



Ohio Legislative Service Commission

Deauna Hale

Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 314 of the 128th G.A.](#)

Date: December 30, 2009

Status: As Reported by House Health

Sponsor: Reps. Ujvagi and Harris

Local Impact Statement Procedure Required: No — No local cost

Contents: Allows registered nurses to determine and pronounce death

State Fiscal Highlights

- The State Medical Board will have to amend its rules that currently specify that only a physician may pronounce death, which can be accomplished with the Board's existing resources.

Local Fiscal Highlights

- Potential minimal cost savings to the courts due to immunity provisions for certain individuals regarding the determination and pronouncement of death.

Detailed Fiscal Analysis

Determination and pronouncement of death

Under current law, a person is considered dead if it is determined, in accordance with accepted medical standards, that the person meets certain criteria specified in the law. The State Medical Board's administrative rules specify that only a physician may pronounce a person to be dead.¹ Under the Board's rules a physician may pronounce death without personally examining the body of the deceased if a competent observer has recited the facts of the deceased's medical condition to the physician and the physician is satisfied that death has occurred. Among the list of medical professionals who the rules identify as competent observers is a registered nurse.

The bill permits a registered nurse to determine and pronounce an individual's death if both of the following conditions are met: (1) the individual was receiving care in a licensed nursing home, residential care facility, or home for the aging, a county or district home, or a licensed residential facility in which mentally retarded or developmentally disabled persons reside and (2) the nurse is providing or supervising the individual's care through a licensed hospice care program or other entity that provides palliative care. A nurse cannot determine and pronounce death in cases where an individual's respiratory and circulatory functions are being artificially sustained. The bill specifies that registered nurses are not permitted to complete any portion of an individual's death certificate. The nurse must notify the individual's attending physician within a reasonable period of time after determining and pronouncing death so the attending physician may complete the individual's death certificate.

These provisions expand the scope of duties for registered nurses and will have no direct fiscal impact on state or local expenditures. The State Medical Board will have to amend its rules that currently specify that only a physician may pronounce death, which can be accomplished with the Board's existing resources.

Immunity from liability

Currently, a physician who makes a determination of death in accordance with current law and accepted medical standards is immune from liability for damages in any civil action, and is not subject to prosecution in any criminal proceeding, for the physician's acts or the acts of others based on the determination. The bill extends these protections to a physician's pronouncement of death and specifies that the protections apply when there is a determination *and* pronouncement of death. The bill provides similar immunity to a registered nurse who makes a determination and pronouncement

¹ O.A.C. 4731-14-01.

of death. The bill also extends immunity to a physician for the acts of a registered nurse who makes a determination and pronouncement of death.

Current law provides immunity from civil liability and criminal prosecution to any person who acts in good faith in reliance on the determination of death made by a physician. The bill specifies that this immunity also applies to a pronouncement of death by a physician, as well as a determination and pronouncement of death that has been made by a registered nurse.

These provisions may decrease the likelihood that any of the individuals to whom the immunity applies under the bill would be subject to a civil or criminal action, resulting in cost savings to the courts. Any costs savings in this instance is likely to be minimal.

HB0314HR.docx / lb