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Sub. S. B. No. 59

Senator Antonio

**Cosponsors: Senators Fedor, Kunze, Maharath, O'Brien, Sykes, Thomas,
Williams, Yuko, Blessing, Brenner, Burke, Coley, Craig, Eklund, Gavarone,
Hackett, Hottinger, Johnson, Manning, Obhof, Roegner, Rulli, Schuring, Wilson
Representatives Clites, Liston, Russo, West**

A BILL

To amend sections 4729.44 and 4729.51 of the 1
Revised Code to require the State Board of 2
Pharmacy to educate certain license holders 3
about the law authorizing naloxone dispensing 4
without a prescription and to authorize other 5
license holders to sell drugs occasionally at 6
wholesale. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4729.44 and 4729.51 of the 8
Revised Code be amended to read as follows: 9

Sec. 4729.44. (A) As used in this section: 10

(1) "Board of health" means a board of health of a city or 11
general health district or an authority having the duties of a 12
board of health under section 3709.05 of the Revised Code. 13

(2) "Physician" means an individual authorized under 14
Chapter 4731. of the Revised Code to practice medicine and 15

surgery, osteopathic medicine and surgery, or podiatric medicine 16
and surgery. 17

(B) If use of the protocol developed pursuant to rules 18
adopted under division (G) of this section has been authorized 19
under section 3707.56 or 4731.942 of the Revised Code, a 20
pharmacist or pharmacy intern may dispense naloxone without a 21
prescription to either of the following in accordance with that 22
protocol: 23

(1) An individual who there is reason to believe is 24
experiencing or at risk of experiencing an opioid-related 25
overdose; 26

(2) A family member, friend, or other individual in a 27
position to assist an individual who there is reason to believe 28
is at risk of experiencing an opioid-related overdose. 29

(C) A pharmacist or pharmacy intern who dispenses naloxone 30
under this section shall instruct the individual to whom 31
naloxone is dispensed to summon emergency services as soon as 32
practicable either before or after administering naloxone. 33

(D) A pharmacist may document on a prescription form the 34
dispensing of naloxone by the pharmacist or a pharmacy intern 35
supervised by the pharmacist. The form may be assigned a number 36
for record-keeping purposes. 37

(E) This section does not affect the authority of a 38
pharmacist or pharmacy intern to fill or refill a prescription 39
for naloxone. 40

(F) A board of health that in good faith authorizes a 41
pharmacist or pharmacy intern to dispense naloxone without a 42
prescription in accordance with a protocol developed pursuant to 43
rules adopted under division (G) of this section is not liable 44

for or subject to any of the following for any action or 45
omission of the individual to whom the naloxone is dispensed: 46
damages in any civil action, prosecution in any criminal 47
proceeding, or professional disciplinary action. 48

A physician who in good faith authorizes a pharmacist or 49
pharmacy intern to dispense naloxone without a prescription in 50
accordance with a protocol developed pursuant to rules adopted 51
under division (G) of this section is not liable for or subject 52
to any of the following for any action or omission of the 53
individual to whom the naloxone is dispensed: damages in any 54
civil action, prosecution in any criminal proceeding, or 55
professional disciplinary action. 56

A pharmacist or pharmacy intern authorized under this 57
section to dispense naloxone without a prescription who does so 58
in good faith is not liable for or subject to any of the 59
following for any action or omission of the individual to whom 60
the naloxone is dispensed: damages in any civil action, 61
prosecution in any criminal proceeding, or professional 62
disciplinary action. 63

(G) The state board of pharmacy shall, after consulting 64
with the department of health and state medical board, adopt 65
rules to implement this section. The rules shall specify a 66
protocol under which pharmacists or pharmacy interns may 67
dispense naloxone without a prescription. 68

All rules adopted under this section shall be adopted in 69
accordance with Chapter 119. of the Revised Code. 70

(H) (1) The state board of pharmacy shall develop a program 71
to educate all of the following about the authority of a 72
pharmacist or pharmacy intern to dispense naloxone without a 73

prescription: 74

(a) Holders of licenses issued under this chapter that 75
engage in the sale or dispensing of naloxone pursuant to this 76
section; 77

