Ohio State Medical Association

Bringing physicians together for a healthier Ohio

OSMA Advocacy Update 2018

REGINALD FIELDS, MA

Director, External & Professional Relations

Overview

- ✓Health Insurance
- ✓Maintenance of Certification (MOC)
- ✓Medical Liability
- ✓One-Bite
- ✓Scope of Practice
- ✓Opioids
- ✓Medical Marijuana
- ✓Compounding

Ohio State Medical Association

Health Insurance

SB 129 – Prior Authorization

- Passed in 2016, SB 129 simplifies and expedites the process of obtaining prior authorization by making the process more transparent, efficient and fair.

Photo: www.consumeraffairs.com

SB 129 – Prior Authorization

Photo: www.quantummd.com

Provisions Effective in 2017:

- Disclose all PA Rules
- PA changes require a 30 day notice
- No more retroactive denials
- 12 month PA for certain medications for chronic conditions

SB 129 – Prior Authorization

Provisions Effective in 2018:

- Insurers must have a web-based system to accept PA requests
- Faster turnaround times for PA requests – 48 hours for "urgent" matters and 10 calendar days for non-urgent matters
- Faster turnaround times for appeals – 48 hours for urgent matters and 10 calendar days
- More clarity when an insurer responds to PA requests: electronic receipt, specific reasons for denial, other information can be requested

Price Transparency

- 2015 legislation requires providers to give patients, prior to service, a detailed printout of charges and out-of-pocket cost
- Law was to become effective Jan. 1, 2017
- OSMA, OHA and other provider groups worked for 18 months to try to fix the language and delay the implementation date
- Those efforts were met with significant opposition from a few elected officials and a legislative fix was not possible

Price Transparency

- The OHA, with the OSMA and other provider groups, filed a lawsuit against the state of Ohio, to temporarily halt the effective date (01/01/17) of the law
- *Community Hospitals and Wellness Centers, et al v. The State of Ohio, et al* (The Court of Common Pleas, Williams County)
- The Judge granted a TRO on the law extends until late 2018
- New bills being introduced – HB 416

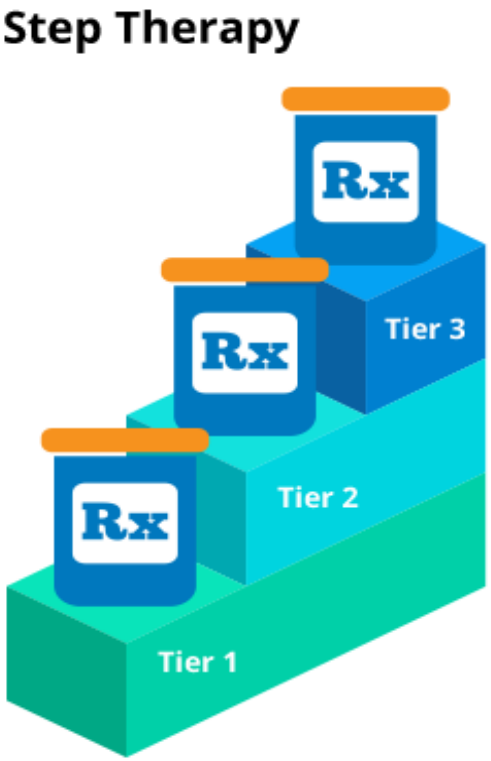
Telemedicine

- Amendment to state budget bill would have created coverage and reimbursement parity for telehealth
- Removed from budget – but separate legislation, HB 546, was introduced in March 2018
- This legislation would give parity coverage to telemedicine services

Step Therapy: HB 72/SB 56

- ***The legislation requires:***
  - *A transparent process for obtaining step therapy exceptions*
  - *Step therapy programs to be based on clinical guidelines from independent experts*

- ***Automatic exceptions:***
  - *Contraindications or expected adverse reactions*
  - *Drug required by protocol expected to be ineffective*
  - *Patient has already tried the required drug without success*
  - *Required drug not in patient's best interest or medically appropriate*
  - *Patient is stable on prescription drug for condition under consideration*



Ohio State Medical Association

Maintenance of Certification

Maintenance of Certification

HB 273 would prohibit a physician from being required to secure a maintenance of certification as a condition of obtaining:

