



House Health Committee

May 7, 2025

Chair Schmidt, Vice Chair Deeter, Ranking Member Somani, and members of the House Health Committee, thank you for the opportunity to provide opponent/interested party testimony on HB 12.

My name is Jan Lanier. I am writing as the chair of ANA-Ohio's Public Policy Committee and a registered nurse with years of experience working in numerous health care systems in Ohio and elsewhere. I am offering testimony today that addresses ANA-Ohio's concerns regarding HB 12 particularly with respect to how the bill when implemented will affect nurses who routinely provide essential care such as administering medications (including drugs used for off-label purposes) in hospitals and other facilities.

Because of the potential for harm when a patient is receiving health care, many safeguards are built into the procedures all providers are expected to follow. For example, generally, medication administration involves multiple providers—a physician who prescribes, a pharmacist who dispenses and a nurse who administers the drug. Ideally, having several individuals involved helps ensure any errors will be caught before the medication is administered to the patient. In this scenario, nurses are often the final safety valve against medication errors.

The Importance of the nurse's role in assuring patient safety is reflected in regulations adopted by the Board of Nursing that set forth acceptable standards of safe practice. These rules, found in Chapter 4723-4 of the Ohio Administrative Code, include specific practice standards a nurse is to follow. They are used to measure whether a nurse's actions in a particular scenario were consistent with acceptable standards of practice. Failure to practice in accordance with accepted standards can be grounds for board disciplinary action and can be used as evidence in a malpractice cause of action.

When applying these standards to HB 12, the rules set forth the steps a nurse must take when deciding whether an order is safe to carry out. "When a nurse believes or has reason to believe that an order is inaccurate, not properly authorized, not current or valid, harmful or potentially harmful to a patient, or contradicted by other documented information the nurse must consult with the appropriately licensed practitioner, notify the ordering physician when the order is not followed, and take other action to assure the safety of the patient." (Rule 4723-4-03 OH. Adm. Code). Many of these cautionary signals arise when a

drug is used for an off-label purpose. A rule in this same chapter, 4723-4-06 (H) OAC, requires the nurse to maintain a safe environment for the patient. These rules appropriately reflect the critical role nurses play in assuring patient safety, which is of foremost importance in every aspect of clinical care. That responsibility rests with the nurse separate and apart from a physician or a pharmacist's own professional practice standards.

The bill, as introduced, deals extensively with prescribing and dispensing a drug used for off-label purposes; however, it is ambiguous when it comes to the final step in the process, drug administration. For example:

1. Section 3792.08 (C) (2) says "the pharmacist, hospital, facility, or pharmacy shall be immune from civil liability, professional discipline, and sanctions or fines imposed by a regulatory authority for any harm that may arise from the dispensing or use of the drug" (Civil immunity for the prescriber is addressed later in the bill; however, the nurse who administers the drug has no express civil immunity or protection from professional disciplinary action in any section of the bill.)
2. Section 3792.08 (E) says, "a health-related licensing board shall not consider the action of prescribing, dispensing, or administering a drug to a consenting patient...to be unlawful, unethical, unauthorized, or unprofessional conduct and shall not pursue professional discipline or fines or other sanctions against the prescriber, pharmacist, hospital, facility, or pharmacy except in cases when prescribing, dispensing, or administering the drug to the patient was done with recklessness or gross neglect." That language expressly includes the prescriber and pharmacist but not the nurse who administers the drug, although the act of administering is included later in that same paragraph. This ambiguity creates confusion.
3. That same section at line 206 of the bill also says, "The prescriber is **not** immune from civil liability if harm comes to the patient" (How one should interpret that statement, given the context of the other language in that same paragraph, creates further confusion. Can it be interpreted as saying other providers are immune? I am not sure).

While many of the concerns being addressed by ANA-Ohio may seem self-serving, in reality, they relate directly to a patient's safety. Nurses already face many challenges when caring for patients. Adding further confusion, uncertainty and potential liability related to their practice will add additional stress to nurses who are already leaving direct patient care at an alarming rate. Fewer nurses will be available to ensure patients' essential needs are met in a timely manner. Like so many other seemingly straight-forward issues, even the ones being addressed in HB 12, there are always unintended, unforeseen consequences. It is important to anticipate at least some of those consequences at the time policy changes are being considered, so as to cause as little negative fallout as possible later.

ANA-Ohio appreciates the efforts by the bill's co-sponsors and other lawmakers to try to find ways to address the very difficult situation that led to the introduction of this bill. However, it is also important not to create an entirely new set of problems when trying to respond to a specific set of circumstances that may, by their facts, defy a realistically implementable, appropriately crafted legislative solution.

Thank you for your consideration of the points ANA-Ohio has raised. We would welcome a chance to further discuss these concerns with you at any time.

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