

Proponent Testimony on House Bill 193
House Health Committee
Lora Miller, Ohio Council of Retail Merchants

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Good morning Chairman Lipps, Vice Chairman Holmes, Ranking Member Russo, and members of the House Health Committee. My name is Lora Miller. I am Director of Governmental Affairs & Public Relations for the Ohio Council of Retail Merchants. On behalf of the 1,600 pharmacies and more than 6,700 pharmacists operating and providing patient care in Ohio, the Ohio Council of Retail Merchants (OCRM) and the National Association of Chain Drug Stores (NACDS) are grateful for the opportunity to support House Bill 193 as well as the requested modifications outlined herein. We are appreciative of Representative Cutrona and Pavliga for their sponsorship of the bill and their willingness to consider said modifications.

Although the COVID-19 pandemic has drawn some attention away from the Opioid Epidemic, it is still a major public health crisis and will continue to be so after the pandemic has passed. We applaud the bill sponsors for recognizing the valuable impact that mandating e-prescribing of controlled substances (EPCS) can have not only on prescription diversion, fraud and addiction, but also on increasing patients' adherence to their medication regimens to improve health outcomes overall.

Electronic prescribing is already a well-established practice nationally, including in Ohio. The federal law mandating EPCS for prescriptions for Medicare patients was effective January 1, 2021. According to Surescripts, 79% of Ohio's prescribers have electronic prescribing software that is approved for controlled substance prescribing. While these are promising statistics, there is room to further improve the rate of electronic prescribing, particularly as it relates to controlled substances. For example, as of February 2021, only 62% of Ohio's prescribers were actively using these approved EPCS systems to prescribe controlled substances. To date, approximately 30 states have followed the federal lead and updated their laws to require EPCS in certain circumstances.

Community pharmacies and pharmacists support policies that promote the use of electronic prescribing to transmit prescription information between prescribers and pharmacists and know that the use of this technology will improve safety and security in the prescribing process. For controlled substances, electronic prescribing adds new dimensions of safety and security as prescribers can more easily track the controlled substance prescriptions that a patient has received. When used, electronic prescribing practices improve patient care and outcomes by eliminating handwriting errors. According to a study conducted at a Johns Hopkins Medication Outpatient Pharmacy, 89% of handwritten prescriptions failed to meet best practice guidelines or were missing information that would otherwise be prompted by an electronic prescribing system. By comparison, not a single prescription in that study issued electronically contained these types of errors.¹

¹ http://www.hopkinsmedicine.org/news/media/releases/researchers_find_handwritten_opioid_prescriptions_are_more_prone_to_mistakes; 2017.

In addition to decreasing the number of handwritten errors, electronic prescribing tools also enable clinical decision-making at point of care. When electronic prescribing is part of a healthcare provider's electronic health record system, prescriptions can be checked for interactions with patient medications, health conditions, and allergies. Furthermore, electronic prescribing practices serve to improve medication adherence. As electronic prescriptions are sent directly to the patient's pharmacy of choice, this technology allows healthcare providers to monitor and improve patient first fill adherence, as patients are more likely to fill prescriptions that are sent electronically to their pharmacy.

Adoption of House Bill 193 will enhance healthcare providers' utilization of this technology and foster prescriber adoption. That being said, to ensure that EPCS can truly become the standard in Ohio and virtually eliminate prescription fraud, we would strongly recommend amendments to: 1) expand the breadth of the legislation to include all prescriptions, or at least all controlled substances; and 2) provide for reasonable exceptions to the mandate for practical reasons to ensure patients have access to their legitimate prescriptions when there is either no option to e-prescribe or it would be impractical or not timely to do so. These exceptions follow in the form of model language. Especially critical are the provisions under 1.(a)-(j) and (2). The language under (2) is necessary so pharmacies can fill paper prescriptions that are exempt from the e-prescribing mandate in a timely manner for patients. Requiring pharmacists to ensure that non-electronic prescriptions without any notations were issued in accordance with the allowed exceptions would require pharmacies to contact the prescriber office. Not only would this be a time-consuming process given how busy doctors' offices and pharmacies are, it would likely lead to delays in the delivery of patient care. If this exemption is not included, it could also place pharmacists at risk for recoupment of claims for legitimate paper prescriptions during third-party payor pharmacy audits.

Again, OCRM and NACDS extend our appreciation to Representatives Cutrona and Pavliga and this Committee for recognizing the unique opportunity to eliminate prescription fraud and errors while improve patients' medication adherence. I would be happy to address any questions you may have.

NACDS State Model Mandatory E-Prescribing Legislation

1. Notwithstanding any other provision of this section or any other law to the contrary, no person shall issue any prescription in this state unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with such regulatory standards, except for prescriptions:

(a) issued by veterinarians

(b) issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation

(c) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulation

(d) issued when the prescriber and dispenser are the same entity

(e) issued that include elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard

(f) issued by a practitioner for a drug that the federal Food and Drug Administration (FDA) requires the prescription to contain certain elements that are not able to be accomplished with electronic prescribing

(g) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription

(h) issued by a practitioner prescribing a drug under a research protocol

(i) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the commissioner, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the commissioner, in consultation with the commissioner, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

(j) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition.

2. A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are consistent with current laws and regulations.