.

[12] R.C. 4723.482(B)(2).

[13] R.C. 4723.482(B)(2).

maintenance of health. Current law refers to the instruction as "training." Current rules adopted by the Nursing Board already require this portion of the instruction to consist of a minimum of 36 hours, so the bill makes the statutory requirement consistent with the requirement in rules.[14]

The bill also adds a requirement that the content of the course of study in advanced pharmacology include, specific to schedule II controlled substances, all of the following:

(1) Indications for the use of schedule II controlled substances in drug therapies, including pain management therapies;

(2) The most recent guidelines for pain management therapies, as established by state and national organizations such as the Ohio Pain Initiative and the American Pain Society;

(3) Fiscal and ethical implications of prescribing schedule II controlled substances;

(4) State and federal laws that apply to the authority to prescribe schedule II controlled substances;

(5) Prevention of abuse and diversion of schedule II controlled substances, including identification of the risk of abuse and diversion, recognition of abuse and diversion, types of assistance available for prevention of abuse and diversion, and methods of establishing safeguards against abuse and diversion.[15]

Former APN pilot program participants

The bill repeals a provision that permits an APN who had been a participant in at least one of three former pilot programs that were operated in medically underserved areas of Ohio to apply for a certificate to prescribe without having to complete another course of study in advanced pharmacology. That provision, enacted by Am. Sub. H.B. 241 of the 123rd General Assembly, permitted APNs with prescriptive authority under the pilot programs as of May 17, 2000, to receive authority to prescribe in any area of Ohio without having to complete an additional pharmacology program or externship.[16] Formerly, the prescriptive authority of the pilot program participants was limited to the

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[14] O.A.C. 4723-09-02.

[15] R.C. 4723.482(B)(5)(d).

[16] R.C. 4723.482(A)(2).

three medically underserved areas.[17] Thus, the bill requires an APN who was a pilot program participant, as a condition of obtaining a certificate to prescribe, to complete the same pharmacology instruction as any other APN seeking a new certificate to prescribe.

Committee on Prescriptive Governance

The bill requires the Committee on Prescriptive Governance to develop recommendations regarding the authority of APNs to prescribe schedule II controlled substances.[18] The recommendations must be developed not later than 90 days after the bill's effective date.[19]

The Committee on Prescriptive Governance, created by Am. Sub. H.B. 241 of the 123rd General Assembly, consists of a clinical nurse specialist, a certified nurse-midwife, a certified nurse practitioner, a Nursing Board member who is at a minimum a registered nurse, four physicians, a pharmacist member of the State Board of Pharmacy, and a pharmacist actively engaged in practice as a clinical pharmacist in Ohio.[20] The Committee is responsible for developing recommendations regarding the authority of APNs to prescribe drugs and therapeutic devices pursuant to a certificate to prescribe.[21]

Nursing Board rulemaking

The bill requires the Nursing Board to adopt rules as necessary to implement the bill's provisions pertaining to an APN's authority to prescribe schedule II controlled substances.[22] The rules must conform to the recommendations submitted by the Committee on Prescriptive Governance.[23] With respect to the Board's rules establishing criteria for APN standard care arrangements with physicians and podiatrists, the bill expressly requires the rules to include components that apply to the authority to prescribe schedule II controlled substances.[24]

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[17] Former R.C. 4723.51 to 4723.60.

[18] R.C. 4723.492.

[19] Section 4.

[20] R.C. 4723.49 (not in the bill).

[21] R.C. 4723.492.

[22] Section 5.

[23] Section 5.

[24] R.C. 4723.50(B)(3).

HISTORY

ACTION	DATE
Introduced	03-08-11

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