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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 631
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Jordan

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SUMMARY

- Authorizes a patient diagnosed with COVID-19 who seeks to use specified drugs, including ivermectin and hydroxychloroquine, to do so if the patient's treating health care professional determines their use appropriate for the patient's diagnosis.
- Requires each state department and local board of health to enter into agreements with other state departments, nonprofit organizations, and other entities to promote and increase distribution of the drugs as alternative treatments for COVID-19.
- Prohibits a government entity or official, professional association, health care facility, or pharmacy from (1) suppressing the promotion of, or access to, the specified drugs and (2) reprimanding, threatening, or penalizing a health care professional for prescribing, administering, or promoting the drugs.
- Authorizes a health care professional, patient, or patient's representative to bring a mandamus action to order a government entity or official, professional association, health care facility, or pharmacy to comply with the bill's provisions.
- Names the act the COVID-19 Health Care Professional-Patient Relationship Protection Act.

DETAILED ANALYSIS

Alternative treatments for COVID-19

H.B. 631 authorizes a patient diagnosed with COVID-19 or SARS-CoV-2, including its variants, to use any of the following drugs or therapies, either alone or in combination with other available drugs or therapies:

- Azithromycin;
- Budesonide;
- Hydroxychloroquine;

- Ivermectin;
- Another drug or therapy that may be proven effective or deemed beneficial by the patient's treating health care professional in consultation with the patient or patient's legally authorized representative.¹

For a COVID-19 patient to be eligible to use any of the foregoing drugs or therapies, three conditions must be satisfied. First, the patient or patient's legally authorized representative must want to use the drug or therapy. Second, the patient's treating health care professional must determine that the drug or therapy is appropriate for the patient's diagnosis. And third, the treating professional must obtain the patient's or representative's informed consent to treatment with the drug or therapy.²

Promotion and distribution of alternative treatments

The bill requires each board of health and state department, including the Ohio Department of Health, to enter into agreements with other departments, nonprofit organizations, and other entities to promote and increase distribution of the specified drugs and therapies as alternative treatments for COVID-19.³ The agreements to be entered must include those (1) for the procurement of the drugs and therapies and (2) related to producing and distributing the drugs and therapies and making them widely available and accessible to public and private purchasers, including health care professionals and pharmacies.⁴

If funds are appropriated by the General Assembly, the bill authorizes each board of health and state department to hire staff to oversee and manage the agreements for the promotion and distribution of the specified drugs and therapies.⁵

Prohibition against punitive action

The bill prohibits a board of health, state department, State Medical Board of Ohio, Ohio Board of Nursing, professional association, health care facility, pharmacy, or government entity or official from doing either of the following:

- Suppressing the promotion of, or access to, the drugs and therapies described in the bill;
- Reprimanding, threatening, or penalizing a health care professional for prescribing, administering, or promoting any of the drugs or therapies described in the bill that the professional, in consultation with the patient or patient's representative, deems to be necessary or beneficial.⁶

¹ R.C. 3792.05(B)(1).

² R.C. 3792.05(B)(2).

³ R.C. 3792.05(D)(1).

⁴ R.C. 3792.05(D)(2).

⁵ R.C. 3792.05(D)(3).

⁶ R.C. 3792.05(E).

Mandamus actions

The bill authorizes a health care professional, patient, or patient’s representative to file a mandamus action to obtain a judgment ordering one or more of the following to comply with the bill’s provisions: a board of health, state department, State Medical Board of Ohio, Ohio Board of Nursing, professional association, health care facility, pharmacy, or government entity or official.⁷

Under the bill, the court hearing the mandamus action must award reasonable attorney’s fees and court costs to the prevailing plaintiff. The bill also requires the court to award the prevailing plaintiff monetary damages as follows: \$5,000 a day for each business day that the defendant fails to comply with the bill’s provisions, beginning with the day the action was filed. The bill limits these monetary damages to a total of \$100,000 and specifies that they are to be construed as compensatory rather than as a penalty.⁸

Health care professional-patient relationship

The bill requires the health care professional-patient relationship to be honored and specifies that the patient or patient’s representative reserves the right to choose the patient’s treatment, provided that informed consent is obtained in consultation with the patient’s health care professional or the health care facility of the patient’s or representative’s choosing.⁹

Health care professional compensation

The bill prohibits a health care professional who recommends use of one of the drugs or therapies described in the bill from being compensated for his or her recommendation by the drug’s or therapy’s manufacturer or distributor.¹⁰

HISTORY

Action	Date
Introduced	04-21-22

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⁷ R.C. 3792.05(F)(1).

⁸ R.C. 3792.05(F)(2).

⁹ R.C. 3792.05(B)(3).

¹⁰ R.C. 3792.05(C).