- licensure;
- reimbursement;
- employment; or,
- admitting or surgical privileges at a hospital or health care facility.
- ***Medical community support is divided***

Ohio State Medical Association

Medical Liability & Tort Reform

Photo: www.pbs.org

HB 7: Passed in Ohio House

- Medical Malpractice Litigation Improvements Act
- Clarifies Ohio's apology statute to make it clear that when there is an adverse medical outcome, physicians can open the lines of communication with the patient without those communications being considered an admission of liability
- Reduces "shotgun" lawsuits by allowing plaintiffs additional time to name potential defendants after the initial filing of a medical claim

HB 7: Passed in Ohio House

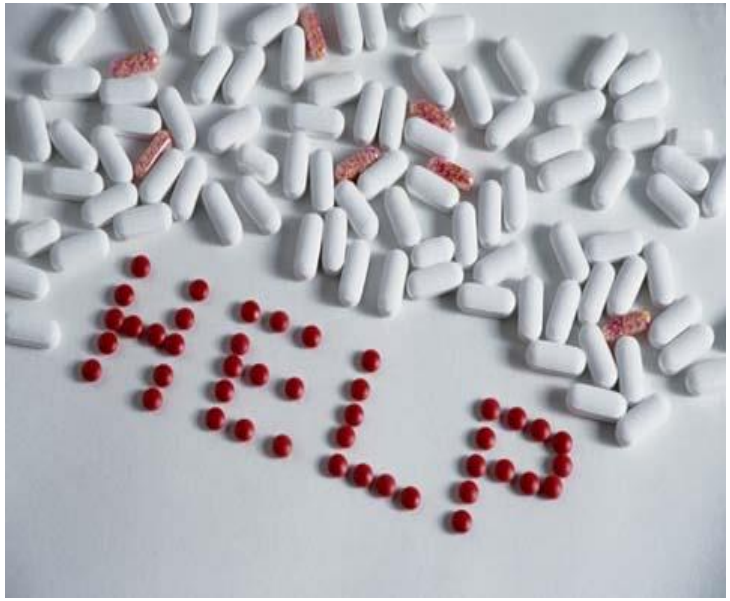
- Prohibits insurer reimbursement policies from being used as evidence to establish a standard of care
- Establishes an alternative standard of liability (willful and wonton) for services provided during a declared disaster
- Clarifies that peer review records remain confidential when shared with regulators (Medical Board, Dept. of Health, etc.)
- Note: Evidence of damages provision removed from bill (billed charges v. actually paid)

Ohio State Medical Association

“One-Bite Rule”

“One-Bite Rule”

The “One-Bite” program refers to a confidential, non-punitive way for physicians to seek assistance, early intervention and treatment for substance use disorders.



“One-Bite Rule”

The Medical Board considered removing the anonymity of the program a few years ago, and the medical community expressed serious concerns.

HB 145 (Feb. 2018) revises current law to clarify the eligibility requirements for participation in the program and maintain its confidentiality.

For additional information: https://www.ophp.org/

Ohio State Medical Association

Scope of Practice

Scope of Practice

- **HB 131 - PTs "diagnosing" and ordering imaging**
- **HB 326 - Psychologists prescribing**
- **SB 256- Physician Assistants**
- **HB 191 - CRNAs prescribing and independent practice**

Ohio State Medical Association

Opioids

Drug Abuse Epidemic

United States:

- 59,000-65,000 total deaths from unintentional drug overdoses in 2016 according to preliminary data (NYT, 06/05/17).

Ohio (Department of Health report, 2016 Drug Overdose Data):

- 4,050 deaths in 2016 from unintentional drug overdoses, 32.8% increase from 2015 largely driven by fentanyl & related drugs.
- Fentanyl & related drugs were involved in 58.2% of these deaths in 2016, compared to 37.9 percent in 2015.
- Cocaine overdose deaths rose 61.9% from 2015 to 2016, and in 80.2% of cocaine-related overdose deaths, an opiate was involved. In particular, 55.8% involved fentanyl & related drugs.
- Heroin death rate relatively static: 1,444 in 2015 and 1,424 in 2016.
- Prescription opioid overdose deaths continue to decline, and 2016 saw the fewest deaths from prescription opioids since 2009 at 564. This is a 15.4% decrease from 2015.

