A Forced Hand:

How Ohio Health Systems' Non-Medical Switching Policies Impact Physicians and Patients

AIMED ALLIANCE

THE DOCTOR-PATIENT RIGHTS PROJECT

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I Introduction

Health systems, integrated delivery systems, and hospitals (referred to in general terms in this report as "health systems") deliver essential inpatient and outpatient services by providing safe, effective, and efficient care.

Yet, these health systems are also among the largest portion of the United States' growing health care costs. Hospitals, for example, were responsible for more than $1.1 billion in personal health care spending in 2017.[1]

In Ohio, services provided by health systems are financed primarily by three payers: commercial insurers, government programs such as Medicare and Medicaid, and individual self-paying or uninsured patients.[2] These payers provide coverage for everything from hospitalizations, physician visits, preventative services, and prescription drugs.

Rising patient expenses and insufficient levels of reimbursement have strained hospital budgets – particularly those in rural areas – bringing a wave of more than 100 closures and consolidations nationwide in recent years while threatening hundreds more.[3, 4, 5, 6]

Ohio hospitals have been among the hardest hit by these funding shortfalls. According to a 2015 report, one-in-three small, rural Ohio hospitals had an operating margin of less than 1 percent.[7] Residents of communities where hospitals are dealing with financial distress are also more likely to face increased barriers accessing healthcare services.[8]

As a result of these growing budget constraints, health care systems in Ohio and around the country have been forced to find new ways to reduce costs in order to remain operational. Unfortunately, some of these practices can have detrimental effects on the health and safety of patients.

> ***"This is a huge problem and affecting my ability to practice effectively on a daily basis. It is taking up a large percentage of the time of my administrative support staff."***
>
> — Ophthalmologist Respondent

One of the most controversial policies that some Ohio health care systems have implemented is a utilization management policy known as "non-medical switching." This practice forces stable patients to use a cheaper alternative drug in the same therapeutic class, but one which may have a different chemical structure than the medication their physician or practitioner originally prescribed.[9]

Non-medical switching has been the target of criticism from some healthcare policy experts for interfering in the clinical decision-making of physicians, disrupting patient care, and putting patients with chronic conditions at particular risk of experiencing undue complications.[10]

Numerous states have already taken legislative action to limit the impact of non-medical switching on their patient populations.[11] The Ohio legislature also recently considered implementing non-medical switching legislation governing insurers.[12]

As health systems in Ohio are considering implementing more restrictive non-medical switching protocols, we all need to understand how these policies could create barriers to access for patients and impact patient health. But existing research to date has focused primarily on the impact of non-medical switching by health plans.[13]

> ***"It should be criminal to force a patient to switch from something that is working for them to something that may or may not work. In some cases, the patient is being forced to revert to using a previously tried medicine that did not work well to control his or her symptoms."***
>
> — Emergency Medicine Respondent

A Forced Hand: How Ohio Health Systems' Non-Medical Switching Policies Impact Physicians and Patients seeks to address these information gaps by assessing the extent to which Ohio health systems are employing non-medical switching policies and the impacts of these policies on Ohio patients. It is based on original data gathered from Ohio physicians in a wide range of practice areas. In addition, it suggests a number of policy actions that could prevent negative impacts on the health of Ohio residents.

II Executive Summary

Aimed Alliance and the Doctor-Patient Rights Project (DPRP) conducted a comprehensive survey of Ohio physicians employed by health systems. Physicians included in the survey sample came from a wide range of practice areas, with most specializing in primary care (22.4%).

We found that the vast majority of surveyed physicians have experienced interference with prescribed treatments, and this interference has considerable impact on patient health. These results provide insights into the challenges that non-medical switching presents for physicians, including increasing the administrative burden physicians face through a lengthy appeals process and contributing to their patients developing new or worsened side effects after switching therapies.

Ohio physicians have been experiencing widespread interference from hospitals, health systems, and integrated delivery systems.

