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H.B. 6*

134th General Assembly

Bill Analysis

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Version: As Reported by Senate Government Oversight and Reform

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SUMMARY

Administration of immunizations and COVID-19 tests

- Authorizes podiatrists to administer COVID-19 vaccines to individuals seven and older.
- Prohibits an individual who is authorized to administer a vaccine from administering to a minor a COVID-19 vaccine without first obtaining written permission from the minor's parent or guardian.
- Authorizes a pharmacist or pharmacy intern to administer COVID-19 vaccines to individuals seven and older.
- Authorizes a pharmacist or pharmacy intern to administer any vaccines to individuals 13 and older, rather than only those included in federal recommended schedules as under current law.
- Authorizes a pharmacist to order and administer diagnostic tests for COVID-19 and COVID-19 antibodies.
- Authorizes a pharmacy intern or certified pharmacy technician to administer diagnostic tests for COVID-19 and COVID-19 antibodies if the intern or technician is under the direct supervision of a pharmacist.

* This analysis was prepared before the report of the Senate Government Oversight and Reform Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

Registration of pharmacy technician trainees

- Revises the law governing the registration of pharmacy technician trainees, including by authorizing the State Board of Pharmacy to register an applicant who is 17 if certain conditions are met.

Temporary nursing licenses without examination

- Continues until July 1, 2021, the suspension of the requirement that an applicant pass a licensure examination to receive a license to practice as a registered nurse or licensed practical nurse and adds eligibility limitations.
- Specifies that a nursing license issued without examination is valid until July 1, 2021, unless the licensee does not take or fails the licensure examination, is convicted of a felony, or fails a drug test.

Pupil services licenses and school nurses

- Revises the educational qualifications governing the pupil services licensure exemption available to school nurses.

Educator preparation program make up hours and weeks

- Requires each educator preparation program to develop and implement a plan to provide its students with alternative experiences in the 2021-2022 academic year to make up hours or weeks of clinical experiences missed due to school closure or limited hours because of COVID-19.
- Requires the Department of Higher Education and Department of Education to consider a student who successfully completes make-up hours or weeks in the 2021-2022 academic year using alternative experiences eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences.

Re-established low-income energy efficiency programs

- Requires electric distribution utilities (EDUs) to re-establish from portfolio plans that terminated December 31, 2020, energy efficiency (EE) programs for low-income customers with an annual income at or below 200% of the federal poverty level.
- Requires the re-established low-income EE programs to include the same terms and conditions, including its originally allocated funding level, that the Public Utilities Commission (PUCO) approved for the program before its termination.
- Terminates the re-established low-income EE programs on December 31, 2021.
- Requires PUCO to issue an order requiring EDUs to re-establish their low-income EE programs and setting forth the process for their re-establishment.
- Prohibits the PUCO order from permitting new or extended cost recovery mechanisms for the re-established programs.

- Provides for the reconciliation of the difference between revenue collected and the compliance efforts occurring prior to (1) December 31, 2021, for re-established programs and (2) the date upon which full energy savings compliance is deemed achieved for all other EE compliance efforts.

Effective date

- Declares an emergency.

DETAILED ANALYSIS

Podiatrist administration of COVID-19 vaccinations

The bill authorizes podiatrists to administer vaccinations against COVID-19 to individuals age seven and older.¹ This is in addition to recently enacted law² that grants podiatrists authority to administer flu shots to individuals age seven and older. Except for the law governing podiatrist administration of flu and COVID-19 vaccinations, the practice of podiatric medicine is otherwise limited to the treatment of foot and foot-related ailments and superficial hand lesions.³

Administration of COVID-19 vaccinations to minors

The bill prohibits an individual who is authorized to administer a vaccine from administering to a minor a COVID-19 vaccine without first obtaining written permission from the minor's parent or legal guardian.⁴ Before rendering medical treatment, a health care professional is generally required to obtain informed consent from the patient.⁵ Consistent with the doctrine that minors are incompetent to consent on their own and that parents are responsible for the custody, care, and control of their minor children,⁶ consent of a parent or guardian is generally required before a minor may receive a vaccine. The bill clarifies that this consent must be in writing.

