

LSC Greenbook

Analysis of the Enacted Budget

State Board of Pharmacy

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State Board of Pharmacy

- Registration fee for wholesale distributors of dangerous drugs increased
- Appropriations increased to maintain and operate OARRS, as federal funding decreases

OVERVIEW

Duties and Responsibilities

The State Board of Pharmacy, first created in 1884, is responsible for administering and enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act (R.C. Chapter 4729.), the Controlled Substances Act (R.C. Chapter 3719.), the Pure Food and Drug Act (R.C. Chapter 3715.), and the Criminal Drug Law (R.C. Chapter 2925.). The Board's services and activities can be divided into two distinct programs: (1) licensure and regulation and (2) drug law enforcement and investigation.

The Board is a nine-member panel composed of eight pharmacists and one person representing the public who is at least 60 years old. Each member serves a four-year term and may be reappointed one time at the Governor's discretion.

In addition to the nine Board members, 49 full-time equivalent (FTE) staff are currently employed to perform licensure and enforcement activities. Of that total number, 13 are licensed pharmacists (seven field specialists and six office administrators). As Table 1 below indicates the total number of staff employed by the Board over the course of FY 2005 projected through FY 2013 has been relatively stable.

| 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012* | 2013* |
|------|------|------|------|------|------|------|-------|-------|
| 47 | 47 | 47 | 50 | 50 | 49 | 49 | 50 | 50 |

*FY 2012 and FY 2013 are estimates.

Appropriation Summary

Table 2 below summarizes the Board's budget by fund group.

| Fund Group | FY 2011* | FY 2012 | % change, FY 2011-FY 2012 | FY 2013 | % change, FY 2012-FY 2013 |
|-------------------------|--------------------|--------------------|------------------------------|--------------------|------------------------------|
| General Services | \$5,316,252 | \$6,758,498 | 27.1% | \$6,851,285 | 1.4% |
| Federal Special Revenue | \$556,164 | \$725,759 | 30.5% | \$96,424 | -86.7% |
| TOTAL | \$5,872,416 | \$7,484,257 | 27.5% | \$6,947,709 | -7.2% |

*FY 2011 figures represent actual expenditures.

The Board receives no GRF funding. Its operating expenses are primarily paid from General Services Fund line item 887609, Operating Expenses. Federal money typically makes up about 10% of the Board's total annual expenditures.

As shown in Table 2 above, in each of FYs 2012 and 2013, the General Services Fund (GSF) appropriations total around 28% higher than the total amount of GSF funding expended in FY 2011. These increases are fueled primarily by the additional revenue that will be generated by an increase in the registration fees charged to wholesaler distributors of dangerous drugs. The changes in the Federal Special Revenue Fund Group reflect the award and subsequent spend down of grants for the Ohio Automated Rx Reporting System (OARRS).

Permanent Law Changes

Registration Fee for Wholesale Distributors of Dangerous Drugs

The budget increases: (1) the registration fee for wholesale distributors of dangerous drugs from \$150 to \$750 for initial registrations and subsequent renewals and (2) the penalty for nontimely renewals of these registrations from \$55 to \$150. It is estimated that these increases will generate at least \$900,000 per year, to be credited to the Occupational Licensing and Regulatory Fund (Fund 4K90).

Pain Management Clinics

The bill makes clarifying changes to the law governing the regulation of pain management clinics. These changes are related to the enactment of Am. Sub. H.B. 93 of the 129th General Assembly, which became effective May 20, 2011 (certain provisions effective June 19, 2011), and can be summarized as follows:

- Exempts, effective immediately, from the requirement to be licensed as a terminal distributor of dangerous drugs with pain management clinic classification: (1) a facility operated by a hospital for the treatment of pain or chronic pain, (2) a physician practice, owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals, and (3) an interdisciplinary pain rehabilitation program with three-year accreditation by the Commission on Accreditation of Rehabilitation Facilities; and
- Repeals the provision that prohibits a pain management clinic licensed by the Board from employing an individual who has been previously convicted of, or pleaded guilty to, any offense that is a felony in Ohio, another state, or the United States and replaces it with a provision that prohibits a licensed pain management clinic from employing an individual who has previously been convicted of, or pleaded guilty to, either of the following: (1) a felony drug abuse offense (as defined in current law), or (2) a felony offense under an

existing or former municipal ordinance or statute of this state or another state, or a federal statute, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud.

