OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 216 of the 131st G.A. **Date**: December 8, 2016

Status: As Enacted **Sponsor**: Rep. Pelanda

Local Impact Statement Procedure Required: No

Contents: Revises the law governing advanced practice registered nurses

State Fiscal Highlights

- The bill establishes an advanced practice registered nurse (APRN) license issued by the Ohio Board of Nursing that includes designation in a nursing specialty as a certified registered nurse anesthetist (CRNA), clinical nurse specialist (CNS), certified nurse-midwife (CNM), or certified nurse practitioner (CNP). The Ohio State Board of Nursing anticipates administrative costs associated with the transition from certification to licensure and possible additional costs if changes to the Board's eLicense system are required.
- The bill makes some modifications involving prescriptive authority, limited practice without collaboration, professional disciplinary actions, and continuing education requirements for APRNs that could result in additional administrative costs.
- The bill requires the Board of Nursing to establish an exclusionary drug formulary. The Board may realize an increase in costs to develop this formulary.
- The bill modifies the membership of the existing Committee on Prescriptive Governance from ten members to seven members. Thus, there might be a minimal decrease in reimbursements for necessary and actual expenses of board members.
- The bill creates the Advisory Committee on Advanced Practice Registered Nursing. There might be a minimal increase in reimbursements for necessary and actual expenses of board members.
- The bill requires the Ohio departments of Health, Medicaid, and Administrative Services, as well as the Commission on Minority Health to, among other things, assess the prevalence of diabetes and to create a report concerning diabetes. These agencies will have an increase in administrative costs to perform these duties.

Local Fiscal Highlights

- It is possible that public hospitals may experience some cost savings if APRNs are able to perform additional duties freeing physicians to attend to other patients.
- The bill eliminates certain requirements regarding a standard of care arrangement between a physician or podiatrist and certain nurses. It is possible that there could be a minimal decrease in administrative costs to public hospitals as a result.

Detailed Fiscal Analysis

Advanced practice registered nurse licensure

The bill establishes an advanced practice registered nurse (APRN) license issued by the Ohio Board of Nursing that includes designation in a nursing specialty as a certified registered nurse anesthetist (CRNA), clinical nurse specialist (CNS), certified nurse-midwife (CNM), or certified nurse practitioner (CNP). This replaces existing law, which provides that a registered nurse (RN) who holds an RN license issued by the Board and has completed advanced education and training may obtain from the Board a certificate of authority that authorizes the nurse to practice in one of the four APRN specialties. The Ohio State Board of Nursing anticipates incurring administrative costs associated with the transition from certification to licensure in order to amend administrative rules and revise initial, renewal, reinstatement, reactivation application forms, letters, and website information. There may also be additional costs if changes to the Board's eLicense system are required.

Collaboration, supervision, and standard care arrangement

The bill requires that the collaborating physician or podiatrist be continuously available to the APRN either in person or by electronic communication. Currently, the physician or podiatrist must be continuously available either in person or by radio, telephone, or other form of telecommunication. Additionally, the bill eliminates the requirement that a standard of care arrangement between a physician or podiatrist and a nurse meeting certain requirements contain the following: a procedure for regular review of referrals to other health care professionals and the outcomes for a random sample of patients seen by the nurse; and a policy for care of infants up to age one and recommendations for collaborating physician visits for children from birth to age three, if the nurse provides services to infants regularly. It is possible that there could be a minimal decrease in administrative costs to public hospitals as a result of this elimination.

The bill specifies that in the event that a collaborating physician or podiatrist terminates the collaboration between the physician or podiatrist and a nurse meeting certain requirements before a standard of care arrangement expires, the nurse may practice without collaboration for no more than 120 days if all of the following apply:

(1) the physician or podiatrist gives the nurse written or electronic notice, (2) the nurse notifies the Board as soon as practicable by submitting the notice, and (3) the 120-day period runs from the date the nurse submits the notice to the Board. In the event that the collaboration terminates due to the death of the physician or podiatrist, the nurse must notify the Board as soon as practicable, but may continue to practice for no more than 120 days. The Board could have an increase in administrative costs if a collaboration is terminated since the Board would receive notification and perhaps have follow-up conversations with the APRN.

The bill also prohibits a physician or podiatrist from collaborating at the same time with more than five APRNs in the prescribing component of their practices (currently, the limit is three).

Prescriptive authority

The bill grants each APRN specialty, other than a CRNA, the authority to prescribe or personally furnish most drugs and therapeutic devices as part of the APRN license. The Board could realize an increase in costs if any new administrative rules regarding APRN practice are required or if there are any additional administrative duties, such as additional complaint investigations related to this provision.

Elimination of the certificate to prescribe

The bill eliminates the certificate to prescribe (CTP) along with the initial externship certificate (CTP-E) that requires supervision of the nurse's prescribing practices by one or more collaborating physicians or podiatrists. The Board anticipates possible moderate administrative cost savings due to the elimination of the CTP and CTP-E application.

Formulary changes

The bill requires the Board to establish a drug formulary that is exclusionary and specify only those types of drugs or devices that an APRN is not authorized to prescribe or furnish. Currently, the Board must establish a drug formulary that specifies the drugs or devices that an APRN is authorized to prescribe. In the case of schedule II controlled substances, the bill retains current law that allows a nurse to prescribe only under certain conditions or from specified locations, but does add residential care facilities to the list of specified locations and also modifies certain conditions.

