

State Board of Pharmacy

Senate Finance and Financial Institutions

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Legislative Service Commission*

April 23, 2003

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LSC Redbook for the State Board of Pharmacy

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April 23, 2003

State Board of Pharmacy

- Executive budget maintains Board's current staffing and service levels

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, it carries enough annual funding to employ a staff of 48 full-time equivalents (FTEs) to perform licensure and enforcement activities. Of the 48 FTEs, 23 (10 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.

Operating expenses

The Board's annual operating expenses are supported almost entirely by moneys appropriated from Fund 4K9, the occupational licensing and regulatory board fund that receives fees and other assessments collected by 23 of the state's independent professional and occupational licensing boards and in turn finances the annual operating expenses of the 23 boards.

Executive recommendation

The amount of funding that the Board requested in each of FYs 2004 and 2005 reflected its calculation of the future cost of maintaining current service and staffing levels. The executive budget recommended slightly less than the amounts that the Board requested in each of FYs 2004 and 2005. According to the Board, the reduced funding levels should not generate any negative effects on its mission and responsibilities as a licensing, regulatory, and drug law enforcement agency. The Board plans to work within the executive recommended budget by reducing travel and maintenance expenses.

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 Board, as well as the Governor’s recommended funding levels.

Fund	ALI	Title	FY 2004	FY 2005
4A5	887-605	Drug Law Enforcement	\$ 72,900	\$ 75,550
4K9	887-609	Operating Expenses	\$4,733,987	\$4,914,594
Total funding: State Board of Pharmacy			\$4,806,887	\$4,990,144

The Board is a single program series state agency. This section of the 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 the enforcement of 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 budget recommended slightly less than the amounts that the Board requested in each of FYs 2004 and 2005. According to the Board, the reduced funding levels should not generate any negative effects on its mission and responsibilities as a licensing, regulatory, and drug law enforcement agency. The Board plans to work within the executive recommended budget by reducing travel and maintenance expenses.

Earmarking: None

Permanent and Temporary Law: None

ADDITIONAL FACTS AND FIGURES

State Board of Pharmacy Staffing Levels*							
FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003*	FY 2004*	FY 2005*
38	44	44	46	47	48	48	48

*The staffing levels displayed in the above table represent full-time equivalents (FTEs). The number of FTEs for FYs 2003, 2004, and 2005 are estimates.

The Board was scheduled to phase in the filling of two of its existing 48 FTE staff positions in the form of field agents over the course of FYs 2002 and 2003. According to the Board, the addition of two field agents would allow it to narrow the region of the state that each field agent covers and result in more case closures. Budget constraints have delayed the filling of the two staff positions. As of this writing, it appears that one of the two new field agent positions has been filled.

Number of Licensees/Registrants							
License/Registrant Type	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
Registered Pharmacists	13,368	13,296	13,786	13,797	13,597	14,056	14,540
Pharmacy Interns	1,552	1,430	1,643	1,437	1,434	1,510	1,634
Terminal Distributors	9,348	9,423	9,423	10,089	10,329	9,958	10,485
Wholesale Distributors	1,075	1,048	1,048	1,087	1,080	1,119	1,144
Controlled Substance Wholesalers	511	481	481	468	462	489	511
Totals	25,854	25,678	26,381	26,878	26,902	27,132	28,314

The total number of licenses issued by the Board annually has increased from 25,854 in FY 1997 to 28,314 in FY 2003, an increase of 9.5%. One area of the licensing in which the Board's work has noticeably increased is in relation to terminal distributors of dangerous drugs. In FY 1997, the Board licensed 9,348 distributors of dangerous drugs, and by FY 2003, that licensed number was up to 10,485, an increase of 1,137, or 12.2%.

Board Investigations		
Year	Number of Investigations	Investigations Closed for No Time*
1998	1,198	374
1999	1,309	397
2000	1,404	424
2001	1,692	370
2002	1,421	252

*"No Time" is a decision made by a Board field agent.

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 1998 through 2002, the Board averaged around 1,400 investigations annually and the percentage of those investigations that had to be “closed for no time” was almost cut in half, from 31.2% to 17.8%. From the Board’s perspective, this is an indicator that, as additional field staff has been hired in recent years, its ability to fully investigate cases has been greatly enhanced.

Pharmacy Board Fund 4K9 Cash Flow History			
Fiscal Year	Revenue	Expenses	Net
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	\$ 3,815,769	\$ 466,533
2001	\$ 4,288,827	\$ 3,837,911	\$ 450,916
2002	\$ 4,265,201	\$ 4,176,816	\$ 88,385
2003*	\$ 4,746,760	\$ 4,744,594	\$ 2,166
2004*	\$ 4,767,710	\$ 4,733,987	\$ 33,723
2005*	\$ 4,954,465	\$ 4,914,594	\$ 39,871
TOTALS	\$42,245,865	\$38,664,506	\$3,581,359

*The amounts for FYs 2003, 2004, and 2005 are estimates.