Pharmacist administration of immunizations and COVID-19 tests

COVID-19 immunizations and tests

Subject to the same requirements and limitations as in current law for the administration of flu shots, the bill authorizes a pharmacist or pharmacy intern to administer COVID-19 vaccines to individuals seven and older. Some of the requirements in current law that

¹ R.C. 4731.512.

² S.B. 178 of the 133rd General Assembly. Available [here](#).

³ R.C. 4731.51, not in the bill.

⁴ R.C. 3792.03.

⁵ *White v. Leimbach* 131 Ohio St.3d 21 (2011).

⁶ *Meyer v. Nebraska* 262 U.S. 390 (1923).

apply through the bill to pharmacist and pharmacy intern administration of COVID-19 immunizations include (1) completing a course in the administration of immunizations, (2) maintaining CPR certification, and (3) practicing in accordance with a physician-established protocol.⁷

In addition to authorizing the administration of COVID-19 vaccines, the bill allows a pharmacist to order and administer diagnostic tests for COVID-19 and tests for COVID-19 antibodies. Additionally, pharmacy interns and certified pharmacy technicians may administer the tests if under the direct supervision of a pharmacist.⁸

Other immunizations

The bill authorizes pharmacists and pharmacy interns to administer to individuals 13 and older immunizations for any disease.⁹ Current law limits this authority to only those immunizations included on the immunization schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention in the U.S. Department of Health and Human Services. The bill maintains the law allowing pharmacists and pharmacy interns to administer flu shots to individuals seven and older.

Registration of pharmacy technician trainees

The bill makes three changes to the law governing the registration of pharmacy technician trainees. First, it authorizes the State Board of Pharmacy to register an applicant who is 17 years old and does not possess a high school diploma or equivalent if the applicant for registration is enrolled in a Board-approved career-technical education program. Generally, to be eligible for registration, an applicant must be age 18 or older and possess a high school diploma or equivalent certificate.¹⁰

Second, the bill allows the Board to extend the time period during which a registration is valid. Current law provides for a one-year registration period.

Third, the bill requires the Board to comply with the law known as the “Fresh Start Act,” enacted by H.B. 263 of the 133rd General Assembly, when registering a pharmacy technician trainee who is either of the following:

- Licensed or registered as a technician trainee in another state;
- Has satisfactory work experience, government certification, or private certification as a pharmacy technician trainee in a state that does not issue a license or registration.

The Fresh Start Act generally prohibits any state licensing authority from refusing to issue an initial license or other authorization allowing an individual to engage in any profession,

⁷ R.C. 4729.41.

⁸ R.C. 4729.42.

⁹ R.C. 4729.41(A)(2).

¹⁰ R.C. 4729.92 and 4729.921.

occupation, or occupational activity regulated by the licensing authority based on certain prior criminal offenses.¹¹

Pupil services licenses and school nurses

The bill revises the law governing an exemption from the pupil services licensure requirement that is available to the following licensed professionals: registered nurses, social workers, audiologists, speech-language pathologists, occupational therapists, occupational therapy assistant, physical therapists, and physical therapy assistants. At present, Ohio law permits these professionals – if holding current, valid licenses from their respective licensing boards – to be employed in public schools without holding separate pupil services licenses issued by the State Board of Education.

In the case of a licensed registered nurse, however, the nurse is not eligible for the exemption unless the nurse also holds a bachelor's degree in nursing. The bill removes the language requiring the nurse's bachelor's degree to be in nursing.¹²

Temporary nursing licenses without examination

H.B. 197 of the 133rd General Assembly temporarily suspended the requirement that an applicant pass a licensure examination accepted by the Ohio Board of Nursing to receive a license to practice as a registered nurse or licensed practical nurse. The bill changes the duration of the suspension, making it effective from March 9, 2020, through July 1, 2021, in place of being effective during the existence of the COVID-19 emergency period as under current law.

