Representative Jennifer Gross
Ohio House District 45

Representative D.J. Swearingen
Ohio House District 89

Chair Schmidt, Vice Chair Deeter, Ranking Member Somani, and members of the House Health Committee, thank you for the opportunity to testify on HB 12 today.

HB 12, "The Jeff, Dave, & Angie Right to Try Act," ensures patients' access to potentially lifesaving off-label drugs prescribed by their healthcare provider with their consent, while safeguarding a pharmacist's right to refuse dispensing any medication that conflicts with their religious or ethical beliefs. This bill safeguards a healthcare provider's authority to prescribe an FDA-approved drug, legal in Ohio, when they deem it a suitable treatment. The provisions included in HB 12 do not apply to, repeal, or supersede any existing law regarding drugs which are classified as administration risk evaluation and mitigation strategy drugs, REMS, cross-sex hormones or puberty blockers for minors, abortifacients, or drugs used for the intent of euthanasia (lines 224-237). HB 12 shields providers from penalties by state or local health agencies or boards for off-label prescribing decisions, absent gross negligence, but does not protect doctors from medical malpractice liability. Lines 206-207 state, "the prescriber is not immune from civil liability if harm comes to the patient."

HB 12 protects a provider's freedom of speech. Whether publicly or privately, providers may express a medical opinion regarding the benefits, risks, or efficacy of any medical intervention without retaliation against their license by medical or health boards who do not agree with their opinion. When healthcare providers fear fines and retaliation for disclosing risks to medical interventions, it hinders their ability to provide their patients with informed consent. Informed consent is the bedrock of ethical medicine. To allay concerns that this provides protection to health professionals who give harmful medical care, we have included language that clearly states, "this division does not limit liability for a medical act that causes actual patient harm" (lines 221-223).

HB 12 aligns with existing Ohio law by permitting pharmacists, hospitals, or inpatient facilities to decline dispensing a drug due to religious or ethical objections, while also specifying that pharmacists can refuse to fill prescriptions when a life-threatening contraindication or drug interaction is identified. A pharmacist, hospital, or inpatient facility may object in good faith to filling a prescription outside the specified categories, so a provision was added to grant civil and administrative liability protection to both inpatient and outpatient pharmacists, hospitals, and health facilities if harm occurs to a patient who, after consulting their prescribing physician, opts to take an off-label drug. The only requirement to secure this liability protection is to document the objection in the patient's record.

HB 12 addresses situations where a hospital or inpatient facility lacks a patient-requested drug in stock, requiring a good faith effort to source it from another U.S. supplier and pass the initial cost to the patient. In situations where the drug cannot be located, it allows the family to bring the medication into the facility to have it identified by the facility pharmacy.

Nothing in the bill language prevents a pharmacist from discussing concerns about a prescription with the prescriber. We have removed the provision requiring an outpatient doctor be allowed to apply for credentialling, to eliminate resistance from the Ohio Hospital Association and the Hospitals who were in objection. Instead, we've included a provision to ensure that prescriptions from doctors on staff will continue to be administered during their absences, maintaining uninterrupted care for their consenting patients (lines124-148).

HB 12 has been drafted based on improvements made to last General Assembly's Sub HB 73 which passed the House in June of 2023 with overwhelming and bipartisan support of a 75-16 vote. Over its 18-month Senate tenure, I took part in a significant interested party meeting, drafting and advocating for the adoption of several revised versions of Sub HB 73 to address concerns raised. HB 12 has addressed all valid opposition concerns while still maintaining the integrity of the original HB 73 meant to protect Ohio patients and healthcare providers. I have attached a support letter as an addendum to this testimony.

HB 12 is clinically sound legislation focused on restoring the doctor-patient relationship which has been severely inhibited by the consolidation of doctors under the hospital umbrella and by board designated, one-size-fits-all "standard of care" that do not allow for the uniqueness of patients. The FDA states on their website that "once the FDA approves a drug, healthcare providers generally may prescribe the drug for an unapproved use when they judge that it is medically appropriate for their patient[1]." Healthcare providers aim to deliver optimal care tailored to their patients' unique needs and should have the flexibility to do so without interference from pharmacists, who are not licensed to dictate prescription choices. As a nurse practitioner, it is my ethical duty to advocate for and support my patients in their time of need. As a legislator, it is my duty to ensure that the life and liberties of my constituents are protected. This bill accomplishes both.

HB 12 is life-saving legislation that provides the medical freedom needed for prescribers and patients to direct their care and optimize health outcomes, while simultaneously providing protections to pharmacists, hospitals, and skilled nursing facilities that may disagree with a prescribers' choice. This Right to Try legislation is a concept supported by President Trump, the MAHA movement, and it had significant support from Ohioans and the Ohio House last assembly.

Thank you once again for your time and consideration of HB 12. I pray this much needed legislation will move quickly through the process. I'd be happy to answer any questions you may have.

[1] https://www.fda.gov/patients/learn-about-expanded-access-and-other-treatment-options/understanding-unapproved-use-approved-drugs-label

3/31/2025

Dear Members of the House and Senate:

I am writing to express my strong support for House Bill 12. This important legislation authorizes prescribers to prescribe off-label drugs with informed consent and mandates that pharmacists dispense such medications, provided there are no life-threatening contraindications or moral objections. HB 12 upholds the integrity of the physician-patient relationship by safeguarding the clinical judgment of healthcare professionals and promoting patient-centered care.

In particular, I want to highlight the key protections outlined in HB 12:

1. **Protecting Patients' Right to Treatment:** The bill ensures that consenting patients can fill prescriptions from their healthcare providers without obstruction from pharmacists. This applies to outpatient pharmacies, hospitals, and nursing homes, as long as no life-threatening contraindication exists or the pharmacist does not have a moral objection.
2. **Preventing Scientific Obstruction:** HB 12 prohibits pharmacists, hospitals, and nursing homes from refusing to fill a prescription due to a "scientific objection." However, it provides protections for pharmacists and facilities by granting them immunity from civil liability and administrative penalties if they document their concerns in the patient's chart after consulting with the prescriber. This balances the rights of both prescribers and pharmacists while prioritizing patient care.
3. **Preserving Prescribers' Licensure Rights:** The bill protects prescribers from the threat of license revocation or disciplinary action for prescribing off-label drugs to consenting patients—unless the prescriber acts with willful or gross negligence. This provision maintains accountability while ensuring that physicians can act in their patients' best interests without fear of undue punishment.
4. **Protecting Free Speech for Healthcare Providers:** HB 12 safeguards healthcare providers' right to free speech by preventing licensing boards from penalizing them for expressing opinions on the risks, benefits, or efficacy of drugs or treatments—even if those views differ from the board's stance. This protection is vital for fostering open, honest dialogue that promotes informed consent.

By championing HB 12, Ohio is taking a significant step toward preserving the autonomy and professional judgment of its healthcare providers, while protecting the rights of patients to access personalized, informed, and transparent care.

I commend the sponsors of HB 12 for their dedication to patient-centered healthcare and urge you to support this crucial legislation. Thank you for considering my remarks, and I look forward to continued collaboration in advancing healthcare policies that prioritize the well-being of Ohio's residents.

Sincerely,

Joseph J Sreenan, MD

Joseph J. Sreenan, MD
Program Director, Community Medicine Track
OSU College of Medicine