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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 341
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 341's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsor: Rep. Ginter

Local Impact Statement Procedure Required: No

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Highlights

- The bill expands the list of drugs a pharmacist may administer by injection which may increase costs for state or local pharmacies that choose to administer these drugs. However, costs could be offset by any reimbursements or payments received for rendering these services.
- The bill requires the State Board of Pharmacy to develop a program to educate certain license holders and others about the authority of pharmacists and pharmacy interns to dispense naloxone without a prescription. The Board expects to use existing staff and appropriated resources to absorb any additional administrative expenses incurred to comply with these education requirements.
- The bill authorizes the State Board of Pharmacy to provide information from its Ohio Automated Rx Reporting System (OARRS) to a prescriber or pharmacist participating in a prescription monitoring program operated by a federal agency if certain conditions are met. This could result in a minimal increase in administrative costs.
- The bill exempts from licensure as a terminal distributor of dangerous drugs a service entity that possesses naloxone in order to permit personally furnishing a supply of the drug pursuant to protocol. This may minimally decrease license fee revenue for the State Board of Pharmacy.
- The bill authorizes a licensed terminal distributor of dangerous drugs that is not a pharmacy to make occasional sales of prescription drugs and investigational drugs or products at wholesale if authorized by rules to be adopted by the State Board of Pharmacy. This provision will have no discernible ongoing effects on the Board's annual operating costs or related revenue generation.

- The bill provides qualified immunity and civil liability protection in certain circumstances regarding the supply and administration of naloxone. This may result in minimal savings for local courts by reducing the time and effort that otherwise may have been required to adjudicate related actions.
- The bill's provisions regarding the classification of certain types of hemp-derived resins as hashish may minimally increase the costs to local and state criminal justice systems to adjudicate, and sanction a minimal number of additional offenders.

Detailed Analysis

Administration of addiction treatment drugs

The bill allows a pharmacist to administer by injection any addiction treatment drug that is prescribed by a physician and is administered in a long-acting or extended-release form. Current law allows a pharmacist to inject certain drugs. Expanding the number of drugs a pharmacist can administer by injection may result in increased costs to state or local pharmacies (e.g., those in public hospitals or local health departments) that choose to administer these drugs. However, any additional costs could be offset for any additional payments received for rendering the service.

Currently, a facility where a prescriber provides office-based opioid treatment to more than 30 patients is generally required to obtain a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification from the State Board of Pharmacy. The bill exempts facilities from office-based opioid treatment licensure if patients are treated for opioid dependence or addiction through administration of addiction treatment drugs onsite, directly by certain specified providers rather than off-site by patients. The bill also specifies that patients who receive treatment onsite for opioid dependence or addiction by this direct administration of drugs are not to be included when determining whether a prescriber is providing this treatment to more than 30 patients at a particular location. The State Board of Pharmacy could realize a reduction in fee revenue if fewer facilities are required to obtain licensure. While these facilities would no longer require the office-based classification, facilities would likely still require licensure as a category III terminal distributor of dangerous drugs. If this were the case, any fiscal impact to the Board would be negligible.

Naloxone education

The bill requires the State Board of Pharmacy to develop a program to educate certain license holders and others about the authority of pharmacists and pharmacy interns to dispense naloxone without a prescription. As part of the program, the Board is required to educate license holders, pharmacy technicians, pharmacy technician trainees, and employees that engage in the sale or dispensing of naloxone about (1) maintaining an adequate supply of naloxone, and (2) methods for determining a pharmacy's naloxone stock. The bill authorizes the Board to use its website to share information under the program. The Board expects to use existing staff and appropriated resources to absorb any additional administrative expenses incurred to comply with these education requirements.

OARRS access and federal monitoring programs

The State Board of Pharmacy is already authorized to establish a drug database under existing law. This database, known as the Ohio Automated Rx Reporting System (OARRS),

provides information about drug use to prescribers, pharmacists, and others. In addition to the OARRS information the Board is authorized or required to provide under current law, the bill authorizes the Board to provide information requested by a prescriber or pharmacist from, or participating in, a prescription drug monitoring program operated by a federal agency if certain conditions apply. This could cause a minimal increase in administrative costs for the Board.