Eligibility

To be eligible for a nursing license issued without examination, the bill specifies that an individual must meet all of the following conditions:

- The individual has not previously taken and failed the licensure examination;
- The individual has not been convicted of, pleaded guilty to, or had a judicial finding of guilt for, any felony;
- The individual has not failed a drug test, as determined by the Board of Nursing;
- The individual did not graduate from a nursing program or course more than two years before submitting an application for the license.

Validity

The bill provides that a nursing license issued without examination is generally valid until July 1, 2021. It is immediately void, however, under the following circumstances:

¹¹ H.B. 263 of the 133rd General Assembly. Available [here](#).

¹² R.C. 3319.221.

- The licensee does not take the licensure examination within 60 days after receiving authorization to test;¹³
- The licensee takes and fails the licensure examination;
- The licensee is convicted of, pleads guilty to, or has a judicial finding of guilt for, any felony;
- The licensee fails a drug test, as determined by the Board of Nursing.

Currently, under H.B. 197, a nursing license issued without examination is valid until whichever of the following occurs first: March 1, 2021 (90 days after December 1, 2020), or the date that is 90 days after the COVID-19 emergency period ends.

Licensure deadlines and H.B. 404 of the 133rd General Assembly

The bill includes language clarifying that provisions of previous enactments, including H.B. 404 of the 133rd General Assembly, extending the dates by which state agencies and license holders must generally comply with licensure deadlines, do not apply to the issuance and validity of nursing licenses issued without examination.¹⁴

Educator preparation program make up hours and weeks

The bill requires each educator preparation program to develop and implement a plan to provide its students with alternative experiences, assignments, or instruction in the 2021-2022 academic year to make up any hours or weeks of clinical experiences missed due to school closure or limited hours because of COVID-19. These alternatives must allow students to demonstrate mastery of the expected outcomes of clinical experiences. They may include:

1. Virtual learning;
2. Designing lessons and units of instruction;
3. Selecting and implementing instructional strategies;
4. Teaching lessons and content;
5. Assessing learning to evaluate student progress and inform instructional decisions;
6. Creating a supportive learning environment;
7. Managing the classroom effectively; and
8. Other appropriate activities.

The bill requires the Department of Higher Education and the Department of Education to consider a student who successfully completes make-up hours or weeks in the 2021-2022

¹³ See NCSBN, *Before the Exam: NCLEX Registration and Authorization to Test*, <https://www.ncsbn.org/before-the-exam.htm>.

¹⁴ Section 30 of H.B. 197 of the 133rd General Assembly and Sections 6 and 7.

academic year using these alternatives eligible for licensure and endorsement recommendations in the same manner as a student who completes clinical experiences.

The bill specifies that this provision does not apply to a barber school or school of cosmetology.¹⁵

Background

Approval of educator preparation programs

Continuing law requires the Chancellor of Higher Education and Superintendent of Public Instruction to establish metrics for the preparation of educators and other school personnel, which must be aligned with the standards for educator licenses adopted by the State Board of Education. The Chancellor must approve institutions of higher education engaged in the preparation of educators and other school personnel that the Chancellor determines maintain satisfactory training procedures and records of performance.¹⁶

Administrative rules regarding clinical experiences

Under the Chancellor's rules, an educator preparation program must be designed to include a minimum of 100 clock hours of field experience prior to student teaching and a minimum of 12 weeks of student teaching for initial teacher licensure. Additionally, an educator preparation program must include a minimum of 50 clock hours of field experiences for each endorsement and each additional licensure area beyond the candidate's initial license.¹⁷

