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S.B. 95
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Sen. Reynolds

Local Impact Statement Procedure Required: No

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Highlights

- The State Board of Pharmacy will incur minimal costs to (1) adopt rules and then to regulate remote dispensing pharmacies, (2) license additional pharmacy technician trainees, and (3) oversee additional duties of its licensees, including those related to the operation of remote pharmacies and the expansion of administering certain permissible injections. Those costs can likely be absorbed by utilizing existing staff and appropriated funds.
- The State Board of Pharmacy will likely experience a gain in application fee revenues for additional pharmacy technician trainee applicants. Application fees credited to the Occupational Licensing and Regulatory Fund (Fund 4K90) will increase and offset, either in whole or in part, the additional administrative expenses incurred by the Board to oversee the additional trainees.
- The bill expands the list of drugs a pharmacist may administer by injection which may increase costs for state or locally funded pharmacies that choose to administer these drugs. However, costs could be offset by any reimbursements or payments received for rendering these services.
- The bill creates a certified mental health assistant (CMHA) license and requires the State Medical Board to regulate the profession. The Board will experience both start-up and ongoing costs. Start-up costs include eLicense updates and rule promulgation costs. Ongoing costs will include processing license applications and renewals, addressing questions, investigating complaints, etc.

- The Board will experience a gain in revenue from license fees and potential fine revenue. The total revenue collected will depend on the number of licensees. Revenues will be deposited into the State Medical Board Operating Fund (Fund 5C60).
- The Board will realize costs to provide necessary and actual reimbursements to advisory committee members.
- The Department of Higher Education will experience costs to approve CMHA education programs.
- The Department of Medicaid will realize costs to create and submit a waiver to the U.S. Centers for Medicare and Medicaid Services to allow services provided by a CMHA to be paid by the Medicaid Program.
- There may be minimal one-time costs for medical service providers, law enforcement, and health care practitioners to conform existing emergency practices to those authorized by the bill and to appropriately equip and train personnel.

Detailed Analysis

Pharmacists and pharmacies

The bill: (1) authorizes the operation of remote dispensing pharmacies and requires the State Board of Pharmacy to adopt rules governing the operation of such pharmacies and to subsequently regulate them, (2) allows the Board to register an applicant who is 17 years of age as a pharmacy technician trainee if the applicant possesses a high school diploma or certificate of high school equivalence, (3) expands the type of injections which a pharmacist is permitted to inject, and (4) prohibits a health plan issuer, pharmacy benefit manager, or any other administrator from prohibiting a pharmacy from mailing or delivering drugs to patients.

Remote dispensing pharmacies

The bill provides for the regulation of remote pharmacies. The bill defines a “remote dispensing pharmacy” as one that dispenses drugs and drug therapy-related devices, counsels patients, and provides other pharmacist care under the purview of a supervising pharmacy and using a telepharmacy system. A “telepharmacy system” is defined as one that monitors the dispensing of drugs and provides for related drug utilization review and patient counseling services by an electronic method.

State Board of Pharmacy

The bill requires the State Board of Pharmacy, not later than 18 months after its effective date, to adopt rules governing the regulation of remote dispensing pharmacies in accordance with Ohio’s Administrative Procedure Act. The one-time costs for the Board to adopt the required rules are likely to be minimal at most and absorbed by utilizing existing staff and appropriated funds.

If the Board fails to meet this deadline, the bill authorizes the Ohio Attorney General or a county prosecuting attorney to apply to a court of common pleas for a court order requiring the rules to be adopted. As the Board is expected to comply with the deadline for the adoption of rules, this provision should have no direct fiscal effect on the state or political subdivisions. However, if the Board fails to meet this deadline and the Ohio Attorney General or a county

prosecuting attorney files for a court order, the one-time costs for the court of common pleas to adjudicate the matter, the Ohio Attorney General or county prosecuting attorney as plaintiff, and the Board as defendant should be minimal at most and easily absorbed into their respective daily operations.

The number of remote dispensing pharmacies that may become operational after the bill's effective date is unknown. However, to the extent that additional pharmacies or locations require oversight, the Board will experience some manner of ongoing annual operating costs related to inspections, investigations, and possible disciplinary action if warranted. It is anticipated that those costs will be minimal and likely absorbed by utilizing existing staff and appropriated funds.

Public/government hospitals and health care systems

Depending on the rules that will be promulgated by the State Board of Pharmacy, public/government hospitals and health care systems that operate a pharmacy could be impacted if their current operational plans include implementing a remote dispensing pharmacy. However, such plans would be undertaken voluntarily, and it is presumed that such entities would comply with any such rules enacted by the Board and as stipulated in the bill. It is expected that remote dispensing pharmacies could create certain efficiencies and cost savings in the health care delivery system as a whole, the magnitude of which is unknown and would depend on a variety of factors, including certain regional characteristics, the availability of brick and mortar pharmacies, and community needs.

Pharmacy technician trainees

Under the bill, the existing pharmacy technician trainee eligibility standards outlined in current law are broadened to include applicants who are 17 years of age and possess a high school diploma or certificate of high school equivalence. This provision could increase State Board of Pharmacy fee revenues, offset somewhat by increased administration and enforcement costs. The Board currently charges an initial application fee of \$25 for pharmacy technician trainees. Any money collected is credited to the Occupational Licensing and Regulatory Fund (Fund 4K90).

Administration of injections

The bill allows a licensed pharmacist to administer an injection of a human immunodeficiency virus treatment drug administered in a long-acting or extended-release form and any other drug permitted through rules adopted by the State Board of Pharmacy. Expanding the number of drugs a pharmacist can administer by injection may result in increased costs to state or locally funded pharmacies (e.g., those in public hospitals or local health departments) that choose to administer these drugs. However, any additional costs could be offset by any additional payments received for rendering the service.

