



Senate Health Committee

Testimony of Stephanie M. Loucka, Executive Director, State Medical Board of Ohio
June 12th, 2024

Chairman Huffman, Vice Chair Johnson, Ranking Member Antonio, and members of the Senate Health Committee, thank you for the opportunity to testify this morning regarding Substitute House Bill 73. My name is Stephanie Loucka, and I serve as the Executive Director of the State Medical Board of Ohio.

The Board licenses and regulates approximately 100,000 medical professionals – a growth in volume of over 35% in the past decade. Our licensees include physicians, physician assistants, respiratory care professionals, dietitians, massage therapists and many other allied health professionals. The Board has approximately 67,000 licensed physicians and medical residents.

The Board enforces standards of care for safe medical practice. Minimal standards of care are the basic levels of treatment and practices that providers must follow to ensure patient safety and proper care. These standards ensure that licensees are qualified to provide medical care in this state and are the basis for discipline when those standards are violated. When the Board receives complaints against a licensee, it investigates the alleged violations and takes disciplinary action - when necessary - to deny, revoke, or restrict a licensee's right to practice medicine in Ohio.

Off-label prescribing is a regularly accepted practice for prescribers throughout the state of Ohio. Currently, off-label prescribing accounts for between a quarter and one-third of all prescriptions issued in the United States. The Board is concerned that Substitute House Bill 73 circumvents requirements for minimal standards of care and without those standards patients may be injured.

Elimination of standard of care for patients

Substitute House Bill 73 would endanger patients by allowing a prescriber to prescribe any drug, with the exemption of controlled substances, without regard to patient health and safety. It is the fundamentally accepted practice of medicine that when a provider prescribes a drug, that provider must follow the minimal standards of care. The minimal standard of care often includes exams or tests to diagnose the illness or condition so that the proper drug can be prescribed. The Board has specific concerns with lines 69-91 that state that prescribers only need informed consent to prescribe any drug and are not required to have test results, screen results, or patient exposure to a disease, illness, or infection. Informed consent is not the acceptable threshold for prescribing medicine.

Regulatory authority jeopardized

Further, the bill strips away all authority from the Medical Board to discipline providers for inappropriate prescribing, "except in cases of recklessness or gross negligence," as proposed in lines 227-228. This bill would seriously jeopardize the Board's ability to take action for violations which include:

- Failure to maintain minimal standards applicable to the selection or administration of drugs.
-

- Selling, giving away, personally furnishing, prescribing, or administering drugs for uses other than legal and legitimate therapeutic purposes.
- The failure to conform to minimal standards of care and whether actual injury to a patient is established.

During proponent testimony, it was said that many licensees have had their licenses stripped away due to violations in standard of care. That's not true. In Fiscal Year 2023, the Board received over 6,000 complaints from the citizens of Ohio. Approximately 6% of those complaints resulted in formal action against a provider. Only a fraction of those actions were for standard of care violations. The Board is not pursuing doctors for off-label prescribing. The Board investigates and enforces minimal standard of care violations. Ohio's patients deserve better than to have their providers held to a reckless or gross negligence standard of care.

Realities of H.B. 73

As stated earlier, the Medical Board supports a physician's ability to prescribe off-label drugs. Prescribing off-label drugs is legal today. At the same time, the Board has seen examples of real harm from physicians prescribing off-label while not performing a minimal standard of care. Albeit there are only a handful of cases that the Board has brought to enforcement over the last decade, these cases were egregious.

In these cases, we had physicians prescribing drugs for conditions for which there was not a proper diagnosis such as a screen or a test, in other words the physician had not met standard of care. This prescribing without following standard of care caused real harm, and in one case death. If passed in its current form, the Medical Board will be unable to act on these egregious cases as it prohibits the Board from pursuing disciplinary action against a prescriber under the guise of "recklessness or gross negligence."

Conclusion

The Medical Board's mission is to protect the public through effective medical regulation. In its current form, Substitute House Bill 73 will allow providers to prescribe any drug for any ailment. Medicine is often multifaceted and based on well-established scientific consensus, and when painted in broad strokes, a patient's health and safety will be jeopardized.

Thank you again for allowing me to speak to you today. I will gladly answer any questions you have at this time.