Laws & Regulations Enacted

- **HB 93** - Regulation of pain management clinics
- **HB 314** - Informed consent requirements regarding opioid prescriptions for minors
- **HB 341** - Requirements for prescribers to review OARRS
- **HB 315** - Requires reports to the DOH regarding newborns diagnosed as opioid dependent
- **HB 170** - Increases access to naloxone
- **HB 366** - Requires hospice programs to establish procedures to prevent diversion of opioids
- **HB 367** - Requires school health curriculums to include instruction in prescription opioid abuse prevention
- ***Medical Board "Guidelines"*** – ER, 80MED, Acute Care

New Opioid Laws/Rules

- Pharmacy Board
  - ICD-10 on opioid prescriptions, & days' supply on all controlled substances & gabapentin (12/29/17)
  - ICD-10 on all other controlled substances (6/1/18)
- Medical Board, Dental Board, Nursing Board
  - 5, 7-day limit for **acute** care (8/31/17)
  - 30 MED daily average
  - Clinical discretion allowed to exceed limits

- ***New Rules for chronic pain management now pending, expected to be finalized by December***

Resources to Know and Use

OSMA's Smart Rx – www.OSMA.org/SmartRx

smartRx®

Be smart

Your Treatment • Your Responsibility

OSMA's BeSmart – www.OSMA.org/BeSmart

Med Board – www.med.ohio.gov

Pharm Board – www.pharmacy.ohio.gov

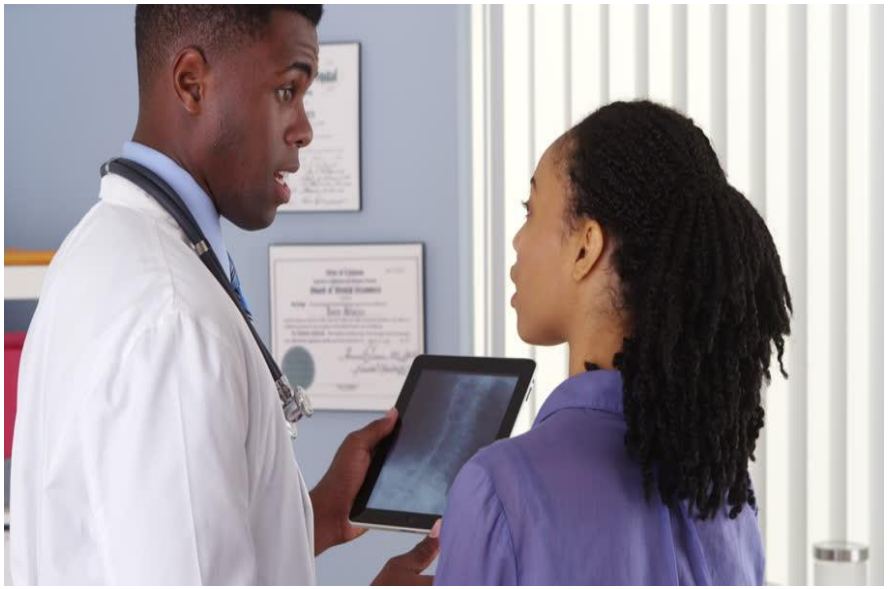
GCOAT – www.opioidprescribing.ohio.gov

Impact and Results