Terminal distributor of dangerous drugs licensure exemption

The bill exempts from licensure as a terminal distributor of dangerous drugs (TDDD) a service entity that possesses naloxone in order to permit an employee, volunteer, or contractor to furnish personally a supply of the drug pursuant to a protocol established by a prescriber or board of health. Under current law, service entities are exempt from this licensure when naloxone is possessed for use in an emergency, but not with respect to personally furnishing a supply. This could minimally reduce licensure fee revenue for the State Board of Pharmacy. There could also be a subsequent decrease in license fees paid by any service entities that may be government agencies.

TDDD maintenance of naloxone supply

The bill authorizes a TDDD to acquire a supply of naloxone, and to maintain the supply at an alternative location for use in emergencies and to distribute through an automated mechanism. The bill also authorizes any person to access naloxone maintained by a TDDD and to administer it to an individual who appears to be experiencing an opioid-related overdose.

Occasional sales at wholesale

The bill authorizes a licensed terminal distributor of dangerous drugs that is not a pharmacy to make occasional sales of prescription drugs and investigational drugs or products at wholesale if authorized by rules to be adopted by the State Board of Pharmacy. A terminal distributor that fails to follow the rules is subject to disciplinary procedures. The Board may revoke, suspend, limit, or refuse to renew the distributor's license; place the license holder on probation; or impose a monetary penalty or forfeiture not to exceed \$1,000. Any money collected is credited to Fund 4K90, the Occupational Licensing and Regulatory Fund. As terminal distributors generally are expected to comply with the rules, disciplinary actions will be infrequent. Thus, this provision will have no discernible ongoing effects on the Board's annual operating costs or related revenue generation.

Naloxone protocols

The bill authorizes certain advanced practice registered nurses and physician assistants to develop protocols to permit individuals and employees of service entities to personally furnish or administer naloxone. Government-owned hospitals and any other applicable government entity that employ these nurses and physician assistants may experience a minimal increase in costs to develop these protocols.

The bill provides qualified immunity related to the above-mentioned provisions. This may result in minimal savings for local courts by reducing the time and effort that otherwise may have been required to adjudicate related actions.

Civil liability protection for layperson

The bill specifies that a family member, friend, or other individual who, as authorized by current law, assists an individual who is experiencing an opioid-related overdose is not liable for damages in a civil action related to providing that assistance. Again, this may reduce costs for local courts as cases may be adjudicated more quickly or not be brought at all.

Exemptions from open meetings requirements

The bill also expands and clarifies the State Board of Pharmacy's exemptions from open meetings requirements to include meetings in which the Board must determine whether to suspend a license, certification, or registration without a hearing in certain situations. This should have no discernable fiscal impact on the Board.

Hashish

Under current law, hashish is defined as a resin that is derived from marijuana. Under the bill, hashish is defined as a resin that is derived from a cannabis plant and has a delta-9 tetrahydrocannabinol (THC) concentration of over 0.3%. This clarifies that hashish can be derived from hemp as well as marijuana but is not a hemp byproduct that is: (1) in the possession of a licensed hemp processor, and (2) being produced, stored, and disposed of in accordance with rules adopted under S.B. 57 of the 133rd General Assembly. Under current law, such a hemp byproduct is allowed to exceed 0.3% THC only if (1) and (2) are satisfied.

It is possible that some additional number of hashish-related violators will be arrested, prosecuted, and sanctioned as a higher-level misdemeanor or felony for a violation of existing hashish laws rather than as a minor misdemeanor under violations of hemp laws, with elevated misdemeanor penalties for subsequent offenses. This will be offset somewhat as, under existing law, hemp resin offenses may be prosecutable as marijuana offenses.

Under current law, hashish-related possession offenses range from a minor misdemeanor punishable by a fine of not more than \$150 to a second degree felony punishable by up to eight years in prison, a fine of not more than \$15,000 depending on amount of the drug involved, or both. Hashish-related trafficking offenses range from a fifth degree felony punishable by up to 12 months in prison, a fine of not more than \$2,500, or both, to a first degree felony punishable by up to 11 years in prison, a fine of not more than \$20,000, or both.

According to the Ohio Incident-Based Reporting System (OIBRS), between 2015 and 2019, 1,247 people were arrested statewide for hashish possession, and 59 for trafficking in hashish, with about half of those arrests occurring in 2019 (52.6% and 45.8%, respectively).¹ Statistics related to hashish prosecutions and convictions are not readily available, but it is likely that the impact of these provisions may be very small relative to the overall work of the local criminal justice systems.

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¹ These statistics are based upon information voluntarily reported to OIBRS by participating law enforcement agencies as of June 29, 2020, and may not reflect all violations statewide, since not all Ohio law enforcement agencies' data are available through OIBRS.