



# OHIO LEGISLATIVE SERVICE COMMISSION

Robert Meeker

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 101 of the 132nd G.A.

**Status:** As Passed by the House

**Sponsor:** Rep. Merrin

**Local Impact Statement Procedure Required:** No

**Subject:** Pharmacist authority to substitute and administer epinephrine autoinjectors

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### State & Local Fiscal Highlights

- There should be no discernible ongoing costs for the State Board of Pharmacy or local boards of health to adopt and enforce rules authorizing a pharmacist to administer epinephrine by injection without a prescription.
- Pharmacists will generally comply with the bill's regulations regarding substitution, making violations infrequent. It is likely that revenues collected from violators (fines, court costs, and fees) will offset to some degree the costs that counties and municipalities incur to process minor misdemeanors.
- Violations of the bill's prohibitions may generate a negligible amount of locally collected state court cost revenue annually for deposit into the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

### Detailed Fiscal Analysis

The bill: (1) allows a local board of health, following rules to be adopted by the State Board of Pharmacy, to authorize pharmacists and pharmacy interns to dispense epinephrine autoinjectors to certain individuals without a prescription, and (2) allows pharmacists to substitute a prescribed epinephrine autoinjector for another with certain restrictions.

#### Pharmacy Board rules and protocol

The bill requires the Board, not later than 90 days after the bill's effective date, to adopt rules authorizing the dispensing of epinephrine without a prescription. The rules must specify minimum requirements for physician-established protocols that authorize pharmacists and pharmacy interns to dispense epinephrine without a prescription. Before adopting the rules, the Board must consult with the State Medical Board. Persons to whom a pharmacist or pharmacy intern may dispense an epinephrine autoinjector without a prescription include: (1) an individual that is experiencing or is at risk of experiencing anaphylaxis under defined conditions, and (2) an individual acting on behalf of a qualified entity.

A board of health may authorize pharmacists and pharmacy interns within its jurisdiction to dispense epinephrine without a prescription in accordance with a protocol developed by a physician serving as the board's health commissioner or medical director.

Violators would be subject to the Board's disciplinary procedures.<sup>1</sup> These rule-making and enforcement duties are not expected to create any discernible ongoing costs for the Board or for local boards of health.

### **Epinephrine substitution**

Regulations for substitution include provisions for which a violation by the pharmacist or pharmacy intern (dispenser) is a minor misdemeanor: (1) the dispenser is prohibited from providing a substitute if the person receiving the autoinjector says not to or the prescriber has indicated not to, (2) the dispenser may only dispense a substitute if the price to the patient is less than or equal to the prescribed autoinjector, (3) the dispenser must inform the patient if a cheaper option is available and notify the patient of the right to refuse substitution, and (4) certain labeling requirements.

The bill prohibits a pharmacist from knowingly engaging in conduct concerning autoinjector substitution that is prohibited by the bill, a violation of which is a minor misdemeanor. As pharmacists generally will comply with the bill's requirements, violations are expected to be relatively infrequent.

Under current law, unchanged by the bill, law enforcement can only issue a citation for a minor misdemeanor; the person being cited generally cannot be arrested. If the person pays the associated fine of up to \$150, court costs, and fees, that person is in effect pleading guilty and waiving the requirement that they make a court appearance.

The time and cost for a municipal or county court to process a minor misdemeanor is relatively low, with most persons cited typically opting to pay the fine, court costs, and fees, and waive a court appearance. This likely means that in many cases the fine, court costs, and fees collected will offset some, if not all, of the cost associated with processing citations.

In addition, a violator will be assessed \$29 in state court costs for a misdemeanor violation, of which \$20 is credited to the Indigent Defense Support Fund (Fund 5DY0) and the remainder, or \$9, is credited to the Victims of Crime/Reparations Fund (Fund 4020). The total amount of state revenue collected annually will be negligible, as the number violators is expected to be relatively small.

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<sup>1</sup> The disciplinary actions the State Board of Pharmacy may take include revoking, suspending, or limiting the pharmacist's or intern's identification card; placing the pharmacist's or intern's identification card on probation; refusing to grant or renew the pharmacist's or intern's identification card; or imposing a monetary penalty or forfeiture not to exceed \$500. Any forfeiture collected is credited to the Occupational Licensing and Regulatory Fund (Fund 4K90).