

# State Board of Pharmacy

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## OVERVIEW

The State Board of Pharmacy is responsible for administering and enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act (Chapter 4729. of the Revised Code), the Controlled Substances Act (Chapter 3719. of the Revised Code), the Pure Food and Drug Act (Chapter 3715. of the Revised Code), and the Criminal Drug Law (Chapter 2925. of the Revised Code). 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 may be re-appointed one time at the Governor's discretion. In addition to the nine board members, the board employs a staff of 46 full-time equivalents (FTEs) to perform licensure and enforcement activities. Of the 46 FTEs, 23 (8 pharmacists and 15 former law enforcement officers) are investigative field agents. The board's activities can be divided into licensure and drug law enforcement, as described in more detail below.

### **Licensure**

The licensure activities of the board include the testing and certification of pharmacists and pharmacy interns entering the profession in Ohio, as well as renewing the licenses of practicing pharmacists annually. In addition, the board licenses sites where dangerous drugs (primarily those requiring a prescription) are purchased and stored prior to the delivery to a patient. The site licenses are issued by the board as either a terminal distributor of dangerous drugs (mainly retail type settings) or a wholesale distributor of dangerous drugs. Terminal distributor sites include, but are not limited to, retail pharmacies, hospitals, nursing homes, prisons and jails, emergency medical squads, clinics, medical gas distributors, and so forth.

### **Drug Law Enforcement**

The board is the only state agency that has statewide jurisdiction to enforce the criminal drug laws, and as a result, is sometimes responsible for criminal investigations of doctors, nurses, dentists, veterinarians, or other individuals. By enforcing the laws and rules regulating drugs and pharmacists, the board may deny, suspend, or revoke a license and place a practitioner on probation. Such action may be taken for reasons that include: conviction of a misdemeanor committed in the practice of pharmacy, or any felony; dishonesty or unprofessional conduct in the practice of pharmacy; drug or alcohol addiction that causes a practitioner to be unfit for practice; and any violation of provisions under Chapters 2925., 3719., or 4729. of the Revised Code. From 1996 through 1999, the board averaged close to 1,270 investigations annually and the percentage of those investigations that had to be "closed for no time" was almost cut in half, from 40 percent to 25 percent.

### **Governor's Recommendation**

The Governor's recommended budget for the board contains two notable pieces. First, at the board's request, its primary financing source is being removed from the multi-agency Occupational Licensing and Regulatory Fund (Fund 4K9) and placed in a new fund that it will control: the Pharmacy Board Operating Fund (Fund 5N2). The rationale behind this change is that the board generates more annually in revenue than it spends, and wants more flexibility to manage its own financial matters than will be permissible as long as it resides in Fund 4K9. Second, also at the board's request, the Governor recommended increases in their non-GRF funding of 12.9 percent in FY 2002 and 8.9 percent in FY 2003 to cover the salary and fringe benefit costs of their 46 existing staff and to phase-in the hiring of two new field staff.

## ADDITIONAL FACTS AND FIGURES

State Board of Pharmacy Staffing Levels*							
FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001*	FY 2002*	FY 2003*
38	40	38	44	44	46	47	48

\*The staffing levels displayed in the above table represent full-time equivalents (FTEs). The number of FTEs for FYs 2001, 2002, and 2003 are estimates.

- As one can see from the above table, the board's staff has increased somewhat since FY 1996. The addition of one FTE in each of FYs 2002 and 2003 will allow the board to narrow the region each field agent covers and should result in more case closures.

Number of Licensees/Registrants							
License/Registrant Type	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
Registered Pharmacists	12,398	12,906	13,368	13,296	13,786	13,797	13,597
Pharmacy Interns	1,512	1,428	1,552	1,430	1,643	1,437	1,434
Dangerous Drug Distributors	8,027	8,951	9,348	9,423	9,423	10,089	10,329
Wholesale Distributors	904	909	1,075	1,048	1,048	1,087	1,080
Controlled Substances	455	474	511	481	481	468	462
<b>Totals</b>	<b>23,296</b>	<b>24,668</b>	<b>25,854</b>	<b>25,678</b>	<b>26,381</b>	<b>26,878</b>	<b>26,902</b>

- The total number of licenses issued by the board annually has increased from 23,296 in FY 1995 to 26,902 in FY 2001, an increase of 15.5 percent. The most dramatic jump has been in the licensing of dangerous drug distributors. In FY 1995, the board licensed 8,027 distributors of dangerous drugs, and by FY 2001, that licensed number was up to 10,329, an increase of 2,302, or 28.7 percent.

