



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **Sub. S.B. 259\***

132nd General Assembly

(As Reported by S. Health, Human Services and Medicaid)

Sen. Hackett

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### **BILL SUMMARY**

- Eliminates provisions that limit the drugs a physician assistant may be authorized to prescribe to those included in a formulary established by the State Medical Board.
- Explicitly prohibits a physician assistant from prescribing any drug in violation of state or federal law.
- Permits a physician assistant to delegate to another person the task of administering a drug only if the physician assistant is authorized to prescribe that drug.
- Authorizes a physician assistant to personally furnish samples of drugs and therapeutic devices that are not in the physician assistant's physician-delegated prescriptive authority.
- Makes an out-of-state, military, or U.S. Public Health Service physician assistant eligible for an Ohio license if the physician assistant has practiced for at least two years in the other jurisdiction or service, passes an examination or assessment, or has limitations placed on the license.
- Exempts a physician assistant from the requirement to have on-site supervision by a physician during the first 500 hours after initial licensure if the physician assistant has practiced in the military or U.S. Public Health Service for at least 1,000 hours.
- Increases to five (from three) the number of physician assistants a physician may supervise at any one time.

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\* This analysis was prepared before the report of the Senate Health, Human Services and Medicaid Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Eliminates a requirement that a physician assistant supervision agreement be filed with and approved by the Medical Board.
- Reduces to one (from two) the number of pharmacists on the Medical Board's Physician Assistant Policy Committee, and authorizes the Committee to meet through videoconferencing and teleconferencing.

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## CONTENT AND OPERATION

### Physician assistant prescriptive authority

#### Formulary

The bill potentially expands the authority of physician assistants to prescribe drugs by eliminating the State Medical's Board's authority to adopt a physician assistant formulary.<sup>1</sup> The formulary is the list of drugs and therapeutic devices a physician assistant's supervising physician may select from when deciding which drugs and therapeutic devices to authorize the physician assistant to prescribe. This authorization from the supervising physician to the physician assistant is called "physician-delegated prescriptive authority."<sup>2</sup> (Physician-delegated prescriptive authority is unique to each physician assistant, although physician assistants in the same practice may be granted the same authority at the discretion of the supervising physician.) The bill makes conforming changes to other provisions associated with the formulary's elimination.<sup>3</sup>

Although the bill eliminates the formulary, it maintains the Board's authority to adopt rules governing physician-delegated prescriptive authority.<sup>4</sup> Existing law not modified by the bill requires that the rules permit a physician assistant to exercise prescriptive authority only to the extent authorized by the supervising physician and require the physician assistant to comply with all conditions the supervising physician places on the authority.<sup>5</sup>

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<sup>1</sup> R.C. 4730.39(A)(1) and (C); R.C. 4730.40, repealed.

<sup>2</sup> See R.C. Chapter 4730., in general.

<sup>3</sup> References to the formulary are removed from law governing the Physician Assistant Policy Committee (R.C. 4730.06 and 4730.38(B)), physician assistant delegation of tasks (R.C. 4730.203(C)(2)), and conditions on physician-delegated prescriptive authority (R.C. 4730.42(A)(1)).

<sup>4</sup> R.C. 4730.39(A) and (B).

<sup>5</sup> R.C. 4730.41(B)(1).

## **Prescriber number; compliance with state and federal law**

Currently, a physician assistant who holds a valid prescriber number issued by the Medical Board is authorized to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority.<sup>6</sup> The bill requires the Medical Board to issue a prescriber number to each physician assistant who is authorized to exercise physician-delegated prescriptive authority under a supervision agreement (see below).<sup>7</sup>

The bill expressly prohibits a physician assistant from prescribing any drug in violation of state or federal law.<sup>8</sup> Although the bill does not reference any particular law, federal law does prohibit, for example, possession or use of marijuana.<sup>9</sup>

## **Delegation of drug administration**

Under existing law, a physician assistant may delegate administration of a drug if certain requirements are met.<sup>10</sup> The bill eliminates a provision requiring the Medical Board to establish standards and procedures for physician assistant delegation of drug administration.<sup>11</sup>

Since the bill eliminates the Medical Board's authority to adopt the physician assistant formulary, the bill eliminates the requirement that the drug delegated be one that is included on the formulary. However, the bill specifies that the physician assistant must be authorized to prescribe the drug.<sup>12</sup>

## **Authority to personally furnish samples**

Currently, if certain requirements are met, a physician assistant who holds a valid prescriber number from the Medical Board may personally furnish samples of drugs and therapeutic devices that are included in the physician assistant's physician-

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<sup>6</sup> R.C. 4730.41(A).

<sup>7</sup> R.C. 4730.15(D).

<sup>8</sup> R.C. 4730.41(C).

<sup>9</sup> 21 United States Code 812.

<sup>10</sup> R.C. 4730.203(C).

<sup>11</sup> R.C. 4730.39(A).

<sup>12</sup> R.C. 4730.203(C).



delegated prescriptive authority. "Personally furnish" means distribution of drugs by a prescriber to patients for use outside the prescriber's practice setting.<sup>13</sup>

The bill removes the requirement that the drugs and therapeutic devices personally furnished as samples be in the physician assistant's physician-delegated prescriptive authority.<sup>14</sup> This change means that a physician assistant may personally furnish samples that are not in the physician assistant's physician-delegated prescriptive authority as long as other conditions on personally furnishing samples, unchanged by the bill, are met.

