



Ohio Legislative Service Commission

Bill Analysis

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H.B. 520

129th General Assembly
(As Introduced)

Reps. Celeste and R. Hagan, Foley, Yuko, Williams

BILL SUMMARY

- Limits to physicians the authority to prescribe drugs to treat erectile dysfunction.
- Before an initial prescription for a drug to treat erectile dysfunction may be issued, requires that the patient undergo certain medical testing and examination, be referred to a sexual therapist, and provide an affidavit from at least one partner regarding the patient's symptoms of erectile dysfunction.
- Prohibits a physician from prescribing medication to treat erectile dysfunction to a patient whose erectile dysfunction is caused entirely by a psychosexual disorder.
- Requires the physician to inform the patient in writing of the potential risks of erectile dysfunction drug treatment.
- Requires the patient to acknowledge in writing that he received the notice and understood the information provided.
- Creates a waiting period of 36 hours between the physician's written notice to the patient that the prescription is medically necessary and the final authority to issue the prescription.
- Requires a physician who prescribes a drug to treat symptoms of erectile dysfunction to require the patient to undergo periodic cardiac stress tests and three sessions of outpatient counseling.
- Establishes record keeping requirements regarding the treatment of a patient's erectile dysfunction.

- Authorizes the Medical Board to take disciplinary action against a physician who violates the bill's provisions regarding prescriptions for drugs to treat erectile dysfunction.

CONTENT AND OPERATION

Limits on authority to prescribe erectile dysfunction drugs

The bill allows only physicians to prescribe drugs intended to treat symptoms of erectile dysfunction.¹ This restricts the authority presently held by advanced practice nurses (APNs) and physician assistants holding certificates to prescribe.

Prerequisites for issuing a prescription for drugs to treat erectile dysfunction

The bill requires a physician to meet specified conditions before issuing an initial prescription for drugs to treat erectile dysfunction.

Affidavit from patient's sexual partner

The physician must obtain from the patient a notarized affidavit in which at least one of the patient's sexual partners certifies that the patient has experienced symptoms of erectile dysfunction in the 90 days preceding the date of the affidavit.²

Medical examination

The treating physician must determine that the patient's heart and prostate health are sufficiently healthy for exertion consistent with sexual activity. The physician must require the patient to undergo a cardiac stress test and provide the physician with the results.³ The physician also must perform a prostate examination on the patient.⁴ If the results do not confirm that the patient's cardiac and prostate health are compatible with sexual activity, the physician may not give further consideration to prescribing a drug to treat erectile dysfunction.

¹ Revised Code (R.C.) 4731.45(B).

² R.C. 4735.45(C)(1).

³ R.C. 4731.45(C)(3).

⁴ R.C. 4731.45(C)(4).

Referral to a sexual therapist

The physician must refer the patient to a sexual therapist approved by the Medical Board for an assessment of the possible causes of the patient's symptoms of erectile dysfunction and request a written report of the therapist's conclusions.⁵ If the sexual therapist concludes that the patient's symptoms are attributable solely to one or more psychological conditions, the therapist must specify that the patient has a psychosexual disorder. The bill prohibits a physician from prescribing a drug to treat erectile dysfunction for a patient whose erectile dysfunction is caused only by a psychosexual disorder.

Because sexual therapists must be approved by the Medical Board under the bill, and the Board presently has no published list of approved sexual therapists, the enactment of this bill may temporarily preclude prescriptions of erectile dysfunction medication until sexual therapists are approved.

Informed consent

Once the preceding requirements are met and the physician determines that prescribing the drug is medically appropriate, the physician must notify the patient in writing of the potential risks and complications associated with taking drugs intended to treat symptoms of erectile dysfunction.⁶ The physician may not prescribe the drug for the patient unless the patient provides the physician a signed form acknowledging that the patient received the notice from the physician and understood the information that was provided.

Documentation of medical necessity

After the physician receives a signed form, that physician must declare in writing, under penalty of perjury, that the drug the physician intends to prescribe is necessary to treat the patient's symptoms of erectile dysfunction.⁷ That physician also must attach a statement clearly describing the rationale for issuing the prescription based on a verified medical condition.

Waiting period

After the physician notifies the patient of the completed declaration of necessity, the patient must wait another 36 hours before the physician may prescribe the

⁵ R.C. 4731.45(C)(2).

⁶ R.C. 4731.45(C)(5).

⁷ R.C. 4731.45(C)(6).

medication intended to treat erectile dysfunction.⁸ The bill specifies that the waiting period begins when notice to the patient occurs, not when the physician's declaration is made.

Course of treatment after a prescription has been issued

After a prescription for a drug intended to treat erectile dysfunction has been issued, the treating physician has continued statutorily imposed obligations under the bill. The treating physician must require the patient to undergo a cardiac stress test every 90 days to ensure that the patient's cardiac health continues to be compatible with sexual activity.⁹ The physician also must require the patient to attend three sessions of outpatient counseling within the first six months of the initial prescription to ensure the patient's understanding of the dangerous side effects of drugs intended to treat erectile dysfunction.¹⁰ The bill requires the physician to ensure that those counseling sessions include information on nonpharmaceutical treatments for erectile dysfunction, including sexual counseling and resources for patients to pursue celibacy as a viable lifestyle choice.¹¹

State Medical Board powers

The Medical Board's authority to discipline physicians is expanded to include disciplining physicians who do not comply with the bill's requirements regarding prescriptions for drugs to treat erectile dysfunction. A physician's failure to comply with the new requirements may result in the limitation, revocation, or suspension of the physician's medical license.¹²

Additionally, by implication, the Medical Board is charged with approving sexual therapists. The bill requires that a physician refer the patient to a sexual therapist approved by the Medical Board.¹³ Neither the bill nor existing law defines "sexual therapist."

⁸ R.C. 4731.45(C)(7).

⁹ R.C. 4731.45(D)(1)(a).

¹⁰ R.C. 4731.45(D)(1)(b).

¹¹ R.C. 4731.45(D)(2).

¹² R.C. 4731.22(B)(45).

¹³ R.C. 4731.45(C)(2).

Recordkeeping

A physician must retain in the patient's medical record for at least seven years documents the physician prepares or receives under the bill.¹⁴ This includes any report from a sexual therapist specifying that a patient has a psychosexual disorder, cardiac stress test results, notarized affidavit, acknowledgement that the patient has received and understands the potential risks and complications associated with taking drugs to treat erectile dysfunction, and declaration of medical necessity.

HISTORY

ACTION	DATE
Introduced	04-18-12

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¹⁴ R.C. 4731.45(E).