October 8, 2025

TESTIMONY IN OPPOSITION TO HOUSE BILL 324 BEFORE THE HOUSE HEALTH COMMITTEE

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Good morning, Chair Schmidt, Vice Chair Deeter, Ranking Member Somani and members of the Committee. On behalf of the Chain Drug Committee of the Ohio Council of Retail Merchants, thank you for the opportunity to share our concerns regarding House Bill 324. The Chain Drug Committee consists of companies doing business in Ohio that provide pharmacy services at 12 or more retail locations.

Along with my testimony, you will find a legal memorandum prepared by our outside counsel, the Vorys law firm, in regard to the implications of passage of HB 324. While I will attempt to summarize our legal concerns along with comments received from our members, I encourage you to review this thorough legal analysis prior to any future hearing on the bill.

1. **HB 324 would create unnecessary duplication of federal oversight:**
   - The FDA already regulates drug safety, labeling, and post-market surveillance.
   - Creating a separate state-level "severe adverse effect" list duplicates existing federal authority, introduces confusion, and risks legal conflicts.
   - The bill analysis references that the FDA has the authority to regulate drug sales and recalls and, as such, would prompt serious preemption questions.
2. **HB 324 would create an arbitrary threshold that would harm patients:**
   - The 5% cutoff for "severe adverse effects" is overly simplistic and does not account for clinical context, benefits vs. risks, or patient-specific needs.
   - Many life-saving medications have known risks but provide irreplaceable benefits. The bill could limit access to essential, life-saving therapies.
   - The bill's extremely broad definitions could impact access to drugs such as Plavix, Wellbutrin, Metformin, Atorvastatin, Amoxicillin and Ibuprofen, to name a few.
3. **HB 324 would create a loss of OTC access:**
   - Prohibiting certain drugs, such as Ibuprofen, from being sold over the counter will shift patients to more expensive, less accessible prescription pathways.
   - Patients managing common conditions could face unnecessary costs and delays, especially those with limited insurance coverage.
   - It is doubtful that health plans would cover a visit to a medical provider to obtain an OTC drug, or cover the cost of the OTC drug, thus denying prescribers and pharmacies access to payment, and potentially the patient access to the drug.

4. **HB 324's prohibition on mail order would harm vulnerable populations:**
    - Patients in rural areas, the elderly, and those with mobility or transportation challenges rely heavily on mail-order pharmacies.
    - Banning mail-order access will disrupt continuity of care and cause medication adherence issues.
    - Patients experiencing these barriers may suffer further declines in their health.
5. **HB 324 would create burdensome requirements and conflicts for prescribers:**
    - Requiring an in-person exam and follow-up for flagged drugs creates barriers in areas with physician shortages.
    - This undermines the progress Ohio has made in expanding telehealth access and will cause scheduling delays and increased costs.
    - The bill could potentially compel prescribers to act in non-compliance with federal laws governing the possession, distribution, or use of controlled substances.
6. **HB 324 would create a pharmacy compliance challenge:**
    - There is no telehealth indicator when pharmacies receive a prescription.
    - Pharmacists would not know if a prescription was written by a prescriber who saw a patient in-person or virtually.
    - A pharmacist could unintentionally violate the provisions of the bill, potentially resulting in regulatory action by the Board of Pharmacy.
7. **HB 324 would create a disproportionate impact on equity and access:**
    - Low-income patients and those with limited healthcare access will be hit hardest by added visits, costs, and travel requirements.
    - The bill unintentionally widens health disparities across Ohio communities.
    - The absence of any exceptions virtually ensures that existing barriers to care and medication access will be exacerbated.
8. **HB 324 would create uncertainty and stigma around medications:**
    - Without clear methodology for determining "severe adverse effect rates," patients and providers may lose trust in safe, effective treatments.
    - This lack of guidance could lead to over-inclusiveness in the list of restricted drugs.
    - Drugs could be stigmatized and underutilized, even when clinically appropriate.
9. **HB 324 would create the risk of discouraging treatment and innovation:**
    - Providers may hesitate to prescribe beneficial therapies due to regulatory uncertainty.
    - Researchers and manufacturers may avoid bringing important therapies to Ohio's market.
10. **HB 324 would create unintended consequences that outweigh potential benefits:**
    - Patient safety is paramount, but this bill as written risks undermining access, increasing costs, and reducing care quality.
    - A more balanced, evidence-based approach—aligned with existing FDA oversight—would better protect patients without disrupting care.
    - No other state has sought to enact a bill as broad and all-encompassing as HB 324.

Thank you again for this opportunity to share our concerns regarding House Bill 324. To complement our concerns, I commend the Vorys legal analysis to your review. I will attempt to answer any questions you may have.