## **Out-of-state, military, and U.S. Public Health Service physician assistants**

### **Acquisition of Ohio licensure**

Under current law, a physician assistant who has practiced for at least three consecutive years in another jurisdiction or in the U.S. armed forces or the U.S. Public Health Service Commissioned Corps may acquire Ohio licensure. This three-year service requirement is in lieu of the requirement that the physician assistant have either (1) a master's or higher degree from a program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or (2) a degree, other than a master's or higher, from an ARC-PA accredited program *and* a master's or higher degree in a course of study with clinical relevance to physician assistant practice from a program accredited by a regional or specialized and professional accrediting agency recognized by the Council for Higher Education Accreditation.<sup>15</sup>

The bill replaces the three-year period of service requirement with two other options. Instead, an out-of-state, military, or U.S. Public Health Service physician assistant who is applying for an Ohio license may (1) show that the physician assistant practiced for at least two years immediately preceding the licensure application date or (2) meet one or more of the following requirements:<sup>16</sup>

--Pass an oral or written examination or assessment, or both types of examination or assessment, that determined the applicant's present fitness to resume practice;

--Obtain additional training and pass an examination or assessment on completion of the training; or

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<sup>13</sup> Ohio Administrative Code 4729-5-01.

<sup>14</sup> R.C. 4730.43(A).

<sup>15</sup> R.C. 4730.11.

<sup>16</sup> R.C. 4730.11(C)(1) and (3).



--Agree to limitations on the applicant's extent, scope, or type of practice.

### **First 500 hours of prescriptive authority**

Under existing law, a physician assistant is generally limited to exercising the first 500 hours of physician-delegated prescriptive authority under the on-site supervision of the physician assistant's supervising physician. An exception to this requirement applies to a physician assistant who, before applying for Ohio licensure, practiced with prescriptive authority in another jurisdiction for at least 1,000 hours. The bill extends this exception to a military or U.S. Public Health Service physician assistant who has practiced with prescriptive authority in the military or U.S. Public Health Service for at least 1,000 hours.<sup>17</sup>

Regarding a military or U.S. Public Health Service physician assistant who does not have the minimum 1,000 hours of experience described above and must meet the on-site supervision requirement, the bill specifies that such a physician assistant meets the on-site supervision requirement if the supervision is provided by any licensed physician, including an out-of-state physician.<sup>18</sup> The bill requires that a record of these hours be kept by a supervising physician of the physician assistant.<sup>19</sup>

### **Supervision agreements**

Under current law, each physician assistant and supervising physician must enter into a supervision agreement. On receipt of notice from the Medical Board acknowledging its approval of the agreement, the physician may begin supervising the physician assistant and the physician assistant may begin practicing under that physician's supervision.<sup>20</sup>

The bill increases to five (from three) the number of physician assistants that a physician may supervise at any one time.<sup>21</sup> It also removes the requirement that a supervision agreement, and any amendments to an agreement, be filed with and approved by the Medical Board.<sup>22</sup>

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<sup>17</sup> R.C. 4730.44(B) and (C).

<sup>18</sup> R.C. 4730.44(B).

<sup>19</sup> R.C. 4730.44(D).

<sup>20</sup> R.C. 4730.18, not in the bill, and 4730.19.

<sup>21</sup> R.C. 4730.21(B).

<sup>22</sup> R.C. 4730.19(C).



Under current law, the Medical Board may impose a civil penalty of not more than \$1,000 if it finds that a physician assistant is not complying with an applicable supervision agreement or that a physician is not supervising a physician assistant in conformance with that agreement. The bill increases the maximum amount of the civil penalty to \$5,000. In addition, the bill provides that a physician is subject to the civil penalty for failing to comply with any provision of the law governing supervision agreements.<sup>23</sup>

## **Physician Assistant Policy Committee**

The bill reduces to one (from two) the number of pharmacists who serve on the Medical Board's Physician Assistant Policy Committee.<sup>24</sup> It also removes the requirement that the Committee meet at least four times annually, and instead, requires that it meet "as necessary."<sup>25</sup> Among other duties, the Committee develops and revises policy and procedures for physician-delegated prescriptive authority for physician assistants.<sup>26</sup>

The bill also authorizes the Medical Board to permit the Committee to use videoconferencing, teleconferencing, or both, if all of the following conditions are met:<sup>27</sup>

--The meeting location is open and accessible to the public;

--Each member is permitted to choose whether the member attends in person or through the use of the meeting's videoconferencing or teleconferencing;

--Any meeting-related materials available before the meeting are sent to each member by email, facsimile, or U.S. mail, or are hand-delivered;

--If interactive videoconferencing is used, there is a clear video and audio connection that enables all participants at the meeting location to see and hear each member;

--If teleconferencing is used, there is a clear audio connection that enables all participants at the meeting location to hear each member;

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<sup>23</sup> R.C. 4730.19(E)(1).

<sup>24</sup> R.C. 4730.05(A)(4).

<sup>25</sup> R.C. 4730.05(F).

<sup>26</sup> R.C. 4730.06.

<sup>27</sup> R.C. 4730.05(F).



--A roll call is recorded for each vote taken; and

--The meeting minutes specify for each member whether the member attended by videoconference, teleconference, or in person.

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## HISTORY

ACTION	DATE
Introduced	02-20-18
Reported, S. Health, Human Services & Medicaid	---

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