Board Investigations		
Year	Number of Investigations	Investigations Closed for No Time*
1996	1,250	500
1997	1,308	435
1998	1,199	369
1999	1,310	334

\*"No Time" is a decision made by a board agent in the field.

- The board's investigations are classified as either criminal, involving drug trafficking, forging prescriptions, fraud, and so forth, or administrative, involving errors in dispensing, administrative code violations, and so forth. With the exception of a matter that involves the dispensing of an incorrect drug, an investigation can be closed due to a lack of time to fully investigate a case. This is usually what happens to cases that take longer than 45 days to investigate.

- From 1996 through 1999, the board averaged close to 1,270 investigations annually and the percentage of those investigations that had to be “closed for no time” was almost cut in half, from 40 percent to 25 percent. This clearly indicates that, as the board has added field staff in recent years, its ability to fully investigate cases has been greatly enhanced.

<b>Pharmacy Board Cash Flow History (Fund 4K9)</b>			
<b>Fiscal Year</b>	<b>Revenue</b>	<b>Expenses</b>	<b>Net</b>
1994	\$ 2,583,430	\$ 2,219,450	\$ 363,980
1995	\$ 3,103,766	\$ 2,454,739	\$ 649,027
1996	\$ 3,131,677	\$ 2,762,321	\$ 369,356
1997	\$ 3,214,543	\$ 3,060,104	\$ 154,439
1998	\$ 4,369,170	\$ 3,254,336	\$ 1,114,834
1999	\$ 4,225,210	\$ 3,364,074	\$ 861,136
2000	\$ 4,282,302	\$ 3,934,179	\$ 348,123
2001	\$ 4,435,443	\$ 3,849,026	\$ 586,417
2002	\$ 4,591,045	\$ 4,353,629	\$ 237,416
2003	\$ 4,746,760	\$ 4,744,594	\$ 2,166
<b>TOTALS</b>	<b>\$38,683,346</b>	<b>\$33,996,452</b>	<b>\$ 4,686,894</b>

- The above table clearly indicates that the board has historically been able to cover its expenses. It is important to note that drug fine collections make up around 25 percent, or roughly \$1.2 million, of the total revenue deposited annually by the board to the credit of Fund 4K9 annually.
- Caveats to the financial material displayed in the above table include three items. First, the FY 2000 expenses include approximately \$106,000 in one-time office remodeling costs. Second, the expenses for FYs 2001, 2002, and 2003 are estimates. Third, the “Net” amounts in the table’s last column do not reflect board moneys removed from Fund 4K9 by the Office of Budget and Management for administrative purposes. Thus, the “Net” amounts do not exactly equal the board’s cash balance in Fund 4K9. This table is, however, a reasonable indication of the board’s cash flow picture over the last several fiscal years.

## ANALYSIS OF EXECUTIVE PROPOSAL

### STATE BOARD OF PHARMACY

**Purpose** To administer and enforce the laws governing the legal distribution of drugs and the practice of pharmacy.

The following table shows the line items that are used to fund the State Board of Pharmacy Board, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2002	FY 2003
4A5	887-605	Drug Law Enforcement	\$ 72,900	\$ 75,550
5N2	887-603	Operating Expenses	\$4,353,629	\$4,744,594
<b>Total board funding</b>			<b>\$4,426,529</b>	<b>\$4,820,144</b>

The board is a single-program agency. This section of our analysis focuses on the Governor's recommended budget as it relates to the board's involvement in:

#### ■ LICENSURE & DRUG LAW ENFORCEMENT

##### LICENSURE & DRUG LAW ENFORCEMENT

**Program Description:** The board's core activities center on the licensing of all persons who distribute dangerous drugs and sites where dangerous drugs are stored, and to enforce certain drug laws.

