Fiscal Note & Local Impact Statement
127th General Assembly of Ohio
Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 • Phone: (614) 466-3615
• Internet Web Site: http://www.lsc.state.oh.us/

STATUS: As Introduced  SPONSOR: Rep. Oelslager
LOCAL IMPACT STATEMENT REQUIRED: No — No local cost
CONTENTS: To modify the authority of certain advance practice nurses to prescribe schedule II controlled substances

State Fiscal Highlights

<table>
<thead>
<tr>
<th>STATE FUND</th>
<th>FY 2008</th>
<th>FY 2009</th>
<th>FUTURE YEARS</th>
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<tbody>
<tr>
<td>Occupational Licensing and Regulation Fund (Fund 4K9)</td>
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<tr>
<td>Revenues</td>
<td>- 0 -</td>
<td>- 0 -</td>
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<tr>
<td>Expenditures</td>
<td>Minimal increase in administrative costs to verify completion of instruction requirements; minimal increase to promulgate rules; potential one-time increase for Committee on Prescriptive Governance recommendations</td>
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<td>State Medical Board Operating Fund (Fund 5C6)</td>
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<tr>
<td>Revenues</td>
<td>- 0 -</td>
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<td>- 0 -</td>
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Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- **Advanced pharmacology prerequisite.** The bill requires the Board of Nursing to verify if an advance practice nurse (APN) has completed the advanced pharmacology instruction requirements before obtaining a certificate to prescribe. This provision will cause a minimal increase in the Board's administrative costs.

- **Committee on Prescriptive Governance.** Under the bill, the Committee on Prescriptive Governance is required to include provisions that apply specifically to the authority of APNs to prescribe schedule II controlled substances to existing recommendations for prescribing drugs and therapeutic devices. To create the recommendations, the Committee may have to schedule additional meetings. According to a spokesperson from the State Medical Board, the increase in expenditures depends on committee member per diem rates and the number of additional meetings the Committee holds to create the recommendations.
• **Rulemaking.** The bill requires the Board to promulgate rules related to the authority of an APN to prescribe schedule II controlled substances. This provision will minimally increase the Board's administrative costs.

**Local Fiscal Highlights**

• The bill appears to have no direct effect on local government.

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**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 any information required by the Board of Nursing.

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 a 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.

Under federal law (the Controlled Substances Act), a substance is categorized in one of five schedules (classifications). After receiving recommendations from the U.S. Secretary of Health and Human Services, the U.S. Attorney General determines which drugs are added or removed from the various schedules according to certain criteria. Before a substance is classified as a schedule II drug, the U.S. Attorney General must find (1) the drug or other substance has a high potential for abuse, (2) the drug or other substance has a currently accepted medical use in treatment in the U.S. or a currently accepted medical use with severe restrictions, and (3) the abuse of the drug or substance may lead to severe psychological or physical dependence. Ohio law specifies that the addition, transfer, or removal of a substance occurs automatically if the U.S. Attorney General adds or removes the substance from a schedule or transfers the substance to another schedule.

**APN's authority to prescribe and personally furnish schedule II controlled substances**

The bill maintains the prohibition on an APN from personally furnishing a schedule II controlled substance to a patient and permits an APN to prescribe a schedule II controlled substance in collaboration with a podiatrist. However, the bill authorizes an APN to prescribe a schedule II controlled substance in any circumstance if the APN is acting in the course of professional practice and
in accordance with laws regulating APN professional practice and State Board of Pharmacy rules. An APN who holds a certificate to prescribe on the bill's effective date is subject to current law provisions until the APN renews the certificate.

**Advance pharmacology prerequisite (new applicants and renewals)**

The bill requires new certificate applicants to complete (rather than obtain) the advanced pharmacology instruction within three years of filing an application. The bill adds a requirement that the length of instruction in advanced pharmacology and related topics be at least 45 hours, with at least 36 contact hours of training in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in illness prevention and maintenance of health. (The requirements of the content of advanced pharmacology instruction are outlined in the bill.)

The bill repeals the advanced pharmacology instruction exemption for APNs grandfathered from the advanced pharmacology instruction requirement and replaces it with a requirement that any individual who holds a certificate prior to the bill's effective date must successfully complete at least six hours of instruction pertaining to schedule II controlled substances, in addition to other continuing nursing education, before obtaining a renewal certificate. The bill outlines the following renewal schedule:

1. If the certificate's expiration date is *six or more months after* the bill's effective date, the certificate holder must complete the training as a condition of the *first* renewal that occurs after the bill's effective date.

2. If the certificate's expiration is *less than six months after* the bill's effective date, the certificate holder must complete the training as a condition of the *second* renewal that occurs after the bill's effective date.

**Fiscal effect** - According to a spokesperson at the Board of Nursing, this provision will have a minimal effect on Board expenditures because it will not change the Board's current certification practices with regard to verifying if an APN completed the training requirements in advanced pharmacology to receive a certificate to prescribe.

**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.

**Fiscal effect** - The Committee on Prescriptive Governance is comprised of members from the State Medical Board, the Board of Nursing, and the State Board of Pharmacy. To create the recommendations, the Committee may have to schedule additional meetings. According to a spokesperson from the State Medical Board, the increase in expenditures depends on committee...
member per diem rates and the number of additional meetings the Committee will hold to create the recommendations.

**Rulemaking on standard care arrangements**

The bill requires that any rules the Board of Nursing adopts to establish criteria for the components of standard care arrangements that APNs must generally enter into with one or more physicians or podiatrists include components that apply to the authority to prescribe schedule II controlled substances. The Board of Nursing 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.

**Fiscal effect** - This provision will minimally increase the Board of Nursing's administrative costs to promulgate rules as required by the bill.

*LSC fiscal staff: Deauna Hale, Budget Analyst*

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