The bill changes the membership of the Committee on Prescriptive Governance (CPG) to consist of three nurses, three physicians, and one pharmacist instead of four nurses, four physicians, and two pharmacists. The bill requires at least four voting members be present in order for the CPG to conduct official business. The bill specifies that the pharmacist member is a nonvoting member. The CPG is required to meet at least twice per year. In addition, CPG must develop and submit to the Board at least twice per year a recommended exclusionary formulary for the Board's approval. The Board is required to adopt rules consistent with the recommended exclusionary formulary submitted by the Committee. The Board could experience an increase in

administrative costs to adopt rules developing an exclusionary formulary twice a year. There might be a minimal decrease in reimbursements for necessary and actual expenses due to the reduction in Board members.

Advisory Committee on Advanced Practice Registered Nursing

The bill establishes the Advisory Committee on Advanced Practice Registered Nursing (ACAPRN), which would advise the Board on the practice and regulation of APRNs. The Committee would consist of the following members appointed by the Board:

1. Four APRNs who are actively practicing in Ohio in clinical settings, at least one of whom are actively engaged in providing primary care, at least one of whom is actively engaged in practice as a CRNA, and at least one of whom is actively engaged in practice as a certified nurse-midwife;
2. Two APRNs who each serve as faculty members of approved programs of nursing education that prepare students for licensure as APRNs;
3. One member of the Board who is an APRN;
4. One representative of an entity that employs ten or more APRNs who are actively practicing in Ohio.

The bill authorizes the ACAPRN to make recommendations to the CPG. There might be a minimal increase in reimbursements for necessary and actual expenses for ACAPRN board members.

Advanced pharmacology

The bill continues the requirement that an applicant, other than a CRNA applicant, provide to the Board evidence of successfully completing a course of study in advanced pharmacology. However, the bill specifies that the course of study is to be completed no longer than five years (this time period is currently three years) before the application is filed. The Board anticipates minimal administrative costs associated with the change.

License application and renewal

The bill authorizes the Board to impose an application fee not to exceed $150. The current application fee for a certificate of authority cannot exceed $100, while the application fee for a CTP cannot be more than $50. The renewal fee for an APRN is not to exceed $135 under the bill, while the current renewal fee for a certificate of authority cannot be more than $85 and the renewal for a certificate to prescribe cannot exceed $50. The bill specifies that an APRN license and an RN license ($65 current renewal fee) must be renewed separately. There should be no fiscal impact associated with this provision since an APRN will pay $150 for the initial application fee and $135 for a renewal fee, which is the same as current costs for both an initial and renewal certificate of authority and certificate to prescribe. APRNs will also continue to pay the $65 renewal RN license fee.

Unauthorized practice

The bill prohibits a person who is not authorized to prescribe or furnish drugs and therapeutic devices from doing so unless the person holds an APRN license and is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. A person violating this provision could be found guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense. There could be fines and county court costs and potential state incarceration expenses for any violations.

Professional discipline

The bill specifies that both of the following are additional grounds for the Board to impose professional discipline on a nurse: the revocation, suspension, restriction, reduction, or termination of clinical privileges by the U.S. departments of Defense or Veterans Affairs and (2) the termination or suspension of a certificate of registration to prescribe drugs by the Drug Enforcement Administration. It is possible that the Board could realize an increase in costs for any additional disciplinary measures resulting from the provision.

Notice of overdose death

The bill authorizes a coroner to notify the Board of Nursing and the State Dental Board of certain information regarding a drug overdose death. Existing law permits a coroner to notify the State Medical Board of this information. A county coroner could realize an increase in administrative costs if he or she chooses to notify these additional boards.

Other changes

Insurance and maternity benefits

Current law requires that an individual or group health insuring corporation policy, individual or group policy of sickness and accident insurance, public employee benefit plan, or multiple welfare arrangement that provides maternity benefits, as well as Medicaid, provide coverage for certain care following a delivery, but only if the care is from a physician-directed source. The bill provides coverage of follow-up care directed by either a physician or APRN.

Do-not-resuscitate order

In the case of a do-not-resuscitate (DNR) order, existing law allows two types of APRNs, CNPs, and CNSs, to take any action that an attending physician may take. The bill extends this authority to the other two types of APRNs, CNMs and CRNAs. Local hospitals may experience minimal cost savings if APRNs are able to act autonomously in the case of a DNR order allowing physicians to attend to other patients or business.

Podiatrist supervision of hyperbaric oxygen therapy

The bill authorizes a podiatrist to order and supervise hyperbaric oxygen therapy if the podiatrist meets certain conditions. The State Medical Board may have an increase in costs if there are any additional administrative duties, such as additional complaint investigations related to this provision.

Diabetes prevalence assessment

The bill requires the Director of Health to convene meetings with staff of the Ohio departments of Health, Medicaid, and Administrative Services, as well as the Commission on Minority Health to, among other things: assess the prevalence of all types of diabetes, including disparities in populations and local jurisdictions; establish and reevaluate goals for each of the agencies to reduce that prevalence; and identify how to measure the progress achieved toward attaining goals. No later than January 31 of each even-numbered year the ODH Director is required to submit a report that contains certain information regarding the assessment, as well as actions taken and policies recommended, and a budget proposal that identifies needs and resources to implement the recommendations. The bill specifies other things that are to be included in the report. The bill specifies that nothing requires the specified agencies to establish programs for diabetes that had not been initiated or funded previously. The specified agencies will have an increase in administrative costs to perform these duties and to create the report.

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