



## **FY 2022-2023 Budget Testimony Steven W. Schierholt, Executive Director**

**February 17, 2021**

Chair Roemer, Ranking Member West, and members of the House Finance Subcommittee on Health and Human Services, thank you for the opportunity to provide testimony on the State of Ohio Board of Pharmacy's State Fiscal Year (FY) 2022-2023 budget proposal. My name is Steve Schierholt, and I am the Board's Executive Director.

The Board of Pharmacy was established by the legislature in May of 1884 and consists of nine members, including 8 pharmacists, who are appointed by the Governor for terms of four years. The Board currently has a staff of 96 employees who are responsible for carrying out day-to-day operations. The duties of the Board have grown over the years to include the enforcement of six chapters of the Ohio Revised Code (2925. – Criminal Drug Laws, 3715. – Pure Food and Drug Law, 3719. – Controlled Substance Act, 3796. – Medical Marijuana Control Program, 4729. – Pharmacy Practice Act & Dangerous Drug Distribution Act, and 4752. – Home Medical Services).

In enforcing these chapters, the Board licenses and regulates more than 87,000 pharmacists, pharmacy interns, technicians, dispensary employees, and sites where prescription drugs, medical equipment, and medical marijuana are maintained. Licensed sites include, but are not limited to, retail pharmacies, wholesalers, hospitals, manufacturers, prescriber offices, home medical equipment service providers, veterinary clinics, medical marijuana dispensaries, nursing homes, and emergency medical service organizations.

The Board is requesting a total appropriation of \$18,900,000 in FY 2022 and \$19,450,000 in FY 2023. This budget appropriation, funded entirely through licensing fees and federal grants, will allow the Board to continue its mission to protect Ohioans by ensuring compliance with Ohio laws and rules governing the practice of pharmacy and distribution of drugs, continued operation of the state's prescription drug monitoring program, and the implementation of the Ohio Medical Marijuana Control Program.

### **Compliance with Ohio Law**

To ensure compliance with Ohio laws and rules governing the distribution of drugs and the practice of pharmacy, the Board has significantly increased the number of inspections of its licensees. As a result, the number of inspections increased from 685 in 2015 to 2,327 in

77 South High Street, 17th Floor, Columbus, Ohio 43215



2019, an increase of over 239 percent. To assist with the inspection process, last year the Board began publishing [inspection guides](#) for each license type (e.g., pharmacy, clinic, etc.). These guides align with internal guidance used by Board inspectors with the goal of allowing licensees to conduct self-inspections to promote compliance.

In addition to inspections, the Board is also charged with conducting investigations into violations of Ohio's drug laws and referring them for prosecution and/or administrative action. In these efforts, the Board works collaboratively with other state licensing boards and law enforcement agencies to conduct investigations of healthcare professionals. To further improve this collaboration, the Board embedded its criminal intelligence analysts at the Ohio Department of Public Safety's Ohio Narcotics Intelligence Center to assist in compiling data and evidence for multi-agency criminal investigations.

Currently, the Board has 196 active criminal investigations. The following are some highlights of the Board's recent efforts:

- In 2019, a [joint investigation](#) with local law enforcement secured the indictment of an Ohio physician on 272 felony charges. The charges included manslaughter, engaging in a pattern of corrupt activity, aggravated trafficking in drugs, and healthcare fraud. After a five-week trial, the physician was found guilty on 187 charges and sentenced to a 113-year prison term.
- In 2020, a multi-agency [investigation](#) resulted in the conviction of a Dayton physician for the unlawful distribution of 73.5 kilograms (162 lbs.) of opioids. On February 8, 2021, the physician was sentenced to two years in prison.

The Board is also leveraging technology to identify and stop the shipment of suspicious orders<sup>1</sup> of controlled substances. Implemented in 2019, the Board developed the nation's first electronic system to allow wholesalers to report suspicious orders and customers who may be engaged in drug diversion. The new system ensures that all suspicious orders and customers identified by licensed drug wholesalers are reported to the Board using a uniform, electronic reporting system. This permits our investigative staff to easily identify potential sources of drug diversion.

The Board is projecting an increase in the number of investigations and inspections over the next biennium due, in part, to the state's drug abuse epidemic. Therefore, we believe the Board's FY 22-23 budget request will provide sufficient funds to achieve mission critical activities aimed at reducing drug diversion, promoting licensee compliance, and ensuring healthcare providers who violate Ohio law are investigated and prosecuted.

