Ohio Legislative Service Commission

Michele Perch

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 83 of the 129th G.A. **Date**: July 6, 2011

Status: As Passed by the Senate **Sponsor**: Sens. Oelslager and C. Tavares

Local Impact Statement Procedure Required: No

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

State Fiscal Highlights

STATE FUND	FY 2012	FY 2013 - 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	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2012 is July 1, 2011 – June 30, 2012.

- **Committee on Prescriptive Governance.** The bill requires the Committee on Prescriptive Governance to include provisions in its prescriptive authority recommendations that apply specifically to the authority of advance practice nurses (APNs) to prescribe schedule II controlled substances. The Board of Nursing anticipates scheduling at least two additional committee meetings for this purpose, which will cost the Board about $750 per meeting.

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 other information required by the Board.

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 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.

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 to prescribe a schedule II controlled substance at the following locations: a hospital registered with the Department of Health, a health care facility operated by the Department of Mental Health (DMH) or the Department of Developmental Disabilities, a nursing home licensed by DMH, a county home or district home that participates in Medicare or Medicaid, a hospice care program, a community mental health facility, an ambulatory surgical facility, a freestanding birthing center, a federally qualified health center, and a health care office or facility operated by the board of health of a city or general health district. Under the bill, an APN may not prescribe a schedule II controlled substance to a patient in a convenience care clinic, even if the clinic is owned or operated by a health care center that does not restrict an APN's authority to prescribe schedule II controlled substances.

Advanced 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 course of study must 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. Under the bill, any APN who holds a certificate to prescribe 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, in order 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'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 from the Board of Nursing for their actual and necessary expenses incurred in the performance of their official duties. 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 will cost the Board about $1,500 (2 meetings x 10 members x $75 per member).

Rulemaking on standard care arrangements

Under current law, APNs may enter into standard care arrangements with one or more physicians or podiatrists. The bill requires that any rules adopted by the Board of Nursing to establish criteria for the components of these standard care arrangements include components that apply to the authority of APNs to prescribe schedule II controlled substances. The Board 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. Costs to adopt rules will be absorbed within the Board's existing resources.

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