



November 28, 2018

Chair Huffman, Vice-Chair Gavarone, Ranking Member Antonio and members of the House Health Committee, thank you for the opportunity to provide proponent testimony on the Senate Bill 229. My name is Steve Schierholt and I am the Executive Director of the State Board of Pharmacy. SB 229 contains several important policy proposals to assist the Board of Pharmacy in regulating the distribution of controlled substances to protect the health and safety of Ohioans.

The primary focus of this legislation is an update to Ohio's Controlled Substances Act, Chapter 3719. of the Ohio Revised Code. Per section 3719.28 of the Revised Code, the Board of Pharmacy is charged with the enforcement of this chapter. As such, the Board currently has the authority to designate drugs or compounds as controlled substances if they meet certain requirements outlined in the Revised Code.

The Board has used this authority several times in the past to schedule specific compounds as Schedule I controlled substances on an emergency basis. For example, in May 2016, the Board outlawed a synthetic opioid that was being imported from China, known as U-47700, that is seven and a half times more potent than morphine after reports that the drug had contributed to several overdoses in Northeast Ohio.

While a process exists to outlaw potentially deadly compounds on an emergency basis, SB 229 seeks to allow the Board to quickly address the growing issue of the importation of novel substances manufactured overseas by making the following modifications to expedite this process:

First, it reduces the number of criteria required to make a compound a Schedule I controlled substance on an emergency basis. This matches the same criteria used



by the DEA and would include all the following: 1) The history and current pattern of abuse; 2) The scope, duration and significance of abuse; and 3) The risk to public health.

Please be advised that the legislation would not allow the Board to schedule anything that has been approved for use by the FDA and still requires an emergency order to be issued by the Governor.

Second, it permits the Board to meet via conference call to make the determination that the substance meets the emergency scheduling requirements.

As Board members are busy professionals practicing throughout Ohio, it may be difficult to obtain an in-person quorum to address an emergency. Therefore, the bill will allow the Board to meet via conference call, as it is already authorized to do to summarily suspend a license in the event of an immediate and serious threat to the public.

Additionally, the bill moves all currently listed controlled substances from the Revised Code to the Administrative Code. This allows Ohio to maintain one specific location where law enforcement and prosecutors can determine how Ohio classifies a compound or drug. By adopting this proposal, Ohio would join 25 other states currently listing controlled substances in administrative rule.

Moving to administrative rule also addresses a current issue where several drugs listed in section 3719.41 of the Revised Code do not conform to federal law. For example, there are several new controlled substances that are not currently listed and some that are incorrectly classified. Hydrocodone, an opioid subject to abuse, is currently listed in state law as a Schedule III controlled substance when, federally, it is a Schedule II controlled substance. To ensure Ohio remains consistent and up-to-date with federal changes, the legislation creates an expedited process for the Board to update rules to match the federal schedule.

I would like to take a moment to discuss the substitute version of SB 229. The substitute version of the legislation makes the following important changes:

1. The first change allows agents of the Board of Pharmacy to maintain certification by the Ohio Peace Officer Training Commission through employment with the Board. As an agency charged with enforcing Ohio's criminal drug laws, the Board of Pharmacy hires agents current serving in law enforcement positions (narcotics detectives, members of local drug task forces, etc.). As such, the Board requires its agents to maintain certification by the Ohio Peace Officer Training Commission.

Certification is akin to professional licensure for law enforcement. It ensures that the Board's agents maintain adherence to training standards and obtain continuing education to enhance their skills as investigators. By leaving a police department and coming to work for the Board, newly hired agents are not able to maintain Ohio Peace Officer Training Commission certification. This forces a newly hired agent to seek out a local law enforcement agency or work with their old law enforcement agency to obtain a commission to maintain certification.

Experience finds that obtaining a commission with a local agency can be difficult and often requires volunteering up to 20 hours per month to maintain a commission. Such a time commitment takes away from dedicating additional hours to drug investigation cases. This proposed change would allow an agent of the Board to maintain a peace officer certification by being an employee of the Board of Pharmacy.

2. Another provision permits the Board of Pharmacy to review copies of conviction records that were previously sealed. Currently, the Board has the authority to ask about sealed records as it pertains to licensure [ORC 2953.33(B)]. However, upon disclosure, the Board cannot review the matters and take possible action because the official records are not available.

This became apparent when the Board recently onboarded more than 20,000 pharmacy technicians. As the Board licenses and regulates individuals and entities with access to controlled substances, it feels that such additional review is warranted. Please be advised that the Board of Pharmacy worked closely with the

sponsor to draft language that prevents it from conducting retrospective reviews of individuals who may have previously disclosed a sealed conviction.

Currently, 10 state agencies can review such records, as it relates to the issuance of licenses. Additionally, the Board was recently granted such access in the last biennial budget, but only as it pertains to the operation of medical marijuana dispensaries.

3. Lastly, the substitute bill authorizes non-employer based pharmacy technician training programs. Current law requires an attestation on a pharmacy technician application by a licensed pharmacy's responsible person that the applicant has successfully completed a technician training program.

However, there are several training programs available that are not employer based, such as high-school vocational programs, that would not have a license from the Board and therefore no responsible person to provide the required attestation. By authorizing non-employer training programs, we can ensure that students from these programs would graduate career-ready with a high school degree and the ability to apply for a pharmacy technician license from the Board.

On behalf of the Board of Pharmacy, I would like to thank Senator Eklund for his sponsorship of Senate Bill 229. This legislation includes important changes that will strengthen Ohio's efforts to address illicit drugs and implement needed reforms to assist the Board in its mission to promote and protect the health and safety of all Ohioans. I would be happy to answer any questions you may have at this time.