- Nearly 79 percent of Ohio physicians employed by health systems had experienced some type of third-party interference in the treatment of their patients.
- Nearly 87 percent of physicians who had experienced some form of interference said that health systems had forced their patients to use a medication or therapy different from the one originally prescribed.
- Nearly 81 percent of those said that the health systems informed them that they would no longer stock a particular kind of treatment.
- 71 percent had been informed that they should stop prescribing one treatment and instead prescribe a different treatment.

> ***"In many instances, this is downright dangerous for the patient."***
>
> — General Practice / Primary Care Physician Respondent

Physicians report that this interference is creating barriers to the access of medication and therapies for their patients.

- Nearly 65 percent of physicians whose patients experienced non-medical switching reported a delay in access to treatments for their patients after being switched.
- Nearly 60 percent of these patients needed to try multiple treatments before finding one that worked after being switched from original treatment.
- More than half of physicians reported experiencing interference for both patients with private insurance and those with Medicare or Medicaid.

Interference from health systems is also significantly impacting on patient health.

- Nearly 80 percent of physicians forced by a health system to use a different prescription or therapy felt that the alternative treatment would be less effective or could cause adverse events for their stable patients.

- 58 percent of physicians whose patients were forced to switch found the new treatment was either less or much less effective.

- 37 percent of those patients who found the new treatment less effective also reported worsened side effects.

Health systems lack transparency around the appeals process for physicians.

- Nearly 4 in 10 physicians reported being unsure if their health system even has an appeals process.

- More than 83 percent of physicians with knowledge of the appeals process have helped one or more patients petition for their original treatment. 64 percent of those appeal efforts were successful.

- Among those who appealed, more than half had to wait over a week for the appeal process to be resolved, and nearly 25 percent were forced to wait more than two weeks.

> ***"It's unfair to patient care."***
>
> — Other Specialist Respondent

There is widespread agreement among physicians that change is required in order to protect patient health.

- 92 percent of physicians who have experienced non-medical switching support legislation prohibiting third parties from switching their prescribed treatment for non-medical reasons.

- Physicians surveyed about issues of non-medical switching commented that "the absurdity is laughable" and described the process as a "huge problem" and "downright dangerous."

III Methodology

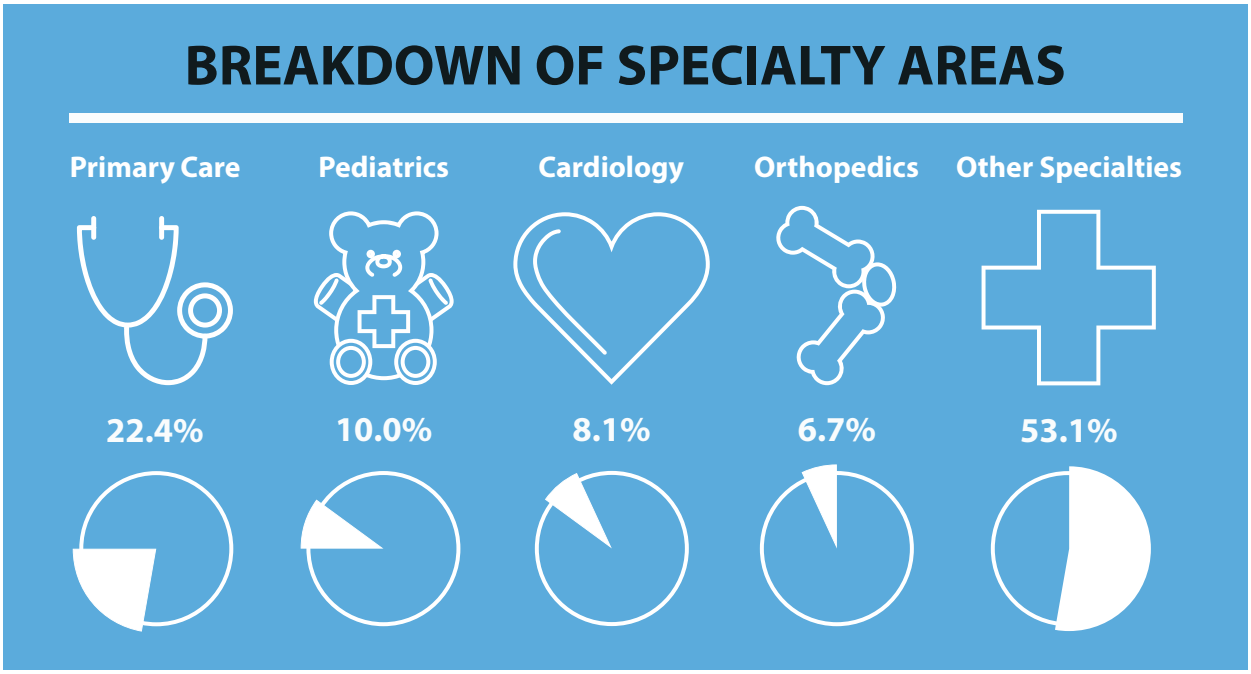
Aimed Alliance and the Doctor-Patient Rights Project (DPRP) jointly commissioned a comprehensive survey of Ohio health system practices to determine the extent to which physicians were dealing with third-party interference.

