OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 193
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Reps. Cutrona and Pavliga

Local Impact Statement Procedure Required: No

Robert Meeker, Budget Analyst

Highlights

- As pharmacists generally will comply with the bill's dispensing provision, there are unlikely to be any ongoing annual costs for local criminal justice systems to prosecute and sanction violators.
- If a state or local entity providing clinical services does not currently have an electronic prescribing system, and prescribes schedule II drugs to patients, such an entity will incur costs to switch from written to electronic prescribing.
- The State Board of Pharmacy will incur no discernible ongoing fiscal effects on its regulatory and enforcement operations.

Detailed Analysis

The bill generally limits pharmacist dispensing of schedule II controlled substances to those prescribed electronically, rather than in writing or electronically as under current law, with exceptions for technical failures, nursing home and hospice care, and cases in which an electronic prescription may cause a delay in care.[1, 2]

In 2018, Congress passed the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, which requires electronic

[1] Under continuing law, unchanged by the bill, a schedule II drug may be dispensed upon an oral prescription in emergency situations.

[2] See the LSC comparative synopsis and bill analysis for a full list of exceptions.

prescribing for schedule II-V controlled substances covered under a Medicare Part D or Medicare Advantage prescription drug plan beginning January 1, 2021.[3]

According to the Drug Enforcement Agency, schedule II drugs are those that have a high potential for abuse that may lead to severe psychological or physical dependence. Examples of schedule II drugs include:

- Narcotics: hydromorphone (Dilaudid), methadone (Dolophine), meperidine (Demerol), oxycodone (OxyContin, Percocet), fentanyl (Sublimaze, Duragesic), morphine, opium, codeine, and hydrocodone.
- Stimulants: amphetamine (Dexedrine, Adderall), methamphetamine (Desoxyn), and methylphenidate (Ritalin).
- Other: amobarbital, glutethimide, and pentobarbital.

Violations

A violation of the current law prescription prohibitions in which the new provision is included is a third degree misdemeanor, elevating to a first degree misdemeanor for a subsequent offense.[4] It is likely that few if any licensed pharmacists will violate this prohibition. Thus, there are likely to be no discernible ongoing annual costs to local criminal justice systems to prosecute and sanction violators.

A pharmacist is also subject to the State Board of Pharmacy's disciplinary procedures. The disciplinary actions include revoking, suspending, or limiting the pharmacist's identification card; placing the pharmacist's identification card on probation; refusing to grant or renew the pharmacist's identification card; or imposing a monetary penalty or forfeiture not to exceed $500. Any money collected is credited to Fund 4K90, the Occupational Licensing Fund. These enforcement duties are not expected to create any discernible ongoing costs for the Board.

Prescribers

It is possible that there will be costs for state or local entities that provide clinical services, such as a government-owned hospital or certain local boards of health, if such an entity does not currently have an electronic prescribing system and is prescribing schedule II drugs to patients. It is unknown how many entities could be impacted. However, according to the Association of Ohio Health Commissioners, if a board of health provides clinical services, it is likely that the board has an electronic records system, and likely an electronic prescribing system as well. If the board of health does not have an electronic prescribing system and is prescribing schedule II drugs to patients, then the board would incur costs to switch from written to electronic prescribing.

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[3] Due to COVID-19, the compliance date was postponed to January 1, 2022, by the Centers for Medicare and Medicaid Services.

[4] R.C. 3719.99(E), not in the bill.