Educator preparation programs and COVID-19 guidance

The Department of Higher Education issued guidance to educator preparation programs in March 2020 regarding students who were at risk of not meeting clinical experience requirements due to efforts to curb the spread of COVID-19. That guidance, which was updated in August 2020 and applies to the 2020-2021 academic year, indicates that the Department is providing programs with flexibility in meeting the requirements for student clinical experiences. Programs must offer students alternative experiences, assignments, or instruction to allow students to demonstrate mastery of expected outcomes as an alternative to traditional experiences. Students who successfully complete the alternative experiences will be eligible for licensure and endorsement recommendations.¹⁸

Re-established low-income energy efficiency programs

The bill requires electric distribution utilities (EDUs) to re-establish energy efficiency (EE) programs for low-income customers with an annual income at or below 200% of the federal poverty level if the EDUs had such plans as part of their portfolio plans that terminated on December 31, 2020. Under the bill, re-established low-income EE programs must include the

¹⁵ Section 8.

¹⁶ R.C. 3333.048, not in the bill.

¹⁷ Ohio Administrative Code 3333-1-05(C).

¹⁸ <https://www.ohiohighered.org/educator-preparation/covid-19-guidance>.

same terms and conditions that the Public Utilities Commission (PUCO) approved for the program before its termination. Each re-established program also must include its originally allocated funding level. Re-established programs terminate on December 31, 2021.¹⁹

PUCO order for re-established programs

PUCO must issue an order requiring EDUs to re-establish the low-income EE programs described above. The order also must set forth the process for the programs' re-establishment.

The bill prohibits PUCO from permitting any new cost recovery mechanisms for the re-established low-income EE programs and also prohibits PUCO from extending any cost recovery mechanisms that existed before these programs were re-established.²⁰

Cost recovery and reconciliation for EE programs

The bill provides for a period during which EDUs may reconcile the difference between revenue collected from customers and the allowable cost for EE compliance efforts occurring prior to (1) December 31, 2021, for re-established low-income EE programs and (2) the date upon which full energy savings compliance is deemed achieved, for all other compliance efforts.²¹ Current law does not set a different reconciliation date for low-income EE programs.

Background

Prior to the enactment of H.B. 6 of the 133rd General Assembly EDUs were required to meet cumulative energy savings requirements that increased to over 22% during the period ending in 2027. The changes enacted by H.B. 6 ended the energy savings requirements in 2020 and required PUCO to determine, by February 1, 2021, the cumulative energy savings collectively achieved since 2009 by all Ohio EDUs as of December 31, 2020.²²

The law provides that if the cumulative energy savings collectively achieved equals at least 17.5%, full compliance with the requirement is deemed to have been achieved. If full compliance is achieved, EDUs are no longer required to implement EE programs, and rate mechanisms to recover the costs of implementing the EE programs terminate upon the date that full compliance is deemed achieved.²³ On February 24, 2021, PUCO issued an order (1) confirming that the EDUs met the 17.5% cumulative energy savings requirement at approximately 19.8% and (2) terminating the EDUs' EE and peak demand reduction cost recovery riders.²⁴

¹⁹ R.C. 4928.661(A) and (B).

²⁰ R.C. 4928.661(C).

²¹ R.C. 4928.66(G)(3).

²² R.C. 4928.66(A)(1)(a) and (G)(1).

²³ R.C. 4928.66(G)(2) and (3).

²⁴ See PUCO Case No. 16-574-EL-POR, available [here](#) (accessed on February 25, 2021).

Current law allows EDUs to reconcile the difference between revenue collected and the allowable costs of compliance associated with complying with the energy savings requirements, and ongoing law, unchanged by the bill, prohibits the extension of the cost recovery mechanism beyond the time required for this final reconciliation.²⁵

HISTORY

Action	Date
Introduced	02-03-21
Reported, H. State & Local Gov't	02-25-21
Passed House (96-2)	03-03-21
Reported, S. Gov't Oversight & Reform	---

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²⁵ R.C. 4928.66(G)(3).