Between April 16 and May 7, SERMO (the leading global social network for doctors) surveyed 269 practicing physicians who work as employees or consultants in a hospital, health system, or integrated delivery system across the state of Ohio concerning:

- Their experience with third-party interference in prescribing medications or therapies;
- The impact of interference in prescribing medications or therapies on patient health; and
- Their experience with an appeal process for a medication or therapy that was denied coverage.

All respondents included in the sample reported that at least one of their patients had been forced to use a medication or therapy that was different from the one that was prescribed due to interference by a third party.

Any respondents who indicated that they had experienced some type of interreference from a third party were invited to complete the survey, yielding a sample of 212 physicians across a range of practice areas, including primary care, cardiology, pediatrics, orthopedics, psychiatry, obstetrics and gynecology, gastroenterology, and emergency medicine.



IV Results

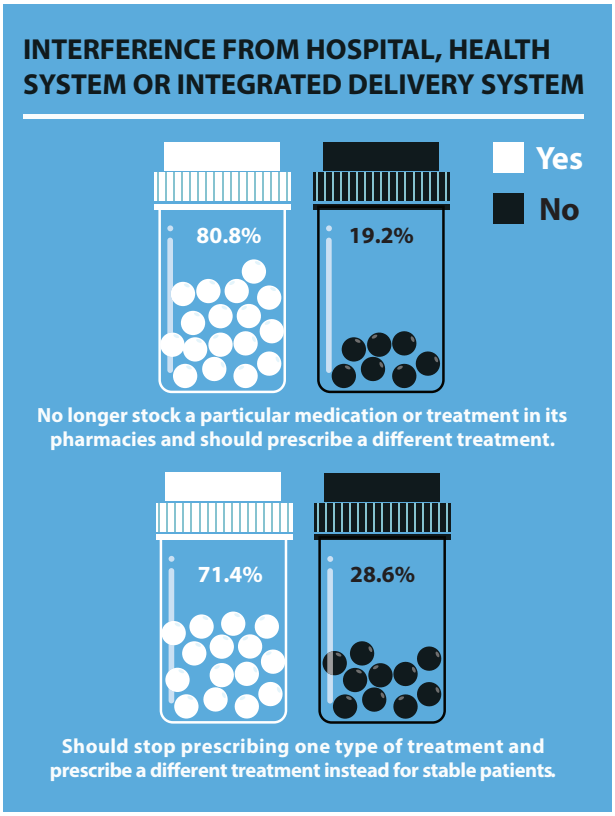
Identifying And Defining The Problem

Nearly 87 percent of physicians surveyed reported that a hospital, health care system, or integrated delivery system had forced at least one of its patients to use a medication or therapy that was different from the one originally prescribed.

An *American Journal of Ethics* commentary noted in February 2017 that the "administratively and economically fractured" nature of health systems can force physicians to balance often-conflicting demands of expenditures with the interests of their patients.[14] These demands could impact the decision by a physician to prescribe a potentially more expensive drug or the willingness of a health system to even stock that particular treatment.

