



Testimony in Opposition to HB 73 before the Ohio Senate Health Committee

June 12, 2024

Chairman Huffman, Vice Chairman Johnson, Ranking Minority Member, Antonio and members of the Senate Health Committee.

My name is Terry Pope. I am a registered nurse with years of experience working in numerous health care systems and hospitals in Ohio and elsewhere. I am here today on behalf of ANA-Ohio a relatively new professional organization for all RNs in the State of Ohio. After careful consideration, ANA-Ohio agreed to oppose HB 73.

ANA-Ohio appreciates the work that has been done and the changes made in the substitute bill that is now before this committee. However, the organization continues to have concerns about how the bill, when implemented, will affect nurses who routinely provide essential care such as administering medications (including off-label drugs) in hospitals and other facilities that are affected by this bill.

Because of the potential for harm when a patient is receiving health care, many safeguards are built into the procedures all providers are expected to follow. For example, generally, medication administration involves multiple providers—a physician who prescribes, a pharmacist who dispenses and a nurse who administers the drug. Ideally, having several individuals involved helps ensure any errors will be caught before the medication is administered to the patient. In this scenario, nurses are often the final safety valve against medication errors.

For nurses, regulations adopted by the Board of Nursing set forth acceptable standards of safe practice. These rules found in Chapter 4723-4 of the Ohio Administrative Code help ensure a patient's safety is not compromised. In part, the rules set forth the steps a nurse must take when deciding whether an order is safe to carry out. "When a nurse believes or has reason to believe that an order is inaccurate, not properly authorized, not current or valid, harmful or potentially harmful to a patient, or contradicted by other documented information the nurse must consult with the appropriately licensed practitioner and notify the ordering physician when the order is not followed." (Rule 4723-4-03 Oh. Adm. Code). A rule in this same chapter, 4723-4-06 (H) OAC, requires the nurse to maintain a safe environment for the patient. The language of these rules can be particularly troublesome for nurses when the circumstances surrounding whether to administer an off-label drug are

especially contentious. When dealing with such a controversial situation and especially when the order in question is from a practitioner with temporary privileges, the nurse is placed in an untenable position—whether to adhere to professional standards of practice or respond to the real-life immediate pressure to do what many conflicting voices are insisting upon.

Adding to the ambiguity, with respect to immunity provisions, the bill expressly states in Section 3792.06 (D) (line 229) that a health-related licensure board, Ohio Department of Health, State Board of Pharmacy, or other state board or agency responsible for the licensure or regulation of a health care profession shall not pursue an administrative or disciplinary action against a provider, pharmacist, or other health care professional, or hospital for publicly or privately expressing a medical opinion that does not align with the board, agency, etc. This section presumably would include nurses, but the breadth of the protection is limited. The wider immunity from administrative and civil liability provided elsewhere in the bill cannot be presumed to apply to any person or entity that is not specifically mentioned in those sections-- pharmacists, physicians, and hospitals. This lack of clarity poses problems for nurses, other non-identified providers, and perhaps even the patients this bill purports to help.

ANA-Ohio appreciates the efforts of the bill's co-sponsors and other lawmakers to try to find ways to address the very difficult situation that led to the introduction of this bill in 2023. However, it is also important not to create an entirely new set of problems when trying to respond to a specific set of circumstances that may, by their facts, defy a realistically implementable appropriately crafted legislative solution.

Thank you for your consideration of the points ANA-Ohio has raised. I will be happy to try to answer any questions you may have.