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<sup>1</sup>A suspicious order means any of the following: (1) Orders of unusual size; (2) Orders deviating substantially from a normal pattern; and (3) Orders of unusual frequency.

## **Operation of the State's Prescription Drug Monitoring Program**

The proposed FY 22-23 budget also permits the Board to continue the operation of Ohio's prescription drug monitoring program, known as the Ohio Automated Rx Reporting System (OARRS). Established in 2006, OARRS collects information on all prescriptions for controlled substances and two non-controlled drugs (gabapentin and naltrexone) that are dispensed by pharmacies and personally furnished by licensed prescribers in Ohio.

As the only statewide electronic database that stores all controlled substance dispensing information, OARRS is an indispensable healthcare tool that helps prescribers and pharmacists avoid potentially life-threatening drug interactions as well as identify individuals fraudulently obtaining controlled substances from multiple healthcare providers, a practice commonly referred to as "doctor shopping." OARRS is also used by the Board and other professional licensing boards to identify or investigate clinicians with patterns of inappropriate prescribing and dispensing, and to assist law enforcement in cases of controlled substance diversion.

Utilization of OARRS is an essential component of Ohio's strategy to combat prescription drug abuse. The number of queries for patient information in OARRS has increased from 1.78 million in 2011 to more than 298 million in 2020, an increase of over 16,000 percent. Starting in October of 2019, OARRS began processing, on average, more than 1 million requests for patient information per weekday. Conversely, the number of individuals engaged in doctor shopping decreased from a high of 2,205 in 2011 to 165 in 2020, a decrease of 93 percent.

The significant increase in utilization is due to an on-going initiative to integrate OARRS into electronic health records and pharmacy dispensing systems. This innovative project made Ohio the first state to provide all prescribers and pharmacies integrated access to its prescription drug monitoring program at no cost. By integrating OARRS data so that it automatically populates within a clinician's workflow, we are freeing up vital time that can be redirected to meaningful patient interactions.

The Board is also leveraging OARRS to break down silos between the criminal justice and healthcare systems. This past Tuesday, we announced a new partnership with the Supreme Court of Ohio where they are now reporting active drug court participants to OARRS. Providing information to prescribers and pharmacists on participants who are being treated for substance use disorder by one of Ohio's drug courts will ensure that these providers are making the most informed decisions regarding patient care. This project complements a 2017 initiative where the Board sought a law change permitting drug court judges to utilize OARRS to monitor treatment plan compliance.

## **Implementation of the Ohio Medical Marijuana Control Program**

In addition to enforcing Ohio's drug laws and regulating the practice of pharmacy, the Board is one of three state agencies charged with the implementation of the Ohio Medical Marijuana Control Program. As part of the program, we are responsible for the licensure and regulation

of medical marijuana dispensaries and dispensary employees, registration of patients and caregivers, and operation of the toll-free patient hotline.

As of January 2021, the program registered more than 160,000 patients and caregivers in the state's registry system. Since sales began in January 2019, the program has sold more than 37,000 pounds of plant material and 2.7 million units of manufactured products (edibles, vapes, patches, etc.).

Currently, the program has 52 operating dispensaries with another 5 that our staff are working with to get operational. As part of the biennial licensing process, the Board is reviewing all data related to the program and working with our stakeholders to determine next steps for a possible second round of dispensary license applications.

For the Ohio Medical Marijuana Control Program, the Board's budget request, which is entirely funded by fees, ensures that the agency can maintain the statutory requirements of the program, has the resources necessary to facilitate a possible expansion of the number of dispensary licenses, and make certain Ohioans have access to a safe, well-regulated medical marijuana marketplace.

### **COVID-19 Response Efforts**

Before I close, I would like to highlight the work of the Board during the COVID-19 pandemic. As part of the state's COVID-19 response efforts, the Board continues to work closely with the Ohio Department of Health and other state and local agencies to assist as needed with the vaccine rollout. Additionally, the Board has issued 40 waivers from current regulations to better assist licensees and Ohioans during the pandemic. Examples of such waivers include:

- Expanding the supervision requirements for pharmacy interns to permit students to participate in large vaccination clinics.
- Authorized the use of temporary satellite locations for the storage and use of prescription drugs during COVID-19.
- Permitted medical marijuana dispensaries to offer curbside pickup to promote social distancing.

Chair Roemer and members of the subcommittee, thank you again for the opportunity to testify on our FY 2022-2023 budget request. I would welcome any questions you may have at this time.