Of the physicians who faced interference, nearly 81 percent said that the health system had informed the physician that it would no longer stock a particular kind of treatment.

Additionally, 71 percent of respondents said the health system informed the physician that he or she should stop prescribing one treatment and instead prescribe a different treatment.



Obstacles To Treatment

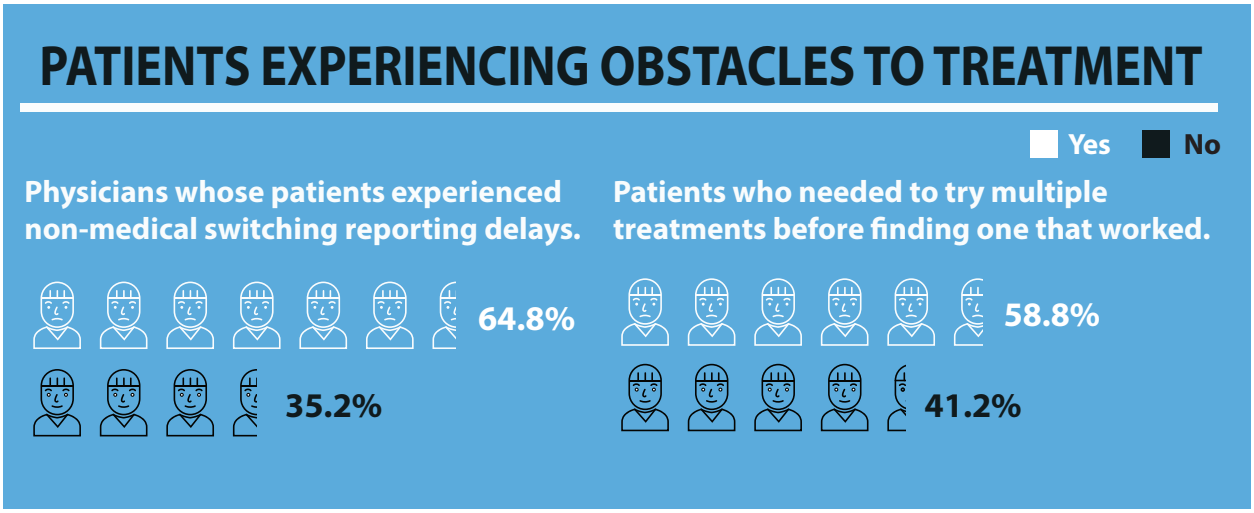
Non-medical switching presents a wide range of barriers to access for patients seeking care. The American Pharmacist Association noted in a 2017 report that these therapy changes can create lengthy delays in patients receiving their medications.[15]

Additionally, patients managing chronic conditions often undergo a painful and costly "trial and error" process to find a treatment that works.[16] Non-medical switching can impose an additional burden on these patients by substituting a medication or therapy that had stabilized their condition.

Nearly 65 percent of surveyed physicians whose patients experienced non-medical switching from a health system reported delays in access to treatments after being switched.

Despite this, nearly 60 percent of the patients who faced delays in receiving their treatments needed to try multiple treatments before finding one that worked after being switched from the original treatment.

These barriers to access created by health systems also affect patients irrespective of the type of insurance coverage used to pay for treatment. More than half of physicians surveyed reported experiencing interference for both patients with private insurance and those with Medicare or Medicaid.



Impact On Patient Health

By switching stable patients off of medications originally prescribed by their physicians, non-medical switching can create serious health risks.

Nearly 80 percent of physicians who had been forced by a health system to use a different prescription or therapy than they had originally prescribed reported that they felt that the alternative treatment would be less effective or could cause adverse effects for stable patients.

These concerns were validated by the experiences of their patients, as 58 percent of physicians whose patients were forced to switch found the new treatment was either less or much less effective.