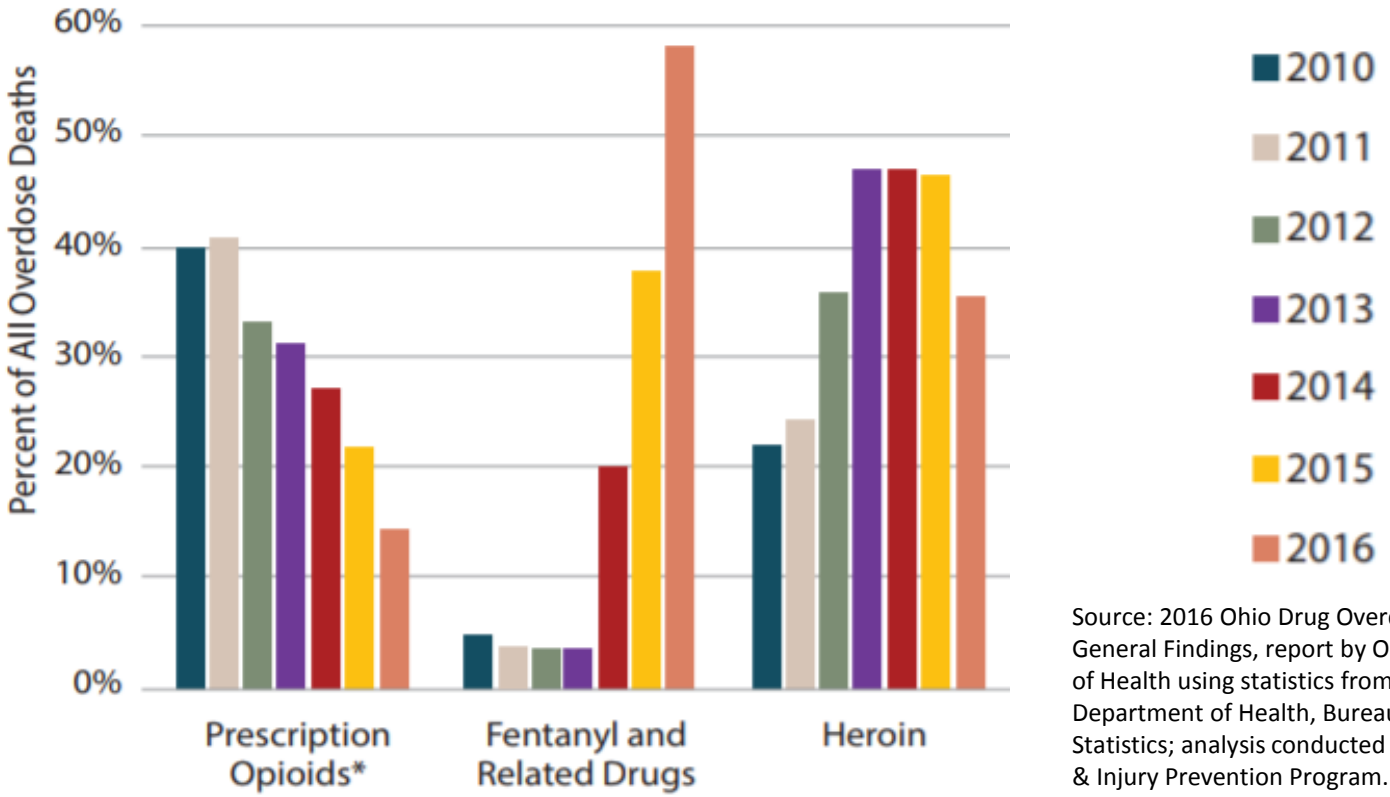
Increase in OARRS queries from 510,000 in 2009 to 24.1 million in 2016

78% decrease in number of "doctor shoppers" during the same period

20% decrease in the total number of opioid prescriptions issued to patients in Ohio from 2012-2017



Drug Overdose Deaths: 2010-2016



Source: 2016 Ohio Drug Overdose Data: General Findings, report by Ohio Department of Health using statistics from Ohio Department of Health, Bureau of Vital Statistics; analysis conducted by ODH Violence & Injury Prevention Program.

Bringing physicians together for a healthier Ohio

Substance Use Disorder Treatment

- Barriers to Treatment and Recovery?
  - How do insurers & Medicaid cover treatment?
  - Are there utilization management barriers by health insurers?
  - Are payers using (and paying for) evidence-based, best practice protocols by SAMHSA and ASAM?
- How do we increase treatment capacity?
  - Ohio Data 2000 Waiver initiative
  - Telemedicine for counseling, care management
  - *Medicaid expansion*

Immunizations: HB 559

- Legislation would standardize the opt-out process for immunizations of schoolchildren by creating a standard form for all school districts

- A physician or other licensed health care provider signature would be required on the form

- The goal of the bill is to strengthen statewide reporting of immunization opt-outs

Ohio State Medical Association

Medical Marijuana

Medical Marijuana - Why Now?