(b) Registered pharmacy technicians, certified pharmacy 78
technicians, and pharmacy technician trainees registered under 79
this chapter who engage in the sale of naloxone pursuant to this 80
section; 81

(c) Individuals who are not licensed or registered under 82
this chapter but are employed by license holders described in 83
division (H) (1) (a) of this section. 84

(2) As part of the program, the board also shall educate 85
the license holders, pharmacy technicians, and employees 86
described in division (H) (1) of this section about maintaining 87
an adequate supply of naloxone and methods for determining a 88
pharmacy's stock of the drug. 89

(3) The board may use its web site to share information 90
under the program. 91

Sec. 4729.51. (A) No person other than a licensed 92
manufacturer of dangerous drugs, outsourcing facility, third- 93
party logistics provider, repackager of dangerous drugs, or 94
wholesale distributor of dangerous drugs shall possess for sale, 95
sell, distribute, or deliver, at wholesale, dangerous drugs or 96
investigational drugs or products, except as follows: 97

(1) A licensed terminal distributor of dangerous drugs 98
that is a pharmacy may make occasional sales of dangerous drugs 99
or investigational drugs or products at wholesale. 100

(2) A licensed terminal distributor of dangerous drugs 101

having more than one licensed location may transfer or deliver 102
dangerous drugs from one licensed location to another licensed 103
location owned by the terminal distributor if the license issued 104
for each location is in effect at the time of the transfer or 105
delivery. 106

(3) A licensed terminal distributor of dangerous drugs 107
that is not a pharmacy may make occasional sales of ~~naloxone~~ the 108
following at wholesale. 109

~~(4) A licensed terminal distributor of dangerous drugs 110
that is not a pharmacy may make occasional sales of dangerous; 111~~

(a) Naloxone; 112

(b) Dangerous drugs ~~at wholesale~~ if the drugs being sold 113
are in shortage, as defined in rules adopted ~~by the state board~~ 114
~~of pharmacy~~ under section 4729.26 of the Revised Code; 115

(c) Dangerous drugs other than those described in 116
divisions (A) (3) (a) and (b) of this section or investigational 117
drugs or products if authorized by rules adopted under section 118
4729.26 of the Revised Code. 119

(B) No licensed manufacturer, outsourcing facility, third- 120
party logistics provider, repackager, or wholesale distributor 121
shall possess for sale, sell, or distribute, at wholesale, 122
dangerous drugs or investigational drugs or products to any 123
person other than the following: 124

(1) Subject to division (D) of this section, a licensed 125
terminal distributor of dangerous drugs; 126

(2) Subject to division (C) of this section, any person 127
exempt from licensure as a terminal distributor of dangerous 128
drugs under section 4729.541 of the Revised Code; 129

(3) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor; 130
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(4) A terminal distributor, manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor that is located in another state, is not engaged in the sale of dangerous drugs within this state, and is actively licensed to engage in the sale of dangerous drugs by the state in which the distributor conducts business. 132
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(C) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to either of the following: 138
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(1) A prescriber who is employed by either of the following: 143
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(a) A pain management clinic that is not licensed as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code; 145
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(b) A facility, clinic, or other location that provides office-based opioid treatment but is not licensed as a terminal distributor of dangerous drugs with an office-based opioid treatment classification issued under section 4729.553 of the Revised Code if such a license is required by that section. 149
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(2) A business entity described in division (A)(2) or (3) of section 4729.541 of the Revised Code that is, or is operating, either of the following: 154
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(a) A pain management clinic without a license as a terminal distributor of dangerous drugs with a pain management 157
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clinic classification issued under section 4729.552 of the 159
Revised Code; 160

(b) A facility, clinic, or other location that provides 161
office-based opioid treatment without a license as a terminal 162
distributor of dangerous drugs with an office-based opioid 163
treatment classification issued under section 4729.553 of the 164
Revised Code if such a license is required by that section. 165

