



May 7, 2025

**TESTIMONY IN OPPOSITION TO HOUSE BILL 12
BEFORE THE HOUSE HEALTH COMMITTEE**

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Good morning, Chair Schmidt, Vice Chair Deeter, Ranking Member Somani and members of the Committee. Thank you for the opportunity to share our deep concerns regarding House Bill 12.

Along with my testimony, you will find a legal memorandum prepared by our outside counsel, the Vorys law firm. While I will attempt to summarize our legal concerns along with comments received from our members, I encourage you to review this incredibly thorough legal analysis prior to any future hearing on the bill.

While the intent of H.B. 12 is certainly well-meaning, the public policy ramifications of its enactment could be very detrimental to patients because it would eliminate the checks and balances of safe and effective medication use, which includes the professional judgment of pharmacists. This professional judgment necessarily involves the subjective knowledge and experience of the individual pharmacist, which is arguably the most important part of the dispensing process. It would be incredibly short-sighted to tie the hands of pharmacists in this manner.

H.B. 12 contemplates *any* off-label use – not just those which are generally accepted by the medical community, which presents a legitimate safety issue for patients and could conceivably allow prescribers to prescribe drugs that may be dangerous to patients, in any way they see fit, regardless of the general acceptance by the rest of the medical community. Despite the fact that the off-label use may not be indicated, may not be safe, and may not be accepted by the medical community, H.B. 12 would require pharmacists to dispense the off-label drugs prescribed unless they have a religious objection or are aware of a life-threatening contraindication.

The potential impact of H.B. 12 on the health and safety of the people of Ohio is very concerning as a matter of public policy. Simply put, H.B. 12, which is written very broadly, potentially makes it easier for controlled substances and other drugs to be abused and diverted into the hands of people who should not have them by undercutting barriers specifically enacted to promote greater patient safety, including the role of pharmacists in that process.

The requirements included in H.B. 12 directly conflict with existing requirements obligating Ohio pharmacists to determine the legitimacy of, and exercise their professional judgment when dispensing each and every prescription, including declining to dispense prescriptions in some circumstances. The direct conflict in the law which would be created by enacting this bill is completely unworkable because it would be impossible for pharmacists to comply with both the requirements of H.B. 12 and their existing legal obligations. The bill effectively negates a pharmacist's professional judgment and could require, among other things, the dispensing of illegitimate or questionable prescriptions, which could be very harmful to individual patient safety and the community as a whole. H.B. 12 does not take into account the guardrails that exist under current law to protect patients from harm. There are legitimate safety reasons why pharmacists may not feel it is safe to dispense certain drugs for off-label use, and H.B. 12 requires them to dispense them anyway, even if they have a concern that the patient will be harmed in some way.

While the bill purports to provide some level of civil and administrative immunity for pharmacists complying with H.B. 12, such immunity does not expressly extend to a pharmacist's failure to comply with other conflicting legal mandates to which the pharmacist is subject, and the immunity is civil and administrative only, suggesting that criminal prosecution may still be possible. While the bill provides for civil and administrative immunity for both the pharmacist and the prescriber, this immunity does not extend to a failure to comply with other conflicting laws applicable to the pharmacist or prescriber. Further, the civil and administrative immunity proposed in this legislation does not seem to extend to all health care professionals who would be involved in the provision of off-label drugs to patients. For example, pharmacy technicians assisting with off-label prescriptions and nurses who administer off-label drugs in a hospital or inpatient facility setting do not appear to have any immunity at all. Additionally, dispensing prescriptions when inconsistent with the generally accepted standard of care, or otherwise when not indicated or not considered safe, opens pharmacists up to potential criminal liability.

Lastly, should H.B. 12 become law, you can expect a decline in students entering pharmacy school in Ohio, and even licensed pharmacists departing the practice of pharmacy. People who have gone to school for six to eight years to study pharmacy and become practicing pharmacists have done so with the expectation that they will be required to use professional judgment to ensure the safety of their patients. H.B. 12 would preclude them from doing so in many instances, perpetuating the myth that all pharmacists do is count pills and put them in bottles.

I appreciate your time and thoughtful consideration of our significant concerns with H.B. 12. Although I am not a health care attorney, I will attempt to answer any questions you may have.