The provision noted in the first dot point above is expected to have only a minimal fiscal impact on revenues, if that. These types of entities are typically licensed as a terminal distributor of dangerous drugs. It was the intention of the State Board of Pharmacy to convert these licenses to a "pain management clinic" license, at no additional charge. The provision noted in the second dot point above will have no discernible direct fiscal effect on the state or any of its political subdivisions.

Private Contracting Authority

The budget authorizes the Board to enter into contracts with private entities (with a preference for Ohio-based companies) to process applications and renewal applications for wholesale distributors of dangerous drugs and terminal distributors of dangerous drugs. Any revenue received by the Board from such contracts is to be credited to Fund 4K90. Any revenues received are to be used for any purpose determined by the Board to be relevant to its duties, including the establishment and maintenance of OARRS.

ANALYSIS OF ENACTED BUDGET

Table 3 below shows the line items that are used to fund the Board of Pharmacy, as well as the appropriated funding levels. It is then followed by a narrative describing how each appropriated amount will be used, and as appropriate, the implications of the enacted funding levels.

| Table 3. Appropriations for the Board of Pharmacy | | | | |
|--|--------|-------------------------------|--------------------|--------------------|
| Fund | | ALI and Name | FY 2012 | FY 2013 |
| General Services Fund (GSF) Group | | | | |
| 4A50 | 887605 | Drug Law Enforcement | \$150,000 | \$150,000 |
| 4K90 | 887609 | Operating Expenses | \$6,608,498 | \$6,701,285 |
| General Services Fund Group Subtotal | | | \$6,758,498 | \$6,851,285 |
| Federal Special Revenue Fund (FED) Group | | | | |
| 3CT0 | 887606 | 2008 Developing/Enhancing PMP | \$70,775 | \$0 |
| 3DV0 | 887607 | Enhancing Ohio's PMP | \$169,888 | \$2,379 |
| 3EY0 | 887603 | Administration of PMIX Hub | \$320,637 | \$66,335 |
| 3EZ0 | 887610 | NASPER 10 | \$164,459 | \$27,710 |
| Federal Special Revenue Fund Group Subtotal | | | \$725,759 | \$96,424 |
| Total Funding: Board of Pharmacy | | | \$7,484,257 | \$6,947,709 |

Operating Expenses (GSF line item 887609)

This GSF line item, which draws its appropriation from fees and fines deposited in Fund 4K90, is used by the Board to administer and enforce laws governing the legal distribution of dangerous drugs and the practice of pharmacy. For FYs 2012 and 2013, the budget provides the line item with an appropriation of \$6,608,498 and \$6,701,285, respectively. The FY 2012 appropriation represents a 27.3% increase over the FY 2011 expenditure level. This increase is largely due to the registration fee increase authorized in the budget on wholesale distributors of dangerous drugs.

Drug Law Enforcement (GSF line item 887605)

This GSF line item draws its appropriation from the Board's share of certain fines and forfeited bonds and bail collected as a result of its drug law enforcement efforts. Money deposited to the fund is statutorily restricted and may only be used for drug law enforcement purposes. The Board uses this money to provide its compliance and enforcement staff with current technology and training for the purpose of increasing their productivity and ability to obtain evidence of pharmacy and drug law violations.

The budget appropriates \$150,000 in each of FYs 2012 and 2013, a 20.2% increase over the FY 2011 expenditure level. It should be noted that due to the unpredictable nature of the deposits made to the fund and the stringent restrictions on its use, the

fund typically receives appropriation increases via approval of the Controlling Board. The FY 2012 and FY 2013 appropriation increases are expected to help alleviate the necessity to come before the Controlling Board as often during the biennium.

Prescription Monitoring Program/OARRS (various federal line items)

Ohio's prescription monitoring program, known as the Ohio Automated Rx Reporting System (OARRS), was established to monitor the misuse and diversion of controlled substances and certain dangerous drugs. However, no money was explicitly appropriated to fund its development and operation. The program began full operation in October 2006.

