OhioHealth

June 12, 2024

Dear Chair Huffman, Vice Chair Johnson, and Ranking Member Antonio,

I currently service as the Vice President, Pharmacy Services, for OhioHealth. I write to you today in opposition to House Bill 73.

OhioHealth is a 15-hospital health care system that has served the central Ohio community since 1891. We are a family of 38,000 associates, physicians, and volunteers with over fifty ambulatory sites, hospice, home-health, and other health services spanning a 55-county area throughout Ohio. Our footprint includes hospitals in urban, suburban, and rural areas of the state. We are headquartered in the City of Columbus and one of the central Ohio region's largest employers.

I listed our concerns below. Patient safety and the granting of temporary privileges to outside physicians are at the top of the list. Please note that these concerns align with those previously expressed by the Ohio Hospital Association.

Patient Safety – Up to a third of prescriptions prescribed today are used for off-label indications, based upon recent published literature. The term "off-label" does imply there is not an FDA indication; however, the clinical evidence supporting the use of the drug varies widely; at one far end clinical trials with thousands of patients demonstrate the positive patient impact, and at the other end it could be a case report where the drug has been used in a single patient. The term and practice of using drugs off-label is not what constitutes great patient care. Rather, it is the clinical evidence and collaborative work of physicians and pharmacists to determine the right course of therapy for the best patient outcomes; a process built with double-checks. This bill eliminates those patient protections as it grants prescribers broad authority to claim any drug as being utilized for an off-label treatment. This approach opens the door to alarming scenarios where prescriptions for FDA approved medications could be given for indications unsupported by medical evidence, potentially causing harm to patients.

Temporary Privileges – We find it troubling that HB 73 would permit an external physician to obtain temporary privileges and then override the decision-making authority of the admitting/attending physician in charge of the patient's care in an inpatient setting. Oftentimes, patients in the inpatient setting have complex care that is being carefully managed and overseen by a physician and a team of providers. To allow an external physician to override a care team's plan for a patient could put the patient at risk because the external physician may not fully appreciate all of the nuances of the specialty care being provided to these very fragile patients.

In short, this requirement eliminates the existing hospital quality and safety structure and represents and egregious overstep.

Erosion of Pharmacist Discretion and Professional Judgement – HB 73 bill dilutes a pharmacist's ability to exercise professional judgment to ensure all dispensed prescriptions are safe and effective and eliminates vital safeguards that prevent inappropriate and harmful medication use. This would endanger patients and provide cover for bad faith actors who may prescribe medications without proper oversight or patient safety considerations.

The review by the dispensing pharmacist is the final check in the medication use process to ensure the safe and appropriate use of prescription medications. The pharmacist is the last line of defense for patients to prevent medication-related adverse events from drug-drug interactions, drug-disease interactions, or even medications which require dosing changes when new medications are started.

Financial Burden – HB 73 could impose a heavy and undue financial burden on hospitals if we are forced to care for patients that may experience harm due to unsafe therapies that a pharmacist cannot decline to dispense (ICU stays, adverse drug reactions, etc.)

Liability and Immunity – Aside from the liability implications of the bill, HB 73 effectively forces healthcare workers to violate Hippocratic oaths. It could also expose physicians to liability for using off-label drugs if they do not comply with the new "informed consent" definition in the bill. Many doctors currently prescribe off-label and creating an entirely new, undue, and highly administratively burdensome requirement on prescribers would be unnecessary and an overreach.

HB 73 also adds cumbersome and difficult documentation requirements that must be undertaken by a pharmacist to provide the limited liability coverage ascribed in the bill. Even when the documentation is completed, it does not provide immunity of being sued (and the associated expenses to defend themselves) when the pharmacist is forced by law to comply with the medication order.

Unavailable or outside drugs – The language surrounding "good faith effort" to obtain the drug is ambiguous and will create confusion and concern about meeting this standard. While many hospitals may have an existing and often sparingly used patients' own use policy or bringing in of outside drugs, it is a slippery slope to go beyond established protocols because there is no way to ensure it was properly stored, if the drug is beyond its expiration date. Storage and drug integrity issues are of great concern because there is little room for human error. Additionally, the process for "identifying" the drugs is not clear.

Thank you for your consideration. I respectfully urge your opposition to HB 73.

Regards,

Charles McCluskey III
Vice President, Pharmacy Services