Source: Quinnipiac Polling

April 9, 2015

- Constitutional amendment easily defeated in Nov. 2015
- However, polls: 84% support medical marijuana use
- 24 other states currently allow for medical use
- State legislature takes action to thwart another looming constitutional amendment ballot initiative

Ohio State Medical Association

Ohio Medical Marijuana Implementation Timeline

2016

- House Bill 523 Passage
  - 5/26/16
- Effective Date of Bill
  - 9/8/16
- Appointment of Advisory Committee
  - October 2016
- Advisory Committee First Meeting
  - November 2016

2017

- Department of Commerce Rules and Standards for Cultivators
  - May 2017
- Department of Commerce Rules and Standards for Labs and Processors
  - September 2017
- Pharmacy Board Rules and Standards for Patients and Dispensaries
  - September 2017
- Medical Board Rules and Standards for Physicians
  - September 2017

2018

- Medical Marijuana Program Fully Implemented
  - Sept. 2018

What is in the new law?

- Only a licensed physician will be able to ***recommend*** marijuana to a patient and only for a qualifying condition;
- Cannot grow your own marijuana;
- Ohio will encourage federal leaders to reclassify marijuana from a Schedule I narcotic to a Schedule II.

NOT PERMITTED

Smoking

PERMITTED

Oils, Tinctures, Edibles, Patches, Plant Material

Bringing physicians together for a healthier Ohio

What else is in the new law?

- A bona fide physician-patient relationship must be established, meaning:
  - An in-person physical examination;
  - Review of medical history;
  - There is an expectation by the physician to provide care to the patient for an ongoing basis.

21 Qualifying Conditions

- AIDS
- ALS
- Alzheimer's disease
- Cancer
- Chronic traumatic encephalopathy
- Crohn's disease
- Epilepsy or another seizure disorder
- Fibromyalgia
- Glaucoma
- Hepatitis C
- Inflammatory bowel disease
- Multiple sclerosis
- Pain that is either chronic and severe or intractable
- Parkinson's disease
- Positive status for HIV
- Post-traumatic stress disorder
- Sickle cell anemia
- Spinal cord disease or injury
- Tourette's syndrome
- Traumatic brain injury
- Ulcerative colitis

State Medical Board of Ohio

- Register physicians to recommend medical marijuana to patients (*Nearly 200 as of July 2018*)
- Maintain rules "establishing for physicians the minimal standards of care when recommending treatment with medical marijuana;"
- Ensure that physicians who recommend medical marijuana achieve the required 2 hours of CME annually
- Rules effective September 8, 2017;

- **Official Start Date: *DELAYED!!! WHY???***

Bringing physicians together for a healthier Ohio

Regulatory Involvement

OHIO'S FOUR TIERS OF MEDICAL MARIJUANA REGULATION

Ohio Department of Commerce

Will establish rules for licensing cultivators, processors, and testing labs

Ohio Pharmacy Board

Will license and regulate dispensaries & register patients

Ohio State Medical Board

Register physicians and determine requirements to recommend

Local Government Zoning

May restrict location of dispensaries and the total number allowed

Employers

- Drug-free workplaces and zero-tolerance drug policies remain;
- No obligation to accommodate an employee's medical marijuana use;
- It's legal to fire employees for use, possession or distribution of medical marijuana;
- Medical marijuana users are not entitled to unemployment benefits;
- Workers' compensation claim defenses are unchanged.

Ohio State Medical Association

Compounding

Proposed Compounding Rules

Concerns over new Compounding rules

- **The addition of "reconstituting" to the definition of compounding**
- **Onerous regulations and oversight added for compounding lower-risk sterile drugs**
- **6-Hour immediate use rule applying to all sterile, non-hazardous compounding activity**
- **Additional new record-keeping duties**

Compounding Reaction

- **OSMA and six other medical association's co-signed a six-page letter to the pharmacy board outlining concerns and recommending changes.**
- **OSMA physician leaders from specialties most impacted by the new rules later met with two CSI staffers, a pharmacist on the pharmacy board, and two pharmacy board staffers.**
- **Following the meeting, the pharmacy board agreed to delay the new rules and work closely with interested parties to create new amenable provisions. Work group has been established.**

Questions?

drug pricing
tort reform
public health
tobacco cessation
scope of practice
Medicaid
price transparency
drug abuse
step therapy
state budget
prior authorization
telehealth
certification
medical marijuana
health insurance
prescribing rules
One-Bite
truth in ads
access to care
ACA
compounding

REGINALD FIELDS, MA
External & Professional Relations – OSMA
Email: RFields@osma.org
Phone: 614-527-6726