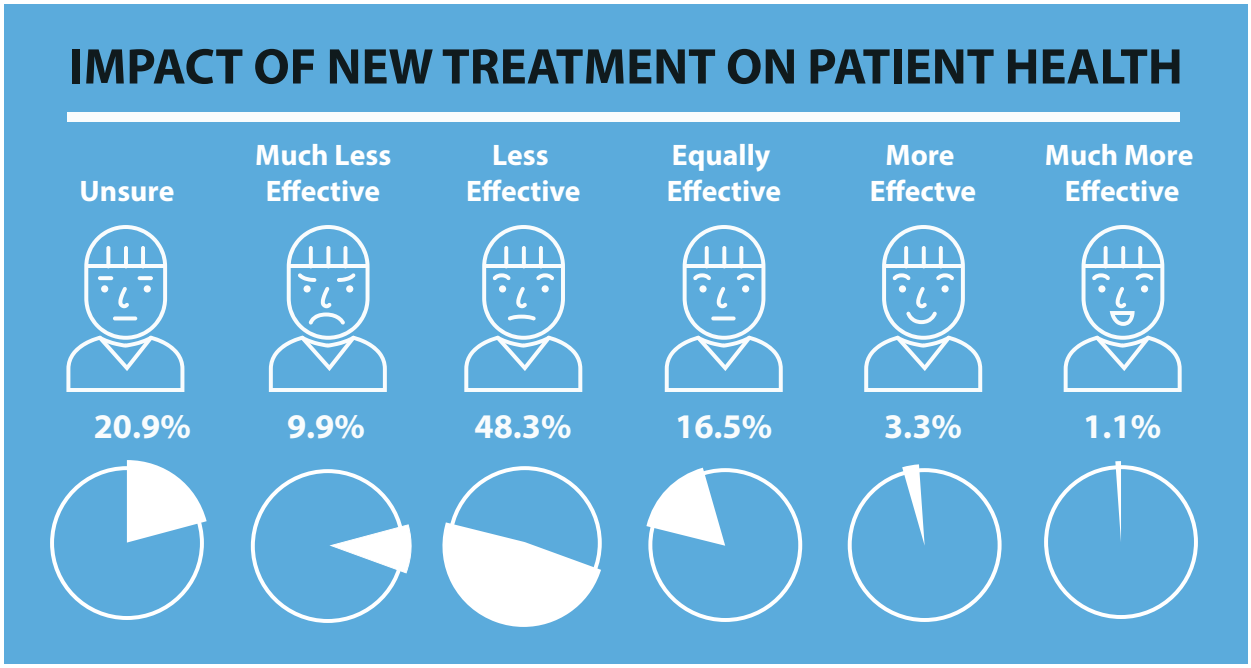
Of the patients who found the new treatment less effective, 37 percent also reported side effects that were worse than those caused by the originally prescribed treatment, while only one percent reported that side effects were improved. Nearly three-in-four of these patients were forced to try multiple treatments before finding one that worked, a 17 percent higher rate than patients who did not experience adverse effects.

These findings are consistent with prior research on non-medical switching. For example, a 2016 study in the *Journal of Current Medical Research and Opinion* found that non-medical switching was more likely to have negative or neutral effects than positive effects on patient health across an array of crucial indicators.[17]

Examples of additional side effects due to switched prescriptions and therapies reported by physicians include headaches, anxiety, fatigue, gastric discomfort, nausea, and even heart failure. These symptoms could potentially be harbingers of more serious complications.[18]

Additionally, more than 35 percent of physicians reported that their patients experienced negative impacts on their lives – such as missing work or damaged relationships with friends or family – as a result of being forced to switch to a new treatment.

Physicians also reported that health systems denied medications for a wide range of serious, chronic conditions for which medication or therapy was denied, including metabolic diseases, such as diabetes or hypercholesterolemia; autoimmune disorders, such as arthritis or psoriasis; and behavioral or mental health conditions, such as depression or attention-deficit/hyperactivity disorder (ADHD).