The Board’s annual operating expenses are supported almost entirely by moneys appropriated from Fund 4K9, the occupational licensing and regulatory board fund that receives fees and other assessments collected by 23 of the state’s independent professional and occupational licensing boards and in turn finances the annual operating expenses of the 23 boards. The table above displays the amount of revenue that the State Board of Pharmacy has deposited, or will deposit, to the credit of Fund 4K9 from FY 1996 through FY 2005, as well as the amount of funding that the Board has drawn from Fund 4K9 over the same period of time. The table also suggests that the Board has historically deposited more revenue to the credit of Fund 4K9 annually than it has drawn from Fund 4K9 to support annual operating expenses.

There is some notable background information to the financial material displayed in the above table. First, the expenses for FYs 2003, 2004, and 2005 are estimates. Second, drug fine collections make up around 25%, or roughly \$1.2 million, of the total revenue deposited annually by the State Board of Pharmacy to the credit of Fund 4K9 annually. 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. That said, the table is, however, a reasonable indication of the Board’s cash flow picture over the last several fiscal years.

PERMANENT AND TEMPORARY LAW

There are no permanent or temporary law provisions contained in the executive budget that explicitly affect the duties, responsibilities, or fiscal operations of the State Board of Pharmacy.

REQUESTS NOT FUNDED

The difference, or variance, between what the State Board of Pharmacy requested for its biennial budget and the Governor’s recommended funding levels, is summarized in the table below.

Continuation Services Funding						
Fund/ Line Item	FY 2004 Requested	FY 2004 Recommended	Difference	FY 2005 Requested	FY 2005 Recommended	Difference
GSF/887-609	\$4,743,987	\$4,733,987	(\$10,000)	\$4,965,757	\$4,914,594	(\$51,163)
GSF/887-605	\$ 72,900	\$ 72,900	\$ 0	\$ 75,550	\$ 75,550	\$ 0
TOTALS	\$4,816,887	\$4,806,887	(\$10,000)	\$5,041,307	\$4,990,144	(\$51,163)

The amount of funding that the Board requested in each of FYs 2004 and 2005 reflected its calculation of the future cost of maintaining current service and staffing levels. The executive budget recommended slightly less than the amounts that the Board requested in each of FYs 2004 and 2005. According to the Board, the reduced funding levels should not generate any negative effects on its mission and responsibilities as a licensing, regulatory, and drug law enforcement agency. The Board plans to work within the executive recommended budget by reducing travel and maintenance expenses.

General Services Fund Group

4A5 887-605 Drug Law Enforcement

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$75,280	\$61,422	\$23,151	\$75,550	\$72,900	\$75,550
	-18.4%	-62.3%	226.3%	-3.5%	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: Section 86 of Am. Sub. H.B. 94 of the 124th G.A.; 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 the fund must be segregated from the Board's other sources of revenue. The Board is restricted to using the revenue in the fund for drug law enforcement purposes only.

4K9 887-609 Operating Expenses

2000	2001	2002	2003 Estimate	2004 House Passed	2005 House Passed
\$3,815,768	\$3,928,323	\$4,183,947	\$4,744,594	\$4,733,987	\$4,914,594
	2.9%	6.5%	13.4%	-0.2%	3.8%

Source: GSF: Moneys appropriated from the Occupational Licensing and Regulatory Board Fund (Fund 4K9), which consists of license fees and other assessments collected by 23 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: Section 86 of Am. Sub. H.B. 94 of the 124th G.A.; ORC 4729.65 (originally established by Am. Sub. H.B. 152 of the 120th G.A., the main operating 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 dangerous drugs and the practice of pharmacy.

LSC Budget Spreadsheet by Line Item, FY 2004 - FY 2005

<i>Fund ALI ALI Title</i>	<i>Estimatec 2003</i>	<i>As Introduced 2004</i>	<i>House Sub Bill 2004</i>	<i>% Change Est. 2003 to House 2004</i>	<i>As Introduced 2005</i>	<i>House Sub Bill 2005</i>	<i>% Change House 2004 to House 2005</i>
PRX Pharmacy, State Board of							
4A5 887-605 Drug Law Enforcement	\$75,550	\$ 72,900	\$ 72,900	-3.5%	\$ 75,550	\$ 75,550	3.6%
4K9 887-609 Operating Expenses	\$4,744,594	\$ 4,733,987	\$ 4,733,987	-0.2%	\$ 4,914,594	\$ 4,914,594	3.8%
General Services Fund Group Total	\$ 4,820,144	\$ 4,806,887	\$ 4,806,887	-0.3%	\$ 4,990,144	\$ 4,990,144	3.8%
.....							
Total All Budget Fund Groups	\$ 4,820,144	\$ 4,806,887	\$ 4,806,887	-0.3%	\$ 4,990,144	\$ 4,990,144	3.8%
.....							