Under OARRS, each pharmacy licensed as a terminal distributor of dangerous drugs that dispenses drugs to patients in the state and each wholesale distributor of dangerous drugs that delivers drugs to prescribers in the state is required to submit certain prescription and purchase information to the Board for entry into the database. Over the years, the system has been tasked with storing an increasing number of records and has experienced an expansion in its services. Recently enacted Am. Sub. H.B. 93 of the 129th General Assembly will greatly expand the use of the system. That bill contained no appropriation for the expansion.

Funding. To date, the Board has received several federal grants totaling \$2.9 million that have been restricted for purposes of OARRS planning, implementation, and improvements. Federal grants have not been made available for what might be termed routine operating or maintenance expenses. As the Board's annual costs to operate and maintain OARRS have exceeded available federal funding, the difference has been covered by the utilization of money appropriated from Fund 4K90.

According to the Board, preliminary information conveyed by the current federal grant administrators seems to suggest that there may be little or no federal funding for this purpose in the future. Part of the fee increase authorized by the budget on wholesale distributors of dangerous drugs is expected to help alleviate some of this strain. Four of the Board's federal funds (funds 3CT0, 3DV0, 3EY0, and 3EZ0) are expected to have enough cash for the FY 2012-FY 2013 biennium to warrant an appropriation. In terms of this federal funding, the budget appropriates a total of \$725,759 for FY 2012 and \$96,424 for FY 2013. If additional federal spending authority is needed, the Board would likely seek Controlling Board approval for an appropriation.

FY 2012 - FY 2013 Final Appropriation Amounts

All Fund Groups

| Line Item Detail by Agency | | | FY 2010 | FY 2011 | Appropriations | FY 2011 to FY 2012 | Appropriations | FY 2012 to FY 2013 |
|--|--------|-------------------------------|-------------------------|---------------------|---------------------|--------------------|---------------------|--------------------|
| | | | | | FY 2012 | % Change | FY 2013 | % Change |
| Report For Main Operating Appropriations Bill | | | Version: Enacted | | | | | |
| PRX State Board of Pharmacy | | | | | | | | |
| 4A50 | 887605 | Drug Law Enforcement | \$ 26,290 | \$ 124,774 | \$ 150,000 | 20.22% | \$ 150,000 | 0.00% |
| 4K90 | 887609 | Operating Expenses | \$ 5,419,989 | \$ 5,191,478 | \$ 6,608,498 | 27.30% | \$ 6,701,285 | 1.40% |
| General Services Fund Group Total | | | \$ 5,446,279 | \$ 5,316,252 | \$ 6,758,498 | 27.13% | \$ 6,851,285 | 1.37% |
| 3BC0 | 887604 | Dangerous Drugs Database | \$ 145,614 | \$ 47,089 | \$ 0 | -100.00% | \$ 0 | N/A |
| 3CT0 | 887606 | 2008 Developing/Enhancing PMP | \$ 260,211 | \$ 79,398 | \$ 70,775 | -10.86% | \$ 0 | -100.00% |
| 3DV0 | 887607 | Enhancing Ohio's PMP | \$ 0 | \$ 161,092 | \$ 169,888 | 5.46% | \$ 2,379 | -98.60% |
| 3EB0 | 887608 | NASPER | \$ 1,020 | \$ 117,852 | \$ 0 | -100.00% | \$ 0 | N/A |
| 3EY0 | 887603 | Administration of PMIX Hub | \$ 0 | \$ 70,193 | \$ 320,637 | 356.79% | \$ 66,335 | -79.31% |
| 3EZ0 | 887610 | NASPER 10 | \$ 0 | \$ 80,541 | \$ 164,459 | 104.19% | \$ 27,710 | -83.15% |
| Federal Special Revenue Fund Group Total | | | \$ 406,845 | \$ 556,164 | \$ 725,759 | 30.49% | \$ 96,424 | -86.71% |
| State Board of Pharmacy Total | | | \$ 5,853,123 | \$ 5,872,416 | \$ 7,484,257 | 27.45% | \$ 6,947,709 | -7.17% |