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OHIO LEGISLATIVE SERVICE COMMISSION

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Substitute Bill Comparative Synopsis

Sub. H.B. 12

136th General Assembly

House Health

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (I_136_0239-2)	Latest Version (I_136_0239-4)
Immunity	
Grants immunity from civil liability to a pharmacist, pharmacy, hospital, inpatient facility, or outpatient health care facility subject to the bill's dispensing requirements if the pharmacist, pharmacy, hospital, or facility has an objective, good faith, and scientific objection that is <i>explained to and discussed with</i> the physician and documented in the patient's medical record within 24 hours of dispensing (R.C. 3792.08(B)(2)).	Same, except: <ul style="list-style-type: none">▪ Specifies that immunity is from civil liability <i>and damages</i>;▪ Instead requires the physician to be <i>informed</i> of the objection;▪ Specifies that the objection to the <i>named drug</i> must be documented (R.C. 3792.08(B)(2)).
No provision.	Grants a pharmacist, pharmacy, hospital, inpatient facility, or outpatient health care facility immunity from criminal liability if the physician is informed of an objective, good faith, and scientific objection and the objection is documented in the patient's medical record within 24 hours of dispensing (R.C. 3792.08(B)(2)).

Previous Version (I_136_0239-2)	Latest Version (I_136_0239-4)
Grants immunity from professional discipline and from sanctions or fines imposed by a regulatory authority in the above circumstances (R.C. 3792.08(B)(2)).	Instead, grants immunity from professional discipline and from sanctions or fines imposed by <i>any licensing authority</i> or other regulatory authority (R.C. 3792.08(B)(2)).
Professional discipline	
Generally prohibits a health-related licensing board, the Ohio Department of Health (ODH), or another state agency from pursuing disciplinary action or fines or other regulatory sanctions against a physician, pharmacist, hospital, inpatient facility, outpatient health care facility, or pharmacy for prescribing, dispensing, or administering a drug to a consenting patient (R.C. 3792.08(D)).	Instead, applies the prohibition only to prescribing, dispensing, or administering a drug <i>for off-label use</i> (R.C. 3792.08(D)).
Establishes an exception to the above prohibition when a court has determined that a drug is prescribed, dispensed, or administered with recklessness or gross negligence (R.C. 3792.08(D)).	Instead, applies the exception when prescribing, dispensing, or administering the drug for off-label use was not done in accordance with the minimal standard of care (R.C. 3792.08(D)).
No provision.	Prohibits the State Medical Board from determining that prescribing, dispensing, or administering a drug for off-label use is considered below the minimal standard of care because the drug is being used to treat a particular condition that is not commonly treated with that drug (R.C. 3792.08(D)).
Prohibits a health-related licensing board, ODH, or another state agency from pursuing or threatening to pursue professional discipline or fines or other regulatory sanctions for informing a patient of safety concerns or risks that may be associated with a drug (R.C. 3792.08(E)(2)).	Same, and specifies that (1) a patient's personal representative may be informed instead of the patient and (2) a drug includes a drug prescribed for off-label use (R.C. 3792.08(E)(2)).
Decision-making	
States that the ultimate decision to take a prescribed drug <i>must</i> be made by the consenting patient or the patient's personal representative (R.C. 3792.08(B)(6)).	Instead, states that <i>outside of emergency situations</i> , the ultimate decision to take a prescribed drug, <i>including a drug for off-label use</i> , <i>should</i> be made by the consenting patient or the patient's personal representative (R.C. 3792.08(B)(6)).

Previous Version (I_136_0239-2)	Latest Version (I_136_0239-4)
In-house physician	
Defines an “in-house physician” as “a physician who is employed or contracted by the hospital or inpatient facility where a patient is being treated, or who has hospital privileges at the hospital where a patient is being treated” (R.C. 3792.08(A)(3)).	Adds to the definition that an in-house physician is part of the team involved in the care of a hospital or inpatient facility patient (R.C. 3792.08(A)(3)).
Existing law	
States that nothing in the bill prevents compliance with existing pharmacy law (R.C. 3792.08(B)(3)).	Instead, states that nothing in the bill <i>is intended to prevent</i> compliance with existing pharmacy law (R.C. 3792.08(B)(3)).