(D) No licensed manufacturer, outsourcing facility, third- 166
party logistics provider, repackager, or wholesale distributor 167
shall possess dangerous drugs or investigational drugs or 168
products for sale at wholesale, or sell or distribute such drugs 169
at wholesale, to a licensed terminal distributor of dangerous 170
drugs, except as follows: 171

(1) In the case of a terminal distributor with a category 172
II license, only dangerous drugs in category II, as defined in 173
division (A)(1) of section 4729.54 of the Revised Code; 174

(2) In the case of a terminal distributor with a category 175
III license, dangerous drugs in category II and category III, as 176
defined in divisions (A)(1) and (2) of section 4729.54 of the 177
Revised Code; 178

(3) In the case of a terminal distributor with a limited 179
category II or III license, only the dangerous drugs specified 180
in the license. 181

(E)(1) Except as provided in division (E)(2) of this 182
section, no person shall do any of the following: 183

(a) Sell or distribute, at retail, dangerous drugs; 184

(b) Possess for sale, at retail, dangerous drugs; 185

(c) Possess dangerous drugs. 186

(2) (a) Divisions (E) (1) (a), (b), and (c) of this section 187
do not apply to any of the following: 188

(i) A licensed terminal distributor of dangerous drugs; 189

(ii) A person who possesses, or possesses for sale or 190
sells, at retail, a dangerous drug in accordance with Chapters 191
3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of 192
the Revised Code; 193

(iii) Any of the persons identified in divisions (A) (1) to 194
(5) and (13) of section 4729.541 of the Revised Code, but only 195
to the extent specified in that section. 196

(b) Division (E) (1) (c) of this section does not apply to 197
any of the following: 198

(i) A licensed manufacturer, outsourcing facility, third- 199
party logistics provider, repackager, or wholesale distributor; 200

(ii) Any of the persons identified in divisions (A) (6) to 201
(12) of section 4729.541 of the Revised Code, but only to the 202
extent specified in that section. 203

(F) No licensed terminal distributor of dangerous drugs or 204
person that is exempt from licensure under section 4729.541 of 205
the Revised Code shall purchase dangerous drugs or 206
investigational drugs or products from any person other than a 207
licensed manufacturer, outsourcing facility, third-party 208
logistics provider, repackager, or wholesale distributor, except 209
as follows: 210

(1) A licensed terminal distributor of dangerous drugs or 211
person that is exempt from licensure under section 4729.541 of 212
the Revised Code may make occasional purchases of dangerous 213
drugs or investigational drugs or products that are sold in 214

accordance with division (A) (1) or (3) of this section. 215

(2) A licensed terminal distributor of dangerous drugs 216
having more than one licensed location may transfer or deliver 217
dangerous drugs or investigational drugs or products from one 218
licensed location to another licensed location if the license 219
issued for each location is in effect at the time of the 220
transfer or delivery. 221

(G) No licensed terminal distributor of dangerous drugs 222
shall engage in the retail sale or other distribution of 223
dangerous drugs or investigational drugs or products or maintain 224
possession, custody, or control of dangerous drugs or 225
investigational drugs or products for any purpose other than the 226
distributor's personal use or consumption, at any establishment 227
or place other than that or those described in the license 228
issued by the state board of pharmacy to such terminal 229
distributor. 230

(H) Nothing in this section shall be construed to 231
interfere with the performance of official duties by any law 232
enforcement official authorized by municipal, county, state, or 233
federal law to collect samples of any drug, regardless of its 234
nature or in whose possession it may be. 235

(I) Notwithstanding anything to the contrary in this 236
section, the board of education of a city, local, exempted 237
village, or joint vocational school district may distribute 238
epinephrine autoinjectors for use in accordance with section 239
3313.7110 of the Revised Code and may distribute inhalers for 240
use in accordance with section 3313.7113 of the Revised Code. 241

Section 2. That existing sections 4729.44 and 4729.51 of 242
the Revised Code are hereby repealed. 243