Lack Of Transparent Appeal Process

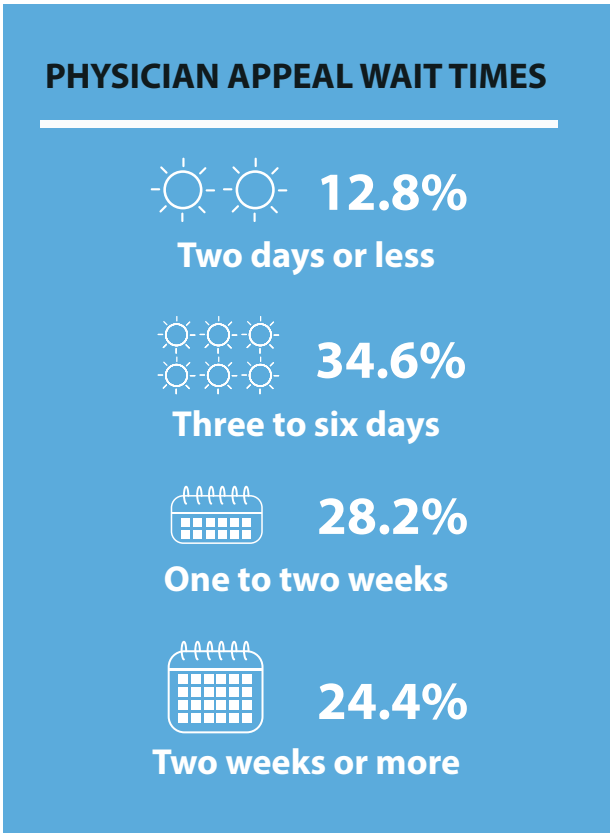
Many physicians who face interference from a third party in prescribing medications or therapies may seek to appeal through an internal review of the decision.[19]

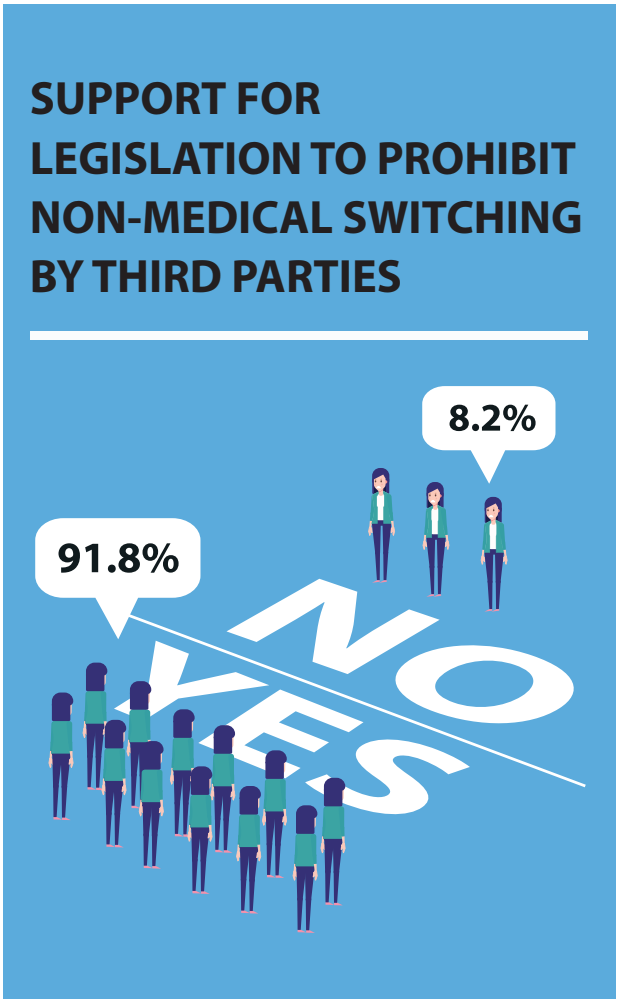
However, the processes for those challenging non-medical switching decisions tend to be opaque. These appeals often involve complex paperwork and additional patient consultations or time-consuming phone calls.[20] Moreover, appeal requirements can vary dramatically across different health systems.[21]

Additionally, many health systems lack clarity on the appeals process for their practicing physicians. Among surveyed physicians, nearly 4 in 10 reported being unsure if their health system even has an appeals process.

