



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 267 of the 128th G.A.

Date: December 10, 2009

Status: As Introduced

Sponsor: Rep. Luckie

Local Impact Statement Procedure Required: No — No local cost

Contents: Ohio Official Prescription Program

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
Occupational Licensing and Regulatory Fund (Fund 4K90)			
Revenues	Up to \$6.9 million gain in computer maintenance fees	Up to \$13.8 million gain in computer maintenance fees	Uncertain gain, annual amount dependent upon computer maintenance fee to be set by rule
Expenditures	One-time implementation and ongoing annual program management costs uncertain, likely to be offset in whole, or in part, by computer maintenance fees		

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

- Revenues.** The bill establishes an annual computer maintenance fee to be paid to the Board of Pharmacy by health professionals who have the authority to issue written prescriptions. Based on current licensing data from affected boards, it appears that the fee will generate up to \$6.9 million during the initial six months of the program and then up to \$13.8 million in FY 2011. Since the Board can set the fee by rule after FY 2011, the amount of revenue generated annually thereafter is currently uncertain.
- Expenditures.** Determining the potential one-time implementation costs as well as ongoing annual costs is problematic. Since the bill allows the Board of Pharmacy to solicit the services of an outside vendor, it seems likely that the Board will perform a cost-benefit analysis first before offering the contract for bid. If the Board is able to perform the duties at a lower cost, it seems likely that the Board will choose this avenue. However, until such an analysis is undertaken and a competitive bid is obtained, determining the program's implementation and subsequent ongoing annual operating costs is not feasible. It should also be noted that these costs will be either entirely, or partially, offset by the annual computer maintenance fee authorized by the bill.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.
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Detailed Fiscal Analysis

Overview

The bill establishes the Ohio Official Prescription Program, to be administered by the State Board of Pharmacy. More specifically, the bill:

- Creates the Ohio Official Prescription Advisory Committee.
- Requires the Board of Pharmacy to prepare an official Ohio prescription form.
- Prohibits prescribers and dispensers from dispensing a drug, after July 1, 2010, unless the prescription is written on the official Ohio prescription form.
- Requires all prescribers to pay an annual computer maintenance fee to the Board of Pharmacy.
- Permits the Board of Pharmacy to contract with a vendor for the preparation and issuance of the forms.
- Requires prescribers to notify the Board of Pharmacy of the loss, destruction, theft, or unauthorized use of the forms.

State fiscal effects

The primary costs associated with implementation of the bill's requirements will largely be borne by the Board of Pharmacy. Those costs and the related revenue stream are described in more detail below.

Ohio Official Prescription Program

Implementation and operating costs

As part of developing the official prescription forms, the Board of Pharmacy will have to develop and maintain a pharmacy claims processing system. As the bill is not precise in stipulating the intended use or design of the claims system, it is LSC fiscal staff's presumption that such a system will be utilized by prescribers to verify the validity of each prescription form presented by clients. It is further presumed that the database will contain only unique identifiers, such as serial numbers, and will not track client information, such as patient names, prescriber names, and prescription information. The system's cost will greatly depend upon the amount of data stored. However, if the data is limited to only serial numbers, potential costs will be lower. Costs generally increase as the amount of data stored increases. It is conservatively estimated that more than 100 million prescriptions are written annually statewide.

Oversight of the Ohio Official Prescription Program will largely be the responsibility of the Board of Pharmacy. However, the bill also allows the Board to contract with an outside vendor for the preparation and issuance of the official

prescription forms. Although the bill does not specifically indicate that the chosen vendor may also maintain the pharmacy claims processing system, it seems plausible that these services may also be outsourced. The vendor must meet certain criteria, as outlined in the bill, in order to be selected. Board of Pharmacy staff has indicated that, if these services are contracted with an outside vendor, then the Board would not likely need to hire additional staff. However, if the Board decides to provide these services in-house, additional staff may be needed, the magnitude of which is uncertain. In either case, however, these forms are to be provided to the prescribers free of charge. The Board is currently reviewing options to merge this new claims system with an existing web-based database system, the Ohio Automated Rx Reporting System (OARRS).¹

Determining the potential one-time implementation costs as well as ongoing annual costs is problematic. Since the bill allows the Board to solicit the services of an outside vendor, it seems likely that the Board will perform a cost-benefit analysis first before offering the contract for bid. If the Board is able to perform the duties at a lower cost, it seems likely that the Board will choose this avenue. However, until such an analysis is undertaken and a competitive bid is obtained, determining the program's annual operating cost is not feasible. It should also be noted that these costs will be either entirely, or partially, offset by the annual computer maintenance fee authorized by the bill. This fee is discussed in more detail immediately below.²

Computer maintenance fee

The bill stipulates that on June 1, 2010, every prescriber remit payment of \$250 (for the period dating January 1 through May 31, 2010, the fee will be \$125) to the Board of Pharmacy. After the first year of the program, the Board will set an annual fee by rule. At this time, the Board can not speculate how much the future fee may be, but presume that the amount will be set at a level to maintain the annual costs of the program.

