

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 99** DATE: **May 30, 2007**
STATUS: **As Introduced** SPONSOR: **Rep. Schneider**
LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**
CONTENTS: **Epilepsy drugs**

State Fiscal Highlights

STATE FUND	FY 2007*	FY 2008	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	Potential negligible gain in locally collected state court costs	Potential negligible gain in locally collected state court costs
Expenditures	- 0 -	- 0 -	- 0 -
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	- 0 -	Potential negligible gain in locally collected state court costs	Potential negligible gain in locally collected state court costs
Expenditures	- 0 -	- 0 -	- 0 -
Occupational Licensing and Regulatory Fund (Fund 4K9)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	No readily discernible fiscal effect	No readily discernible fiscal effect

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

* For the purposes of this fiscal analysis, it is assumed that any of the bill's state fiscal effects would occur sometime after FY 2007.

- **Court cost revenues.** Assuming that violations of the bill's provision will be relatively infrequent, then it seems unlikely that the state's potential gain in annual court cost revenues deposited to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402) would exceed negligible. For the purposes of this fiscal analysis, a "negligible" amount of revenue means an estimated gain of less than \$1,000 for each of the aforementioned state funds per year.
- **State Board of Pharmacy.** Based on a conversation with staff of the State Board of Pharmacy, incorporating the bill's provision into the Board's ongoing day-to-day business will be relatively easy and generate no readily discernible impact on operating costs. The Board's day-to-day business is supported almost entirely by moneys appropriated from Fund 4K9, the occupational licensing and regulatory board fund that receives fees and other



assessments collected by certain independent professional and occupational state licensing boards and in turn finances the annual operating expenses of those state boards.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential gain in court costs and fines, likely to be minimal at most	Potential gain in court costs and fines, likely to be minimal at most	Potential gain in court costs and fines, likely to be minimal at most
Expenditures	Potential, at most minimal, increase to process and resolve minor misdemeanors	Potential, at most minimal, increase to process and resolve minor misdemeanors	Potential, at most minimal, increase to process and resolve minor misdemeanors

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Local criminal justice revenues and expenditures.*** As of this writing, it appears that the issuance of a minor misdemeanor citation for violating the bill's provision relative to the selection of generically equivalent drugs for epilepsy will be relatively infrequent. Assuming that were true, to the degree that any county or municipality is noticeably affected by violations of the bill's provision, such a jurisdiction seems unlikely to incur additional operating costs, or generate additional court cost and fine revenues, in excess of minimal. For the purposes of this fiscal analysis, "minimal" means a potential expenditure increase and related revenue gain estimated at no more than \$5,000 for any county or municipality per year.

Detailed Fiscal Analysis

Overview

The bill prohibits a pharmacist from interchanging a drug for epilepsy or seizures without notifying the health professional who prescribed the drug and receiving the written consent of the prescriber and the patient. A violation of this prohibition would be a minor misdemeanor.

Under current law, subject to certain exceptions, a law enforcement officer does not arrest a person for the commission of a minor misdemeanor, but does issue a citation. In lieu of appearing at the time and place stated in the citation, the person may, within seven days after the date of issuance of the citation, sign a guilty plea and a waiver of trial provision of the citation, and pay the total amount of fines and costs. Each court is required to establish a fine schedule that lists the fine for each misdemeanor; the fine may be up to, but cannot exceed, \$150 in the case of a minor misdemeanor.

Subject to certain conditions being met, current law generally permits a pharmacist filling a prescription for a brand name drug to select a generically equivalent drug. Based on a conversation with staff of the State Board of Pharmacy, it appears that citing a pharmacist for violating existing law relative to the matter of drug substitutions is extremely rare. It is also the case that the Board has never been required to take disciplinary action against a pharmacist for violating the conditions permitting drug substitutions. As of this writing, the available information suggests to LSC fiscal staff that pharmacists will comply with the bill's provision relative to the selection of generically equivalent drugs for epilepsy and that noncompliance will be relatively infrequent.

Local fiscal effects

County and municipal revenues and expenditures

As noted, LSC fiscal staff assumes for the purposes of this fiscal analysis that the issuance of a minor misdemeanor citation for violating the bill's provision relative to the selection of generically equivalent drugs for epilepsy will be relatively infrequent. Assuming that were true, to the degree that any county or municipality is noticeably affected by violations of the bill's provision, such a jurisdiction seems unlikely to incur additional operating costs, or generate additional court cost and fine revenues, in excess of minimal. For the purposes of this fiscal analysis, "minimal" means a potential expenditure increase and related revenue gain estimated at no more than \$5,000 for any county or municipality per year.

State fiscal effects

Court cost revenues

As noted, additional individuals may be cited for, and either plead guilty to or be convicted of, a minor misdemeanor related to violations of the bill's drug substitution provision. Such an outcome

creates the possibility that the state may gain locally collected court cost revenue that would, pursuant to current law, be deposited in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). For a misdemeanor offense, including a minor misdemeanor, the state court cost totals \$24, with \$15 of that amount being credited to the GRF and the remaining \$9 being credited to Fund 402. Assuming that such violations will be relatively infrequent, then it seems unlikely that the state's potential gain in annual court cost revenues would exceed negligible. For the purposes of this fiscal analysis, a "negligible" amount of revenue means an estimated gain of less than \$1,000 for each of the aforementioned state funds per year.

State Board of Pharmacy

To the degree that the bill affects state expenditures, it will most likely be in the licensing and regulatory activities performed by the State Board of Pharmacy. That said, based on a conversation with staff of the State Board of Pharmacy, incorporating the bill's provision into the Board's ongoing day-to-day business would be relatively easy and generate no readily discernible impact on operating costs.

The Board's day-to-day business is supported almost entirely by moneys appropriated from Fund 4K9, the occupational licensing and regulatory board fund that receives fees and other assessments collected by certain independent professional and occupational state licensing boards and in turn finances the annual operating expenses of those state boards. The fund's revenues consist of license fees and other assessments collected by those boards, as well as various fines and forfeitures collected by the State Board of Pharmacy.

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