Ohio State Medical Association

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Statement
of the
Ohio State Medical Association
to the
Senate Medicaid, Health and Human Services Committee

Proponent Testimony
S.B. 141 – Physician and Pharmacist Consult Agreements

Presented by Tim Maglione, Senior Director, Government Relations Group

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Chair Jones and members of the Senate Medicaid, Health and Human Services Committee, my name is Tim Maglione, and I am the Senior Director of Government Relations for the Ohio State Medical Association (OSMA). With 20,000 members, the OSMA is the state's largest professional organization representing Ohio physicians, medical residents and medical students.

The OSMA appreciates the opportunity to comment on SB 141. I would like to thank Senator Burke for his commitment to a methodical and thoughtful process and, in particular, his willingness to involve the OSMA in multiple discussions of SB 141. We have appreciated the opportunity to provide input on the bill.

As you know, SB 141 is a redraft of SB 240 from last year and the OSMA had expressed concerns about SB 240 because it would have expressly added a pharmacist to the list of health care providers that may prescribe medications and would have expressly permitted the pharmacist to "prescribe or administer" drugs.

We had other concerns with SB 240 due to a lack of specificity to the consult agreements and that there was a potential that a medical director of a big-box pharmacy could singularly set up consult agreements without having a genuine physician-patient relationship with those patients whose drug therapy was being managed.

After nearly two years of discussions and 3 iterations of the SB 240, SB 141 was introduced in early April and this new version addresses all of the concerns above as well as a number of other issues raised by the OSMA.

Specifically, SB 141 will modify the pharmacist scope of practice as follows:

- Changes *existing law* that allows a pharmacist and physician to enter into a consult agreement whereby the pharmacist may, pursuant to the agreement, manage a specific patient's drug therapy. The bill will now permit one or more pharmacists to enter into a consult agreement with one or more physicians if the following conditions are met:

OSMA Suggested Change

  - Each physician has an ongoing physician-patient relationship with each patient whose drug therapy is being managed;
  - The diagnosis for which each patient has been prescribed drug therapy is within the scope of each physician's practice;
  - Each pharmacist has training and experience related to the particular diagnosis for which drug therapy is prescribed.

- Permits the pharmacist, under a consult agreement, to order blood and urine tests in accordance to practice protocols and to evaluate those results (the bill expressly states that "evaluating" does not authorize the pharmacist to make a diagnosis).

- The consult agreement must be in writing and include the following:

OSMA Suggested Change

  - The diagnosis and diseases being managed under the agreement, including whether each disease is primary or comorbid;
  - Practice protocols
  - A description of the drug therapy management protocols

- All consult agreements must be communicated to each individual patient whose drug therapy will be managed under the agreement.

- The bill deletes a current *requirement* that pharmacists send the physician a written report of all actions taken to manage the patient's drug therapy, but permits the sending of a consult report if required in the consult agreement.

- The previous bill would have allowed a pharmacist, pursuant to a consult agreement with a physician, "to *prescribe* or administer dangerous drugs." Now, the bill permits the pharmacist, pursuant to a consult agreement with a physician, to "manage drug therapy for treatment of *specified* diagnoses or diseases for each patient who is subject to the agreement, including all of the following:

OSMA Suggested Change

  - Changing the duration of the treatment for the current drug therapy;
  - Adjusting the drug's strength, dose, dosage from, frequency, administration, or route of administration;
  - Discontinuing the use of a drug;
  - Administering a drug;

OSMA Suggested Change

- Notwithstanding the definition of “licensed health care professional authorized to prescribe drugs,” adding a drug to the patient’s drug therapy.

- The physician, pharmacist or patient may terminate the consult agreement at any time.

OSMA Suggested Change

- Consult agreements must be renewed at least every 2 years.

OSMA Suggested Change

- The bill expressly states that a physician is not liable in tort for damages arising from a pharmacist’s change in a drug for a patient whose drug therapy is being managed under a consult agreement unless the physician authorized the specific change in the drug. The bill also states that a pharmacist is not liable in tort for damages arising from a physician’s change in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement.

- Under current law, a pharmacist may extend a prescription by 72 hours if the prescriber is unable to be reached and, in the pharmacist’s professional judgment, the drug is essential to sustain the life of the patient or continue therapy for a chronic condition of the patient *and* failure to dispense the drug could result in harm to the patient. The bill would permit a pharmacist to dispense a 30-day supply (only once in a 12 month period and not for controlled substances) if the above conditions are met *and* if the patient has been on a consistent drug therapy (as demonstrated by records maintained by the pharmacy).

Again, the OSMA would like to thank Senator Burke, the Ohio Pharmacists Association and all of the other interested parties in working together to create a new collaborative effort between physicians and pharmacists for the purpose of medication management.

Chair Jones, that concludes my testimony and I would be happy to entertain any questions the committee may have.