Drug delivery

The bill prohibits a health plan issuer, pharmacy benefit manager, or any other administrator from prohibiting a pharmacy from mailing or delivering drugs to patients. If delivery costs are not recouped from the individual requesting delivery or mail service, there may be increased costs to state or locally funded pharmacies (e.g., those in public hospitals or local

health departments) to provide this service. State and locally administered health plans are not expected to see any additional costs.

State Medical Board

CMHA licensure

The bill establishes licensure for certified mental health assistants (CMHAs) by the State Medical Board. Under the bill, a CMHA is an individual who provides mental health care under the supervision, control, and direction of a physician with whom the CMHA has entered into a supervision agreement. Additionally, a CMHA may practice in any setting within which a supervising physician has supervision, control, and direction of the CMHA. The bill outlines the services that a CMHA may perform and those that are prohibited. It also outlines eligibility requirements and the application and renewal process. The license is valid for two years and may be renewed for additional two-year periods. The Board is required to adopt rules related to licensure, including the fee charged for licensure. The bill requires a physician to enter into a supervision agreement with each CMHA who will be supervised by the physician and sets requirements regarding these agreements. The bill also allows a licensed CMHA to prescribe and personally furnish certain drugs and devices. Similar to other prescribers, a CMHA must comply with certain provisions prior to prescribing a controlled substance, including requesting from the Pharmacy Board's drug database (OARRS) specified reports.

In addition, the bill establishes procedures for taking disciplinary action against a licensee. The reasons discipline may be imposed are similar to reasons for other health care professionals regulated by the Board. Additionally, the Board can impose civil penalties against CMHAs for violations of the bill's provisions. Civil penalties are generally deposited into the State Medical Board Operating Fund (Fund 5C60). The bill also authorizes the Board to take any disciplinary action authorized under current law against a supervising physician who fails to maintain supervision of a CMHA in accordance with the bill's requirements.

Fiscal impact

The bill will result in both start-up and ongoing costs to the Board. The eLicense system will need to be updated to add the new license. Additionally, there will be minimal administrative costs for rule promulgation. The Board will experience ongoing costs to process license applications and renewals, respond to consumer and licensee questions, and to investigate complaints. These costs will depend on the number of additional licensees. The Board will realize a gain in revenue associated with license fees and any fine revenues collected. The amount of license revenues will depend on the number of licensees and the fee charged. It is unclear how many CMHAs could potentially be eligible for licensure. This is a new license and it does not appear that any other states regulate this profession. License fees charged by the Board vary depending on the profession regulated.¹ However, all revenues received will be deposited into the State Medical Board Operating Fund (Fund 5C60).

¹ The Northeast Medical University (NEOMED) states that this profession's training pathway is similar to physician assistants. If this is the case, it is possible that the license fees charged to CMHAs might also be similar to physician assistants. The Board's current fee for physician assistants is a \$400 initial license fee and a \$200 renewal license fee.

The Pharmacy Board might realize some administrative costs to allow additional users to access OARRS. These costs should be minimal.

CMHA education programs and advisory committee

The bill requires the Chancellor of Higher Education to approve or disapprove CMHA programs and specifies certain procedures for approval. This could result in costs to the Department of Higher Education.

Additionally, the bill creates an advisory committee within the Medical Board to advise the Board and the Department of Higher Education regarding CMHA programs until there is a national accrediting body for CMHAs, at which point the committee will cease to exist. The bill requires the committee to reference physician assistant accrediting standards in providing feedback and recommendations.

Fiscal impact

The Department of Higher Education could realize costs to approve or disapprove CMHA programs. The Board could realize costs for actual and necessary reimbursements for members.

Penalties

The bill establishes penalties for prohibited conduct. For instance, a nonlicensed CMHA is prohibited under the bill from holding him or herself out as a CMHA and it prohibits a CMHA from practicing without entering into a supervision agreement. Additionally, the bill prohibits a supervising physician from authorizing a CMHA to perform services not within the physician's normal course of practice or inconsistent with the supervision agreement.

Fiscal impact

Local courts could experience an increase in costs for cases related to any prohibitions. However, local courts may also impose court costs or fines that may help offset some of these operational costs. The number of potential cases is likely to be few, so any impacts should be minimal.

Medicaid coverage

The bill requires the Medicaid Director to submit a request to the U.S. Centers for Medicare and Medicaid Services for a waiver to allow services provided by a CMHA to be paid by the Medicaid Program.

Fiscal impact

This will result in administrative costs to the Department of Medicaid to create and submit the waiver. Any other costs will depend on if the waiver is approved and the reimbursement provided.

Medical identifying devices

The bill modifies the law governing the use of medical identifying devices, including recognizing identifying devices that contain bar codes or quick response codes and permitting the devices to be scanned by designated persons in an emergency to determine an incapacitated person's medical information. Specifically, those modifications:

- Authorizes law enforcement officers, emergency medical service providers, health care practitioners, and others to scan an identifying device containing a bar code or quick response code, in addition to current law's authority to search for medical identifying devices and identification cards in an emergency involving an "incapacitated person" as defined in the bill.
- Permit, rather than require as under current law, medical practitioners and trained paramedics to promptly search for and examine a medical identifying device or card when examining or treating an incapacitated person.

Because of the bill, emergency medical services (EMS) organizations or other practitioners or health care facilities that choose to obtain and utilize technology capable of scanning bar codes and quick response codes that do not already have it, may incur minimal costs to acquire and maintain scanning technology, as well as train providers on how to use it. Since the bill does not require the use or purchase of any specific type of equipment, a provider could presumably download a bar code and quick response code-scanning application onto their telephone or other device. LBO research indicates that there are multiple applications available for different types of devices at little to no cost.