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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

H.B. 70  
135<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Reported by House Primary and Secondary Education

**Primary Sponsors:** Reps. Fowler Arthur and Gross

Holly Gilman, Attorney

### SUMMARY

- Requires public and chartered nonpublic schools to adopt a policy regarding the administration of over-the-counter drugs to students.

### DETAILED ANALYSIS

#### Over-the-counter drug policy requirement

The bill requires each public school district and chartered nonpublic school to adopt a policy regarding the administration of over-the-counter drugs to students.<sup>1</sup> A district or school's policy may include provisions establishing whether the district will authorize any employees to administer over-the-counter drugs to students and, if the district or school does authorize employees to do so, whether the permission of a parent or guardian will be required prior to administering the over-the-counter drug to a student.<sup>2</sup>

The over-the-counter drug policy required under the bill does not apply to care given in certain situations, including:

1. Emergency care occurring at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment;
2. Emergency care administered by a physician, dentist, or nurse volunteering at a school athletic event;
3. Emergency care provided in a school district pursuant to an emergency medical authorization submitted by a student's parent or guardian;

<sup>1</sup> R.C. 3313.713(F).

<sup>2</sup> R.C. 3313.713(F)(1) and (2).

4. Emergency use of epinephrine autoinjectors in a school district pursuant to a school policy regarding their use;
5. Diabetes care provided in accordance with an order signed by a student's treating practitioner;
6. Emergency use of inhalers in a school district pursuant to a school policy regarding their use; and
7. Emergency use of injectable or nasally administered glucagon in a school district pursuant to a school policy regarding its use.<sup>3</sup>

Under the bill, school districts and chartered nonpublic schools are permitted to designate individuals to perform functions related to the school's prescription and over-the-counter drug policies and to revise the policies.<sup>4</sup> An individual employed by the school district or school is not required to administer a prescription or over-the-counter drug to a student unless the district or school's policy requires them to. The bill prohibits a district or school to require an employee to administer a prescription or over-the-counter drug to a student if the employee objects on the basis of religious convictions.<sup>5</sup>

The bill defines an "over-the-counter drug" as a drug that may be legally sold without a prescription and that is administered without the instruction of a prescriber.<sup>6</sup>

## **Background on school drug administration policies**

### **Prescription drug administration**

Under continuing law, public schools and chartered nonpublic schools are required to adopt a policy on the administration of prescription drugs. This policy must provide either that certain school employees are authorized to administer prescription drugs to students or that no employees are authorized to administer prescription drugs to students, except as required under the federal Individuals with Disabilities Education Act of 1997.<sup>7</sup> The same emergency situations excluded from an over-the-counter drug policy are excluded from a school's prescription drug policy.<sup>8</sup>

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<sup>3</sup> R.C. 3313.713(F); see also R.C. 2305.23, 2305.231, 3313.712, 3313.7110, 3313.7112, 3313.7113, and 3313.7115, not in the bill.

<sup>4</sup> R.C. 3313.713(G) and (H).

<sup>5</sup> R.C. 3313.713(I).

<sup>6</sup> R.C. 3313.713(A)(2).

<sup>7</sup> R.C. 3313.713(B); see also the Individuals with Disabilities Education Act of 1997, 111 Stat. 37, 20 U.S.C. 1400, as amended, not in the bill.

<sup>8</sup> R.C. 3313.713(B); see also R.C. 2305.23, 2305.231, 3313.712, 3313.7110, 3313.7112, 3313.7113, and 3313.7115, not in the bill.

Schools are prohibited from administering a prescription drug to a student prior to receiving a written request from the student’s parent or guardian, a signed statement from the prescriber including administration instructions, and receiving the prescription drug in its original container.<sup>9</sup> Districts and schools must store prescription drugs in a locked storage place, except for prescription drugs requiring refrigeration.<sup>10</sup>

A person authorized by a district or school to administer a prescription drug and who has the statements required for prescription drug administration cannot be held liable in civil damages for administering or failing to administer a prescription drug to a student, unless the person acted in gross negligence or with wanton or reckless misconduct.<sup>11</sup>

### **Drug administration outside of school drug policies**

Under continuing law, school drug administration policies do not affect a school district or chartered nonpublic school’s ability to administer emergency care or treatment under existing law.<sup>12</sup> School drug administration policies also do not affect a school’s ability to participate in a school-based fluoride mouth rinse program established by the Director of Health, nor do they restrict the possession or application of nonprescription topical ointments to prevent sunburn.<sup>13</sup>

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## **HISTORY**

Action	Date
Introduced	02-27-23
Reported, H. Primary & Secondary Education	12-06-23

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<sup>9</sup> R.C. 3313.713(C).

<sup>10</sup> R.C. 3313.713(D).

<sup>11</sup> R.C. 3313.713(E).

<sup>12</sup> R.C. 3313.713(I); see also R.C. 2305.23, 2305.231, 3313.712, 3313.7110, 3313.7112, 3313.7113, and 3313.7115, not in the bill.

<sup>13</sup> R.C. 3313.713(I) and (J); see also R.C. 3701.136 regarding fluoride mouth rinse programs, not in the bill.