

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 73**

**Representatives Gross, Loychik**

**Cosponsors: Representatives Jordan, Dean, Swearingen, Edwards, Klopfenstein,  
Williams, Barhorst, Wiggam, Creech, Claggett, Miller, M., Miller, K., Hall, Fowler  
Arthur**

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**A BILL**

To enact section 3792.06 of the Revised Code to 1  
authorize the prescribing of off-label drugs and 2  
if prescribed, to require their dispensing and 3  
to name this act the Dave and Angie Patient and 4  
Health Provider Protection Act. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3792.06 of the Revised Code be 6  
enacted to read as follows: 7

**Sec. 3792.06.** (A) As used in this section: 8

(1) "Health-related licensing board" has the same meaning 9  
as in section 3719.062 of the Revised Code. 10

(2) "Hospital" has the same meaning as in section 3722.01 11  
of the Revised Code. 12

(3) "Off-label drug" means a drug that is both of the 13  
following: 14

(a) Approved by the United States food and drug 15

administration to treat or prevent a disease, illness, or 16  
infection, but prescribed for or used by a patient to treat or 17  
prevent another disease, illness, or infection; 18

(b) Legal for use in this state. 19

(4) "Pharmacist" means an individual who holds a license 20  
issued under section 4729.08 of the Revised Code authorizing the 21  
individual to practice pharmacy. 22

(5) "Political subdivision" means a county, township, 23  
municipal corporation, school district, or other body corporate 24  
and politic responsible for governmental activities in a 25  
geographic area smaller than that of the state. "Political 26  
subdivision" also includes a board of health of a city or 27  
general health district. 28

(6) "Prescriber" has the same meaning as in section 29  
4729.01 of the Revised Code. 30

(7) "Public official" means any officer, employee, or duly 31  
authorized agent or representative of a state agency or 32  
political subdivision. 33

(8) "State agency" means any organized agency, board, 34  
body, commission, department, institution, office, or other 35  
entity established by the laws of the state for the exercise of 36  
any function of state government. "State agency" does not 37  
include a court. 38

(B) A prescriber may issue for a patient a prescription 39  
for any drug, including an off-label drug, if the prescriber has 40  
obtained the patient's informed consent. All of the following 41  
apply to the prescribing of an off-label drug under this 42  
division: 43

(1) The prescriber is not required to obtain a test result 44  
before issuing the prescription for the patient's use of the 45  
drug at home or for other outpatient treatment. 46

(2) The patient is not required to have had a positive 47  
screen for a particular disease, illness, or infection before 48  
the prescriber issues the prescription. 49

(3) The patient is not required to have been exposed to a 50  
disease, illness, or infection before the prescriber issues the 51  
prescription for the patient's prophylactic use of the drug. 52

(C) Except as provided in section 4743.10 of the Revised 53  
Code, a pharmacist shall dispense an off-label drug to a patient 54  
if a prescriber has issued for the patient a prescription for 55  
the drug as described in division (B) of this section. All of 56  
the following apply to the dispensing of an off-label drug under 57  
this division: 58

(1) The pharmacist is not required to obtain a test result 59  
before dispensing the drug for the patient's use at home or for 60  
other outpatient treatment. 61

(2) The patient is not required to have had a positive 62  
screen for a particular disease, illness, or infection before 63  
the pharmacist dispenses the drug. 64

(3) The patient is not required to have been exposed to a 65  
disease, illness, or infection before the pharmacist dispenses 66  
the drug for prophylactic use. 67

(D) A health-related licensing board or state board of 68  
pharmacy shall not consider any action taken by a prescriber or 69  
pharmacist under this section to be unlawful, unethical, 70  
unauthorized, or unprofessional conduct and shall not pursue an 71  
administrative or disciplinary action against the prescriber or 72

pharmacist, except in cases of recklessness or gross negligence. 73

A health-related licensing board, state board of pharmacy, 74  
or other state board or agency responsible for the licensure or 75  
regulation of health care professionals shall not pursue an 76  
administrative or disciplinary action against a prescriber, 77  
pharmacist, or other licensed health care professional for 78  
publicly or privately expressing a medical opinion that does not 79  
align with the opinions of the board or agency, a board of 80  
health of a city or general health district, or the department 81  
of health. 82

(E) A political subdivision, public official, or state 83  
agency shall not enforce any rule or order issued by a federal 84  
agency that prohibits the use of an off-label drug. 85

(F) A hospital or other health care facility shall not 86  
deny nutrition or fluids to a patient who has refused a 87  
hospital's or facility's treatment intervention or standard 88  
hospital or facility protocol. 89

A hospital or other health care facility shall not deny a 90  
patient, while under the hospital's or facility's care, the 91  
standard daily medications as prescribed by the patient's 92  
prescriber unless that medication conflicts with a medication or 93  
treatment administered by an employee or agent of the hospital 94  
or facility with the patient's informed consent. 95

**Section 2.** This act shall be known as the Dave and Angie 96  
Patient and Health Provider Protection Act. 97