Pursuant to current law, these fees would be deposited in the state treasury to the credit of the existing Occupational Licensing and Regulatory Fund (Fund 4K90). The Board of Pharmacy is one of 20-plus independent professional and occupational

¹ The Ohio Automated Rx Reporting System (OARRS) was first authorized by Sub. H.B. 377 of the 125th General Assembly. The Act, which became effective May 2005, permitted the Board to establish and maintain an electronic database to monitor the misuse and diversion of controlled substances and certain dangerous drugs. The database is utilized by healthcare professionals, pharmacists, and law enforcement agencies.

² Some interested parties have indicated that if enacted, the program will likely result in cost savings to the Ohio Medicaid Program. LSC fiscal staff has not been able to verify or quantify these potential savings or predict any such magnitude. It should be noted that some of these potential savings may have already been realized when Ohio implemented the Ohio Automated Rx Reporting System (OARRS), as described in the previous footnote. Further potential cost savings will greatly depend on how the Ohio Official Prescription Program is fully implemented via the rules enacted by the Board of Pharmacy as well as any future intragovernmental agreements, if any, the Board may negotiate with the Ohio Department of Job and Family Services.

licensing boards that draw their primary source of funding from Fund 4K90. The fund was originally established by Am. Sub. H.B. 152 of the 120th General Assembly and serves as a repository for license fees and other assessments collected by those boards. Since this is a fund utilized by many boards and commissions, there is no guarantee that the moneys deposited to the fund will be credited in kind to the board or commission that generated the revenue. In fact, many boards and commissions are subsidized in part by the fund. LSC fiscal staff therefore can make no assertion that the Board of Pharmacy would be appropriated the full amount of the fees generated.

The bill is silent as to what services this fee is meant to fund. At this time, however, Pharmacy Board staff intend to utilize the fee to fund the costs associated with overseeing the program (i.e., staff), any contract costs if an outside vendor is chosen and the cost to provide the official prescription forms to all prescribers (i.e., material costs as well as shipment costs). Until the program is implemented, though, it is difficult to quantify the magnitude of these potential costs. In addition, if an outside vendor is selected to implement and operate the program, the contract would presumably be subject to the state of Ohio's rules relating to open and competitive contract bidding.

In order to estimate the potential revenue that may be generated during the first 18 months of the program, various health professional licensing boards were surveyed to determine how many licensees may be subject to the fee. Only those with the legal authority to prescribe would be affected. Table 1 below identifies those health professionals who have the authority to issue written prescriptions and the number of current in-state and out-of-state licensees.

Table 1: Licensed Health Professional Authorized to Prescribe Drugs	
Health Professional	Number of Current Licenses
Advanced Practice Nurse	4,395 in-state and out-of-state
Therapeutic Optometrist	2,039 in-state and out-of-state
Dentist	7,120 in-state and out-of-state
Veterinarian	3,861 in-state and out-of-state
MD - Doctor of Medicine	27,217 in-state only
DO - Doctor of Osteopathic Medicine	3,645 in-state only
DPM - Doctor of Podiatric Medicine	824 in-state only
MD - training certificate	4,362 in-state only
DO - training certificate	1,028 in-state only
DPM - training certificate	93 in-state only
Physician Assistant provisional certificate to prescribe	247 in-state only
Physician Assistant certificate to prescribe	523 in-state only
Total	55,354

There is no requirement that a licensee remit the fee, but only those who participate will be permitted to issue written prescriptions in the state of Ohio. Table 2 below illustrates how much revenue could be generated during the first 18 months of the program. As noted in the table below, the bill sets the fee at \$125 for the program's first six months, and then increases it to \$250 for the following 12 months. Subsequent annual revenue will be dependent upon the new fee set by the Board, to be effective June 1, 2011.

It should be noted that some of the reported numbers in Table 1 above include both in-state and out-of-state license holders. It is presumed that the majority of out-of-state licensees would not participate in the program. With this caveat in mind, the actual amount of revenue that could be generated annually may be more conservative than that reported below.

Table 2: Computer Maintenance Fee Revenue		
Time Period	Fee Amount	Total Maximum Revenue Potential
January 1, 2010 to May 31, 2010 (6 months)	\$125	Up to \$6,919,250
June 1, 2010 to May 31, 2011	\$250	Up to \$13,838,500
Annually after May 31, 2011	To be established by rule	Uncertain

Ohio Official Prescription Program Advisory Committee

The bill creates the five-member Ohio Official Prescription Program Advisory Committee to advise the Board of Pharmacy on the implementation of the program, including compliance of forms with requirements, contracts with vendors, evaluation of the program, impact on pharmacies, and rules the Board adopts. The bill also specifies the conditions under which the Committee expires. The bill does not authorize Committee members to receive any compensation or expense reimbursement related to the performance of their duties and responsibilities.

Local fiscal effects

The bill will have no direct fiscal effect on any of the state's political subdivisions. There is, however, arguably the potential for indirect local effects to the extent that the program makes it easier, or more likely, to apprehend and prosecute individuals for obtaining and using fraudulent written prescriptions.