**Funding Source:** GSF: 1) licensing and other fees collected from pharmacists, pharmacy interns, distributors of dangerous drugs, and manufacturers of controlled substances; and 2) various fines and bail or property forfeitures.

**Line Items:** 887-603, Operating Expenses; 887-605, Drug Law Enforcement.

**Implication of the Executive Recommendation:** The executive recommended that the board receive a total non-GRF budget of \$4,426,529 for FY 2002 and \$4,820,144 for FY 2003, increases of 12.9 percent and 8.9 percent, respectively. These amounts fully fund the board's biennial budget request. (The board does not utilize any GRF funding.)

The board's biennial budget included two supplemental funding requests. The first supplemental funding request was for an increase to cover projected salary, fringe benefit, and travel expenses. (Personnel costs account for about 83 percent of the board's budget.) Supplemental amounts of \$139,000 in FY 2002 and \$210,000 in FY 2003 were requested so that the board could maintain the personnel costs associated with its currently approved staffing level of 46. Smaller amounts of \$10,000 in FY 2002 and \$7,000 in FY 2003 were also requested to cover travel reimbursement costs (hotel, mileage, and meals). The board performs site inspections, which require staff to cover large territories of the state and sometimes require overnight stays. The board's first supplemental funding request was included in the Governor's budget.

The second supplemental funding request was to allow for the phased-in hiring of two new field staff: one compliance specialist (pharmacist) in the second half of FY 2002 and one compliance specialist (pharmacist) in the second half of FY 2003. The board was given full

funding to phase-in both of these new staff positions. The board has estimated the cost of that phased-in hiring at \$55,000 in FY 2002 and \$142,700 in FY 2003. The board's annual revenue generation should be sufficient to cover these additional operating costs.

The board requested these two new staff in order to meet increasing requests from law enforcement for assistance. These individuals will be conducting inspections and investigations and will be in direct contact with the public, licensees, and other law enforcement agencies.

***Earmarking:*** None.

***Permanent and Temporary Law:*** The Governor's budget includes a proposal to remove the board from the multi-agency Occupational Licensing and Regulatory Fund (Fund 4K9) and create a new fund (Fund 5N2) to be used exclusively by the board (section 4729.65 of the Revised Code). As the table in *Additional Facts and Figures* section of this analysis shows, the board has historically been able to cover its expenses without a problem. The board's revenue and expenditures that are currently being credited and charged, respectively, to Fund 4K9 would be moved to Fund 5N2, the Pharmacy Board Operating Fund.

Related temporary law is also included in the board's budget instructing the Director of Budget and Management on how to transfer its cash and encumbrances from Fund 4K9 into the new Fund 5N2.

## PERMANENT AND TEMPORARY LAW

This section of our analysis describes the proposed permanent and temporary law provisions contained in the Governor's budget that will affect the State Board of Pharmacy.

### **Permanent Law Provisions**

#### **Pharmacy Board Operating Fund (ORC 4729.65)**

The Governor's budget includes a proposal to remove the board from the multi-agency Occupational Licensing and Regulatory Fund (Fund 4K9) and create a new fund (Fund 5N2) to be used exclusively by the board (section 4729.65 of the Revised Code). As the *Additional Facts and Figures* section of this analysis shows, the board has historically been able to cover its expenses without a problem. The board's revenue and expenditures that are currently being credited and charged, respectively, to Fund 4K9 would be moved to Fund 5N2, Pharmacy Board Operating Fund.

### **Temporary Law Provisions**

#### **Pharmacy Board Operating Fund**

Temporary law is included in the Governor's budget instructing the Director of Budget and Management on how to transfer the board's cash and encumbrances from Fund 4K9 into new Fund 5N2.

