



The Ohio Society of Health-System Pharmacy

To: The Ohio Senate Health Committee
HB 73: Opponent Testimony

Date: 12/11/24

To: The Senate Health Committee

Chairman Huffman, Vice Chairman Johnson, Ranking Member Antonio and Members of the Senate Health Committee, the Ohio Society of Health-System Pharmacy (OSHP) appreciates the continued opportunity to express our concerns related to House Bill 73 and the harm that it, and its most recent version, will cause to patients in Ohio.

I am honored to be here representing OSHP whose members consist of pharmacists and pharmacy technicians from across the state. The mission of OSHP is to optimize patient health by advocating for the advancement of pharmacy practice to promote comprehensive, quality care across the health-care continuum. We are an organization of volunteers who give our time to ensure that Ohio patients are receiving the best possible medication-related care.

Last June, dozens of individual citizens, allied health organizations, professional licensing boards, Ohio health-systems, retail pharmacies, and merchant groups united to discuss the dangers, legal flaws, lack of necessity, and questionable motivation associated with House Bill 73. Unfortunately, now in December, the latest version of this bill represents these same issues despite its narrowed scope to inpatient pharmacies in the context of a public health emergency.

Over the past year, we have stressed that off-label prescribing is an ongoing and regular practice. We have highlighted how House Bill 73, rather than broaden patient access, instead removes pharmacists' ability to respond to emergency situations in prescribing by mandating that pharmacists dispense medications regardless of scientific objection. This is akin to removing a fire extinguisher from a firefighter. Most concerning, during the chaos of a public health emergency, the need to have this fire extinguisher is of particular relevance as the potential for medication errors increases with the uncertainty of a rapidly changing health situation.

We also reviewed how it conflicts with existing state law, and how the motivations behind this bill are directly connected to out-of-state special interest physician groups.

Unfortunately, these issues persist today despite the numerous revisions to House Bill 73. While this does not represent an exhaustive list, I would like to share our persistent and most notable concerns with the most recent version of the bill:

1. The persistent mandated dispensing of off-label medications will force pharmacists to give harmful medications to patients. It forces pharmacists to do this even in situations which might amount to gross negligence, and any bill which makes it easier for negligent, reckless, or harmful behavior to occur is a direct threat to our citizens. While it is not common for pharmacists to refuse medications, it occasionally must be done to keep patients safe, and the updated exception for drug-drug interactions in (C)(1)(b) still does not come close to accounting for the situations where a pharmacist may need to refuse to dispense a medication to keep a patient safe while, in the meantime, organizational processes assist in ultimate resolution of the impasse. While limited to during a public health emergency, this forced dispensing still represents a threat to Ohio patients, as these emergencies embody situations where the expertise of a pharmacist is arguably of the highest value and essential to ensure that patients are not exposed to unnecessary medication-related harm. While it is important to ensure that patients are not deprived of potentially useful medications during public health emergencies, House Bill 73 instead only removes a core means to protect patients during rapidly changing emergency situations.
2. The premise of allowing providers to prescribe off-label medications as in (B) is unnecessary, as appropriate off-label prescribing occurs regularly and without opposition. We recognize the sponsors' concerns related to authorizing off-label prescribing, but ultimately must emphasize that providers possess the ability to prescribe off-label medications for inpatients and routinely engage in doing so. Moreover, the changes proposed by House Bill 73 only prevent health-systems from providing optimal care and remove patient safety mechanisms in a way that directly conflicts with existing state and federal law.
3. The process of awarding temporary privileges to any outside provider remains threatening and unnecessary. Despite attempts to enforce coordination of care in (C)(4)(d), the model proposed by House Bill 73 is one of poor coordination and conflict. It allows for an outside provider without full context as to the patient's medical situation and overall plan to interfere with their care in an uncoordinated fashion, and this will lead to a greater risk of associated errors especially during situations such as public health emergencies which are inherently in need of more seamless communication related to their dynamic nature. Moreover, (C)(4)(e) stands out as especially problematic as, in situations where temporary privileges are warranted, there will by nature always be a disagreement between a patient's medical team and the outpatient physician. This fragments care teams and makes patients especially vulnerable to the influence of bad actors. The temporary privileges aspect of House Bill 73 paves the way for outside providers to use our patients as an innovative payment model, jeopardizing the coordination of their care and risking the use of overtly harmful medications in the process.

4. Ongoing issues with medication shortages, such as the recent IV fluid shortage, represent challenges that hospitals can only effectively face with proper coordination. As was seen in COVID-19, these medication shortages are especially likely in the context of a public health emergency which may result in medication stockpiling and the subsequent inability to use these medications for traditional purposes. If pharmacists must dispense any off-label medication without the ability to scientifically object, the management of medication shortages will become significantly complicated as institutional best practices can be inappropriately overridden by individual providers. This will limit our ability to effectively manage public health emergencies.
5. Requiring pharmacists to locate and obtain any prescribed off-label medication, or use a patient's owned medication, still represents a threat to the ability for institutions to effectively manage their inventory, imposes a significantly time-consuming requirement on pharmacists already stretched thin, and creates risks for patients stemming from the use of medications without confirmation of storage conditions. While the updated version of House Bill 73 attempts to harmonize this with institutional procedure, these institutional procedures typically only permit the use of home medications when it is clear that benefits outweigh risks. Given that this will be contentious in the situations stemming from House Bill 73, the bill continues to have an issue with its home medication-related components.
6. (E) prevents the use of funds to implement or incentivize World Health Organization (WHO) initiatives or recommendations. The WHO has initiatives including defeating meningitis by 2030, fighting rabies, and eliminating cervical cancer. Therefore, House Bill 73 will result in the inability to use state funds for legitimate health initiatives in a way that places Ohio several steps behind ensuring that our citizens are as healthy as possible.

OSHP stands with the individual citizens of Ohio and the cumulative expertise of Ohio's pharmacists, physicians, advance practice providers, nurses, and our excellent hospitals and health-systems. We collectively urge you to oppose House Bill 73 and to keep Ohio patients free from unnecessary harm especially during public health emergencies.

Thank you, again, for the opportunity to provide this testimony and to ask for your opposition.

Sincerely,

Joseph S. Marchiano

Joe Marchiano Pharm.D., BCPS, BCGP

Legislative Affairs Director - The Ohio Society of Health-System Pharmacy