



OHIO LEGISLATIVE SERVICE COMMISSION

Robert Meeker

Fiscal Note & Local Impact Statement

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

Status: As Enacted

Sponsor: Rep. Merrin

Local Impact Statement Procedure Required: No

Subject: Pharmacist authority to substitute and administer epinephrine and opioid treatment facility regulations

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).
- The bill will generate additional criminal records checks to be processed by the Ohio Attorney General's Bureau of Criminal Investigation (BCI). BCI's work and related costs are offset by the collection of criminal records check fees.

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, (2) allows pharmacists to substitute a prescribed epinephrine autoinjector for another with certain restrictions, (3) exempts certain opioid treatment facilities from licensure requirements under certain specified conditions, and (4) establishes employment conditions for employees at office-based opioid treatment facilities.

Pharmacy Board epinephrine 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. Pharmacists and pharmacy interns who violate the rules would be subject to the Board's disciplinary procedures.¹

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.

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

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 of violators is expected to be relatively small.

¹ 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).

Office-based opioid treatment facility licensure exemptions

Regarding office-based opioid treatment facilities, the bill: (1) exempts certain facilities from licensure by the State Board of Pharmacy, and (2) specifies conditions for licensure exemption for facilities licensed or certified by the Ohio Department of Mental Health and Addiction Services. These provisions are not expected to have any discernible ongoing effect on the workload and related revenue-generating activities of either the Board or the Department.

Employment at office-based opioid treatment facilities

The bill: (1) requires that each person seeking employment with a licensed office-based opioid treatment facility submit to a criminal records check, (2) narrows the disqualification from employment at a licensed office-based opioid treatment facility under current law, and (3) authorizes the State Board of Pharmacy to waive the disqualification under certain circumstances.

The Ohio Attorney General's Bureau of Criminal Investigation (BCI) processes criminal records checks. BCI's work and related costs are offset by the collection of criminal records check fees. The fees charged for the state and FBI criminal records checks are \$22 and \$24, respectively. The entirety of the \$22 state criminal records check fee and \$2 of the \$24 FBI criminal records check fee are credited to the Attorney General's General Reimbursement Fund (Fund 1060), which is used to support the Attorney General's operating expenses. The remaining \$22 of the FBI criminal records check fee is sent to the FBI.

The provisions to narrow the terms for employment disqualification and to allow the Board to waive those terms under certain circumstances are not expected to have a direct fiscal effect on the state or any of its political subdivisions.