## REQUESTS NOT FUNDED

The Governor fully funded the State Board of Pharmacy's biennial budget request, which included increases in non-GRF funding to: 1) cover the cost of delivering the board's current level of services in FYs 2002 and 2003; and 2) phase-in the hiring of two additional pharmacists for its field staff. Thus, there were no budget requests submitted by the board that were not funded by the Governor.

**LSC Budget Spreadsheet by Line Item, FY 2002 - FY 2003**

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2000</i>	<i>Estimated 2001</i>	<i>Executive 2002</i>	<i>% Change 2001 to 2002</i>	<i>Executive 2003</i>	<i>% Change 2002 to 2003</i>
<b>PRX Pharmacy, State Board of</b>								
4A5	887-605	Drug Law Enforcement	\$ 75,280	\$70,000	\$ 72,900	4.1%	\$ 75,550	3.6%
4K9	887-609	Operating Expenses	\$ 3,815,768	\$3,849,026	\$ 0	-100.0%	\$ 0	N/A
5N2	887-603	Operating Expenses	---	\$0	\$ 4,353,629	N/A	\$ 4,744,594	9.0%
<b>General Services Fund Group Total</b>			<b>\$ 3,891,048</b>	<b>\$ 3,919,026</b>	<b>\$ 4,426,529</b>	<b>12.9%</b>	<b>\$ 4,820,144</b>	<b>8.9%</b>
<b>Total All Budget Fund Groups</b>			<b>\$ 3,891,048</b>	<b>\$ 3,919,026</b>	<b>\$ 4,426,529</b>	<b>12.9%</b>	<b>\$ 4,820,144</b>	<b>8.9%</b>

## General Services Fund Group

### 4A5 887-605 Drug Law Enforcement

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$6,282	\$129,925	\$75,280	\$70,000	\$72,900	\$75,550
	1968.2%	-42.1%	-7.0%	4.1%	3.6%

**Source:** GSF: board's share of certain fines and bail or property forfeitures collected as a result of its drug law enforcement efforts.

**Legal Basis:** ORC 4729.65

**Purpose:** The fund is used by the board 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. By law, the moneys in this fund must be segregated from the board's other sources of revenue. The board is restricted to using the revenue in this fund for drug law enforcement purposes only.

### 4K9 887-609 Operating Expenses

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$3,254,336	\$3,463,852	\$3,815,768	\$3,849,026	\$0	\$0
	6.4%	10.2%	0.9%	-100.0%	N/A

**Source:** GSF: moneys appropriated from the Occupational Licensing and Regulatory Board Fund (Fund 4K9), which consists of license fees and other assessments collected by 21 of the state's independent professional and occupational boards, as well as various fines and forfeited bonds and bails collected by the State Board of Pharmacy and not credited to its Fund 4A5.

**Legal Basis:** ORC 4729.65 (originally established by Am. Sub. H.B. 152 of the 120th G.A., the main appropriations act covering FYs 1994 and 1995; replaced former GRF line items 881-100, Personal Services, 881-200, Maintenance, and 881-300, Equipment, which supported the board's operations.)

**Purpose:** The funds appropriated to this line item are used by the board to administer and enforce laws governing the legal distribution of drugs and the practice of pharmacy.

**5N2 887-603 Operating Expenses**

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$0	\$0	\$0	\$0	\$4,353,629	\$4,744,594
	N/A	N/A	N/A	N/A	9.0%

**Source:** GSF: 1) licensing and other fees collected from pharmacists, pharmacy interns, distributors of dangerous drugs, and manufacturers of controlled substances; and 2) various fines and bail or bond forfeitures not credited to board's Fund 4A5.

**Legal Basis:** ORC 4729.65 (proposed for creation as part of the executive-recommended budget contained in H.B. 95, the main appropriations bill of the 124th General Assembly; replaces line item 887-609, Operating Expenses, as the board is moved from Fund 4K9, the Occupational Licensing and Regulatory Board Fund.)

**Purpose:** The funds appropriated to this line item will be used by the board to administer and enforce laws governing the legal distribution of drugs and the practices of pharmacy.