



John Eklund
State Senator, 18th District

Senate Building
1 Capitol Square
Columbus, Ohio 43215
Phone: 614.644.7718
Eklund@ohiosenate.gov

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Senator John Eklund – Sponsor Testimony
Substitute Senate Bill 229
House Health Committee
November 14, 2018

Good morning Chairman Huffman, Vice-Chair Gavarone, Ranking Member Antonio and colleagues of the committee. I thank you for the opportunity to give testimony on Substitute Senate Bill 229, which will continue to fight Ohio's drug epidemic. Addressing the scourge of addiction requires a multi-faceted approach. Our criminal justice system, creative treatment programs, community groups, education initiatives, pain management innovations and other resources are being brought to bear. Underlying all these efforts is the State's responsibility to regulate the distribution, prescribing, dispensing, sale and use of all dangerous drugs and to address novel, illicit drugs entering our state from overseas. Sub SB 229 which, if enacted, will enhance our ability to do that more efficiently and effectively. Building on our efforts in last GA's SB 319, the bill would make several changes to law related to emergency scheduling of drugs, treatment centers, dispensing of opiates, and drug possession. Here are the highlights:

- Update the Board of Pharmacy's "Board" Emergency Scheduling Authority and Move Ohio's Controlled Substance Schedules from the Revised Code to the Administrative Code.
 - This proposal is to expedite the emergency scheduling process, and reduce the number of criteria required to schedule a substance that is deemed an imminent hazard to public health and safety. This will match the same criteria used by the U.S. Drug Enforcement Administration (DEA).
 - This provision will ensure that the Board can quickly outlaw deadly synthetic drugs that are being produced abroad.
 - The proposal also seeks to place Ohio's drug controlled substance schedules into rule and streamline the process to allow the Board to add or adjust schedules to comply with federal controlled substance schedules. Ohio's schedules are currently out of synch with federal regulations. **NOTE: 25 states currently have controlled substances listed in administrative rule.**
 - Allows for emergency rules for scheduling of drugs to be valid up to 240 days.

- The bill also corrects many out-of-date references and incorrect cross references within chapter 3719 as recommended by LSC.
- Correction of a 14-day Limitation Opioid Prescription from SB 319
 - Current law is being interpreted to provide that all prescriptions for opioid analgesics are void unless filled within 14-days from when they were written. The bill would exempt from the 14-day rule:
 - Refills on prescriptions for opioid drugs included in schedule III and V;
 - For a prescription that was partially filled within the 14-day period, the dispensing of the remaining amount of the drug; and
 - A prescription indicating the earliest date on which it may be filled (permits the prescription to be filled within 14 days of the indicated “do not fill until date”).
- Exemption of Certain Treatment Facilities from Board Licensure and Flexibility of Background Checks for Employees with Criminal Histories
 - The bill will add federally qualified health centers, FQHC look-a-likes, state or local correctional facilities, and other facilities the Board specifies in rules to the list of facilities that are exempt under current law from having to obtain a category III terminal distributor of dangerous drugs (TDDD) license with an office-based opioid treatment (OBOT) classification.
 - The bill also proposes a look-back period of ten years for the automatic exclusion of employment for a felony drug or theft offense. It has come to the Board’s attention that individuals who may have had drug issues in the past may be more inclined to assist those dealing with addiction issues and therefore a blanket prohibition may not be appropriate.
 - Please be advised this language was included as an amendment to HB 101 that is currently under consideration by the Senate Health, Human Services and Medicaid Committee.
- Codify the Board’s the ability to conduct criminal records checks on owners and operators of wholesalers to comply with FBI requirements.
 - The Board has required criminal records checks in administrative rule since 2009. However, to obtain a copy of an FBI background check, federal authorities are now requesting a statute change.
 - Background checks of wholesalers are essential, as these entities can possess and ship a substantial amount of prescription drugs (including controlled substances).
 - The bill also extends controlled substances recordkeeping requirements for wholesalers from three years to five years.
- Protection of Employee Information
 - With the Board in charge of enforcing criminal drug laws, Board investigators have received threats from individuals who are subject to investigation/prosecution, including a recent incident of violence against a family member of one of its employees.
 - To protect their investigators and staff, the bill will shield those investigators’ personal information from public records.

- Language was also added to protect an EMS organization's medical director's personal information.
- Update the definition of lawful prescription in O.R.C. 3719.09
 - A court case from the 9th District in 2009 identified an issue regarding the definition of what constitutes a lawful prescription in section 3719.09 of the Revised Code.
 - This issue was previously identified and subsequently addressed in Chapter 2925 by the 127th General Assembly.
 - The legislation seeks to make the same legislative fix provided by the 127th General Assembly in section 3719.09 to be able to pursue prosecutions for deception to obtain dangerous drugs.

Sub SB 229 was voted out of the Senate unanimously and had no opposition testimony. There are a few more modifications I am aware of to make the Bill a purposeful, solid piece of legislation and I am open to those ideas and any other suggestions by the committee. Thank you for the opportunity to provide testimony on Sub SB 229 and encourage your support. I will be glad to answer any questions you may have.