



Hearing Summary Report

Hearing Date: 7/19/2017

Today's Date: 7/24/2017

Rule Number(s): 4729-5-30; 4729-37-04; 4729-37-05

List organizations or individuals giving or submitting testimony before, during or after public hearing and indicate the rule number(s) in question.

- Surescripts
- National Association of Chain Drug Stores (NACDS)
- American College of Emergency Physicians, Ohio Chapter (Ohio ACEP)
- Laurel Kirkhart, MD
- Ohio State Medical Association
- Emergency Services Inc.
- Dr. Dan Sullivan, on behalf of OSMA/Cleveland Clinic
- Dr. Richard Fankhauser, on behalf of OSMA
- Julia Thomas, pharmacist
- Ohio Hospital Association

Consolidated Summary of Comments Received

Surescripts (Rule 4729-5-30): The rule would prohibit electronic to fax transmissions of prescriptions. Surescripts relies on electronic to fax transmissions in the limited event that their electronic system is down. Requests an exemption/clarification for when the system is down.

NACDS (Rule 4729-5-30): Requests an exemption for out-of-state providers to the requirements in paragraph (B)(1) and (2) of the rule. Requests that an ICD-10 code only be required if exceeding 7-day supply or the initiation of therapy. Requests an exemption for electronic to fax prescription transmission systems only when the electronic system is down.

NACDS (Rule 4729-37-04): Maintain paragraph (A)(18) as is to adjust for when a prescription is dispensed in a quantity that varies from the prescription. Requests that out-of-state prescriptions not be required to include the ICD-10 diagnosis code. Requests that the phrase "NO CODE" be modified to take up less data.

American College of Emergency Physicians, Ohio Chapter (Ohio ACEP), Laurel Kirkhart, MD, Ohio State Medical Association, Emergency Services Inc., Dr. Dan Sullivan, on behalf of OSMA/Cleveland Clinic, Dr. Richard Fankhauser, on behalf of OSMA (Rule 4729-5-30):

- The requirement to include an ICD-10 diagnosis is too onerous for the prescriber and reduce the amount of time a physician may spend with their patients.
- The administrative burden on physicians is already high.
- Questioned the rationale for the inclusion of the diagnosis code.
- ICD-10 coding is available from insurance companies and the Board should find a way to access this data.

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- Updating electronic health records to include this requirement will also result in costs to prescribers and hospitals.
- May result in incorrect reporting of diagnosis codes (i.e. prescribers will select the most generic diagnosis).
- May increase wait time at emergency departments (5-10 minutes to locate a code).

Julia Thomas, pharmacist (Rule 4729-5-30): Remove the requirement the days' supply be reported on a gabapentin prescription.

Ohio Hospital Association (4729-5-30):

- Create administrative and technological challenges for hospitals and other providers, and the Pharmacy Board has not included in its materials accompanying the rules a clearly articulated rationale for why it believes such a requirement will reduce inappropriate prescribing.
- Prescribers are not trained coders. In many health care settings, the coding that occurs in order to bill for a particular service is done days after the care is actually delivered. Physicians typically do not do their own coding.
- Not all electronic health record (EHR) systems have the ability to link a prescription with an ICD-10 code or transmit this information electronically.
- Concerns raised regarding fraud claims. Because coding happens after physician services are delivered, it is very likely that the code a physician would write on a prescription would often differ from the code that is ultimately included on a billing claim, after the appropriately trained coder reviews the record and codes the visit for submission to a payer. Some prescribers are concerned that this scenario will expose them to claims of billing fraud.
- A single medication or therapeutic agent may be used for multiple purposes. Assigning ICD-10 codes to that particular prescription would require the prescriber to sift through multiple codes and assign one code of the many that could be used.
- ICD-10 coding is available from insurance companies and the Board should find a way to access this data.

Incorporated Comments into Rule(s)

4729-5-30 was revised to permit the conversion of electronic prescriptions to fax in the limited event the third-party or receiving pharmacy are experiencing telecommunications issues.

4729-37-04 was revised to account for when a prescription is dispensed in a quantity that differs from the amount prescribed. The rule changed the code for when a prescriber does not include the diagnosis code on the prescription from "NO CODE" to "NC" to account for data concerns.

The Board did not remove or alter the ICD-10 reporting requirement on the prescription. The provision in this rule ensures that the Board of Pharmacy can enforce prescriber requested exemptions in the Medical, Nursing and Dental Board's proposed acute pain prescribing rules. The data provided will help inform future initiatives aimed at reducing the possible overprescribing of prescription opiates and other controlled substances. The presence of the diagnosis on the prescription also aids the pharmacist in evaluating the appropriateness of the prescription and more effectively educating patients on appropriate utilization.

The Board is planning on a 120-day delay in the effective date of the rules. This will allow time for any system upgrades or training required to meet the ICD-10 prescription requirement.

The Board did not remove the requirement for a days' supply for gabapentin. The Board contends that it is in the public's interest to have that data reported for this drug, as it is subject to abuse and diversion.