



Ohio Legislative Service Commission

Deauna Hale

Fiscal Note & Local Impact Statement

Bill: Sub. [H.B. 206 of the 128th G.A.](#)

Date: October 21, 2009

Status: As Reported by House Health

Sponsor: Reps. Oelslager and Boyd

Local Impact Statement Procedure Required: No — No local cost

Contents: Modifies certain advance practice nurses' authority to prescribe schedule II controlled substances

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011 – FUTURE YEARS
Occupational Licensing and Regulatory Fund (Fund 4K90)		
Revenues	- 0 -	- 0 -
Expenditures	One-time increase of about \$1,500 for Committee on Prescriptive Governance recommendations and for rulemaking	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **Committee on Prescriptive Governance.** Under the bill, the Committee on Prescriptive Governance is required to include provisions that apply specifically to the authority of advance practice nurses (APNs) to prescribe schedule II controlled substances to existing recommendations for prescribing drugs and therapeutic devices. The Board of Nursing anticipates scheduling at least two additional committee meetings, which will cost the Board about \$750 per meeting.
- **Rulemaking.** The bill requires the Board to promulgate rules related to the authority of an APN to prescribe schedule II controlled substances. This provision will cause a one-time minimal increase in the Board's administrative costs.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Background

Under current law, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner (advance practice nurse or APN) is authorized to prescribe certain drugs and therapeutic devices if the APN has a certificate to prescribe issued by the Ohio Board of Nursing. To obtain a certificate to prescribe, an APN must demonstrate evidence of successfully completing instruction in advanced pharmacology, pay a fee, and provide any information required by the Board of Nursing.

Existing law currently restricts an APN's ability to prescribe by specifying that (1) an APN is prohibited from prescribing a drug or therapeutic device that is not in the formulary established in rules adopted by the Board, (2) the prescriptive authority cannot exceed the prescriptive authority of an APN's collaborating physician or podiatrist, and (3) an APN may prescribe a schedule II controlled substance in collaboration with a physician (but not a podiatrist) only if (a) the patient receiving the substance is in a terminal condition, (b) the APN's collaborating physician initially prescribed the substance to the patient, and (c) the amount prescribed does not exceed that necessary for the patient's use in a single 24-hour period.

Under federal law (the Controlled Substances Act), a substance is categorized in one of five schedules (classifications). After receiving recommendations from the U.S. Secretary of Health and Human Services, the U.S. Attorney General determines which drugs are added or removed from the various schedules according to certain criteria. Before a substance is classified as a schedule II drug, the U.S. Attorney General must find (1) the drug or other substance has a high potential for abuse, (2) the drug or other substance has a currently accepted medical use in treatment in the U.S. or a currently accepted medical use with severe restrictions, and (3) the abuse of the drug or substance may lead to severe psychological or physical dependence. Ohio law specifies that the addition, transfer, or removal of a substance occurs automatically if the U.S. Attorney General adds or removes the substance from a schedule or transfers the substance to another schedule.

APN's authority regarding schedule II controlled substances

The bill maintains the prohibition on an APN from personally furnishing a schedule II controlled substance to a patient but eliminates the restrictions on an APN's ability to prescribe a schedule II controlled substance, except in a convenience care clinic. In other words, with certain exceptions, the bill authorizes an APN to prescribe a schedule II controlled substance in any circumstance if the APN is acting in the course of professional practice and in accordance with laws regulating APN professional practice and State Board of Pharmacy rules.

Advance pharmacology prerequisite (new applicants and renewals)

The bill requires new certificate applicants to *complete* (rather than obtain) a course of study in advanced pharmacology within three years of filing an application. The bill requires that the course of study include 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. Additionally, the bill requires that the course of study in pharmacology and related topics include training in schedule II controlled substances that meet certain requirements.

The bill repeals the advanced pharmacology instruction exemption for APNs grandfathered from the advanced pharmacology instruction requirement and replaces it with a requirement that *any* individual who holds a certificate prior to the bill's effective date must successfully complete at least six contact hours of training pertaining to schedule II controlled substances, in addition to other continuing nursing education to renew or receive a certificate to prescribe schedule II controlled substances.

The bill specifies that an APN who holds a certificate to prescribe or externship certificate to prescribe on the bill's effective date is subject to the restrictions in current law governing an APN's ability to prescribe a schedule II controlled substance until the APN renews the certificate to prescribe or receives an extension of the externship certificate.

These provisions will cause a minimal increase in the Board of Nursing's administrative duties. The Board's current certification practices will likely continue with regard to verifying if an APN has completed the training requirements. Any increase in administrative duties would result from the Board having to verify that the additional and appropriate course of study has been completed and will be absorbed within the Board's existing resources.

Committee on Prescriptive Governance

The bill requires that the Committee on Prescriptive Governance, when developing recommendations regarding the authority of APNs to prescribe drugs and therapeutic devices, include provisions that apply specifically to the authority of APNs to prescribe schedule II controlled substances. The recommendations regarding the schedule II prescriptive authority must be developed within 90 days of the bill's effective date.

The Committee on Prescriptive Governance is comprised of ten members. Continuing law specifies that committee members serve without compensation, but they are to receive payment for their actual and necessary expenses incurred in the performance of their official duties and that the expenses are to be paid by the Board of Nursing. To develop the recommendations, the Board anticipates scheduling at least two additional committee meetings. The Board pays approximately \$75 in expenses (mileage and parking) per committee member per meeting. Two additional meetings to

meet the requirements of this bill will cost the Board about \$1,500 (2 meetings x 10 members x \$75 per member).

Rulemaking on standard care arrangements

The bill requires that any rules the Board of Nursing adopts to establish criteria for the components of standard care arrangements that APNs must generally enter into with one or more physicians or podiatrists include components that apply to the authority to prescribe schedule II controlled substances. The Board of Nursing must also adopt any necessary rules to implement the authority to prescribe schedule II controlled substances pursuant to a certificate to prescribe within 90 days of the bill's effective date. This provision will minimally increase the Board of Nursing's administrative costs to promulgate rules as required by the bill.

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