



OHIO PHARMACISTS ASSOCIATION

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December 9, 2024

Re: Sub. House Bill 73

Chairman Huffman, Vice Chairman Johnson, Ranking Member Antonio, and members of the Senate Health Committee, the Ohio Pharmacists Association would like to express its concerns over the latest draft of Sub. House Bill 73. While we applaud the bill sponsors' attempt at improving the legislation, we find the recent submission, known as the Dash 8 Version, raising further concerns beyond the prior version. To highlight four items out of many:

- 1.) The definition of "Informed consent" within the proposed version only includes a *physician*. In Ohio, a physician is defined as *an individual authorized by Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery*. We assume this is intentional to the exclusion of nurse practitioners, physician assistants, potentially dentists and other practices with prescriptive authority who currently utilize off-label prescribing unencumbered today. This gives us great pause as it would limit the ability of prescribers and patients in Ohio to enjoy the same freedoms which they have today.
- 2.) The proposed version mandates dispensing of a prescription using "shall dispense" in line 78 and "a pharmacist must dispense" in line 93. The proposed draft attempts to provide relief to a pharmacist in lines 99-108, but it is highly unlikely the General Assembly can grant such broad relief, particularly given the protocol to qualify for such relief within the proposed legislation.
- 3.) Knowing the above and reflecting on lines 212-219, it is unknown how a pharmacist would obtain verification of "Informed consent" as it exists in the bill, which simply cites the word "communication". In the event a patient is harmed or passes away, an injury attorney would likely demand more than hearsay from the pharmacist on behalf of the patient. Accordingly, informed consent would have to be documented between the physician and patient prior to the pharmacist dispensing any medication for off-label use in Ohio.
- 4.) The inclusion of Category X drugs in line 267 would spur a Constitutional challenge. Recently, Ohio voters amended the Ohio Constitution to allow abortion. Common medications, such as birth control, for example, are sometimes used to induce an abortion through dosage outside the approved use, thus off-label. As just one example, we believe this provision now places the legislation squarely in the sights of abortion groups who would rightfully challenge the legislation.

The practice of prescribing and dispensing medication for off-label use is very common and occurs unencumbered today. While there were isolated situations where this did not occur during COVID and potentially even today, these cases do not signify a systematic flaw in the use of off-label practices. They are unfortunate individual experiences that should not have occurred: on that we agree. Sub. House Bill 73 would negatively change prescriber scope and complicate a patient's ability to obtain medications which they receive without delay today. We urge the Committee to reject this proposed legislation.

Respectfully,

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Executive Director

Ohio Pharmacists Association