For those physicians surveyed who are familiar with their health system's appeals process, more than 83 percent said they have helped one or more patients petition for their original treatment. Of those, only 64 percent reported that those appeal efforts were successful.

Among those who challenged the decision, more than half had to wait more than one week for the appeals process to be resolved. Meanwhile, nearly





25 percent were forced to wait more than two weeks, including one-third of physicians whose appeals were ultimately unsuccessful.

As further evidence that the appeals process can be opaque and confusing, nearly 10 percent of all physicians who filed an appeal reported that they are unsure if their appeal was eventually successful.

Change Is Needed

Physicians have grown frustrated with the impact of health system-mandated non-medical switching on patient care. There is widespread agreement among physicians surveyed that change is necessary, and they voiced strong support for lawmakers to take action.

Nearly 92 percent of surveyed physicians who have experienced non-medical switching from a health system would support legislation that would prohibit third parties from requiring a patient to switch their treatment for non-medical reasons.

There was no significant difference between general practitioners and specialists in their likelihood to call for these changes, as support for legislation that would limit non-medical switching practices by health systems was nearly ubiquitous across all practice areas.

Simple legislative fixes could include improving the transparency of and creating guardrails around the health system appeals process. For example, health systems should be required to provide their practitioners and patients with instructions on the appeals process any time that a switch is suggested. The process should be simple and straightforward so that it is not burdensome to request an appeal. Health systems also should be required to respond to appeal requests within 24 hours in emergency situations, and 48 hours in all other situations.

Additionally, health systems should be required to stock a sufficient amount of all treatments in case an appeal is approved or otherwise be able to access such medications for patients within a reasonable time frame, so as not to delay access to care.

V Conclusion

Hospitals and health systems across Ohio are facing real budget challenges. However, it is clear from our survey of physicians that implementing non-medical switching policies as a cost reduction technique is causing significant adverse effects for patients throughout the state.

These physicians have raised concerns about the serious effects this interference can cause on patient health, including inviting new or worsened side effects or re-emerging symptoms that had previously been under control.

Physicians are in near-unanimous agreement that change is needed to a "dangerous" system that prevents their patients from obtaining the most appropriate medications and therapies to treat their conditions.

To ensure that physicians and patients are protected from interference by health systems, we recommend that Ohio lawmakers pass legislation that would limit the impact of non-medical switching statewide.

For example, to ensure that patients treating ongoing or chronic conditions do not have their care disrupted, lawmakers should ensure patients and physicians are provided with written notice of any decision that would impact those patients' treatments and their rights to appeal these decisions.

Physicians and patients, when applicable, should also be given at least 60 days' notice of any changes the health system is planning to make to available treatments and be provided sufficient time to appeal these decisions.

> ***"This has been a chronic problem for years and is only getting worse."***
>
> — Gastroenterologist Respondent

Additionally, lawmakers should consider requiring health systems to continue providing patients' treatments during the appeals process, allowing stable patients to avoid new or worsened side effects.

Hospitals and health systems in Ohio that implement new non-medical switching policies will only serve to exacerbate these barriers to access, and they should pursue methods for reducing costs that do not impact patient health.

About

About Aimed Alliance

Aimed Alliance is a not-for-profit health policy organization that works to protect and enhance the rights of health care consumers and providers. To achieve its mission, Aimed Alliance conducts legal research and analysis; develops sound, patient-centered recommendations; and disseminates its findings to inform policy makers and increase public awareness.

About The Doctor-Patient Rights Project

The Doctor-Patient Rights Project is a non-profit coalition of doctors, patients, caregivers and advocates fighting to restore the fundamental practice of medicine and ensure doctors, in partnership with their patients, drive patient care decisions. DPRP believes treating practitioners should be the primary voice helping patients determine their best course of treatment, and that third-party payers should partner with physicians to facilitate care and not impose treatment decisions on doctors or patients.

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