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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 193  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 193's Bill Analysis](#)

**Version:** As Passed by the Senate

**Primary Sponsors:** Reps. Cutrona and Pavliga

**Local Impact Statement Procedure Required:** No

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### 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.
- The Ohio Department of Health will experience an increase in costs related to the licensure of an additional type of pediatric respite care program; however, costs may be offset by licensure and inspection fees.

### Detailed Analysis

The bill: (1) limits generally pharmacist dispensing of schedule II controlled substances to those prescribed electronically, rather than in writing or electronically as under current law, (2) changes terminology in the Revised Code related to overdose reversal drugs, (3) makes changes to a pilot program for dispensing controlled substances in lockable containers, and (4) modifies criteria related to out-of-state physician consultation and pediatric respite care programs.

### Electronic prescriptions

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.<sup>1, 2</sup> The bill provides for exceptions to two groups of prescribers: (1) for 12 months after the bill's effective date, prescribers may issue written rather than electronic prescriptions for schedule II controlled substances that are to be dispensed by pharmacists employed by or under contract with any state agency and (2) veterinarians.

## **Violations**

A violation of the prescription prohibitions in which the new provision is included is a third degree misdemeanor under current law, and elevating to a first degree misdemeanor for a subsequent offense.<sup>3</sup> 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.

## **Pilot to dispense controlled substances in lockable containers**

The bill modifies an existing pilot program for dispensing schedule II controlled substances in lockable or tamper-evident containers by expressly stating that pharmacy participation in the pilot program is voluntary and by specifying that the Ohio Department of Mental Health and Addiction Services' (OhioMHAS) selection of pharmacies to be included in the pilot program is to be made from among those pharmacies that volunteer. H.B. 110 of the 134<sup>th</sup> General Assembly required OhioMHAS to operate a two-year pilot program under which lockable or tamper-evident containers are used by participating pharmacies when dispensing schedule II controlled substances in solid oral dosage formulations. This provision should have no fiscal impact.

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

<sup>2</sup> See the LSC bill analysis for a full list of exceptions.

<sup>3</sup> R.C. 3719.99(E), not in the bill.

## **Overdose reversal drugs**

The bill defines “overdose reversal drug” as naloxone and any other drug that the Pharmacy Board designates through rules as a drug that is approved by the federal Food and Drug Administration for the reversal of a known or suspected opioid-related overdose and replaces existing references to “naloxone” in the Revised Code with “overdose reversal drug.” It is possible that certain administrative rules and publications will need to be updated to reflect this definitional change, resulting in a one-time administrative cost for the Board.

## **Out-of-state physician consultation with Ohio-licensed physician**

The bill requires an Ohio-licensed physician who receives a consultation from an out-of-state physician to have an established physician-patient relationship with the patient who is the subject of the consultation, in place of current law that requires the Ohio-licensed physician to be responsible for the examination, diagnosis, and treatment of that patient. There are no direct fiscal impacts anticipated related to this provision.

## **Home-like pediatric respite care programs**

The bill provides for the licensure of an additional type of pediatric respite care program that provides inpatient respite care and related services, including skilled nursing care, in a home-like setting for up to ten children who have been diagnosed with life-threatening diseases and conditions, but who may not be leading up to the final stages of illness, dying, and bereavement. The bill generally applies the same licensure requirements as existing pediatric respite care providers under current law, but also requires the home-like programs to maintain birth certificates and certified guardianship letters of authority for any patient who receives care for longer than 30 days, unless this requirement is waived by the Director of Health. Existing licenses and licenses under the bill are valid for three years.

The Ohio Department of Health (ODH) will experience an increase in costs related to the licensure of this additional type of pediatric respite care program. These costs include reviewing applications, conducting inspections, etc. However, these costs may be at least partially offset by initial and renewal licensure and inspection fees established in rule. Costs and corresponding revenue will depend on the number of additional programs to be licensed and the scope of inspections. Licensure fees (initial and renewal) for existing pediatric respite care programs are currently set at \$600 in the Ohio Administrative Code, while inspection fees are set at \$1,625. There are also fees assessed for any complaint or follow-up inspections. Fees collected will be deposited in ODH’s General Operations Fund (Fund 4700) or Quality, Monitoring, and Inspection Fund (Fund 5B50). ODH will also experience minimal administrative costs if any related rules are promulgated.