

**As Passed by the House**

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**Am. H. B. No. 101**

**Representative Merrin**

**Cosponsors: Representatives Becker, Thompson, Seitz, Stein, West, Roegner, Sheehy, Sprague, Hood, Smith, R., Anielski, Antani, Antonio, Arndt, Boyd, Brenner, Brinkman, Butler, Carfagna, Celebrezze, Clyde, Conditt, Craig, Cupp, Dever, DeVitis, Duffey, Edwards, Galonski, Gavarone, Ginter, Goodman, Greenspan, Hagan, Hambley, Hill, Holmes, Hughes, Johnson, Keller, Kick, Koehler, Landis, Leland, Lepore-Hagan, Lipps, Manning, McColley, O'Brien, Patterson, Patton, Pelanda, Perales, Ramos, Reineke, Retherford, Rogers, Ryan, Schaffer, Slaby, Smith, K., Strahorn, Sweeney, Wiggam, Young**

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**A BILL**

To amend sections 3728.03, 4729.16, 4729.99, and 1  
4731.96 and to enact sections 3707.60, 4729.382, 2  
4729.46, and 4731.961 of the Revised Code to 3  
authorize an epinephrine autoinjector 4  
substitution when a prescription is filled or 5  
refilled, to authorize epinephrine to be 6  
dispensed without a prescription under a 7  
physician-established protocol, and to declare 8  
the act the "Epinephrine Accessibility Act." 9

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

**Section 1.** That sections 3728.03, 4729.16, 4729.99, and 10  
4731.96 be amended and sections 3707.60, 4729.382, 4729.46, and 11  
4731.961 of the Revised Code be enacted to read as follows: 12

**Sec. 3707.60.** (A) As used in this section, "board of 13

health" means a board of health of a city or general health 14  
district or the authority having the duties of a board of health 15  
under section 3709.05 of the Revised Code. 16

(B) A board of health that has, through a physician 17  
serving as the board's health commissioner or medical director, 18  
established a protocol that meets the requirements specified by 19  
the state board of pharmacy in rules adopted under section 20  
4729.46 of the Revised Code may authorize pharmacists and 21  
pharmacy interns practicing pharmacy in a county that includes 22  
all or part of the health district represented by the board to 23  
use the protocol for the purpose of dispensing epinephrine under 24  
section 4729.46 of the Revised Code. 25

**Sec. 3728.03.** (A) A qualified entity may acquire and 26  
maintain a supply of epinephrine autoinjectors ~~that, in~~ 27  
~~accordance with section 4723.483, 4730.433, or 4731.96 of the~~ 28  
~~Revised Code,~~ pursuant to either of the following: 29

(1) The autoinjectors are personally furnished by a 30  
prescriber, or obtained pursuant to a prescription issued by a 31  
prescriber, in accordance with section 4723.483, 4730.433, or 32  
4731.96 of the Revised Code. 33

(2) The autoinjectors are dispensed by a pharmacist or 34  
pharmacy intern in accordance with a protocol as authorized 35  
under section 4729.46 of the Revised Code. 36

(B) Epinephrine autoinjectors acquired pursuant to this 37  
section shall be stored in a location readily accessible in an 38  
emergency and maintained in accordance with the manufacturer's 39  
instructions and any additional requirements that may be 40  
established by the department of health under section 3728.11 of 41  
the Revised Code. 42

(C) A qualified entity that acquires epinephrine 43  
autoinjectors pursuant to this section shall designate one or 44  
more individuals who are employees or agents of the entity and 45  
have successfully completed anaphylaxis training in accordance 46  
with section 3728.04 of the Revised Code to be responsible for 47  
oversight of the epinephrine autoinjectors, including storage, 48  
maintenance, and control. The qualified entity may authorize 49  
those individuals and other individuals who have successfully 50  
completed the anaphylaxis training to administer epinephrine. 51

**Sec. 4729.16.** (A) (1) The state board of pharmacy, after 52  
notice and hearing in accordance with Chapter 119. of the 53  
Revised Code, may impose any one or more of the following 54  
sanctions on a pharmacist or pharmacy intern if the board finds 55  
the individual engaged in any of the conduct set forth in 56  
division (A) (2) of this section: 57

(a) Revoke, suspend, restrict, limit, or refuse to grant 58  
or renew a license; 59

(b) Reprimand or place the license holder on probation; 60

(c) Impose a monetary penalty or forfeiture not to exceed 61  
in severity any fine designated under the Revised Code for a 62  
similar offense, or in the case of a violation of a section of 63  
the Revised Code that does not bear a penalty, a monetary 64  
penalty or forfeiture of not more than five hundred dollars. 65

(2) The board may impose the sanctions listed in division 66  
(A) (1) of this section if the board finds a pharmacist or 67  
pharmacy intern: 68

(a) Has been convicted of a felony, or a crime of moral 69  
turpitude, as defined in section 4776.10 of the Revised Code; 70

(b) Engaged in dishonesty or unprofessional conduct in the 71

practice of pharmacy;	72
(c) Is addicted to or abusing alcohol or drugs or is	73
impaired physically or mentally to such a degree as to render	74
the pharmacist or pharmacy intern unfit to practice pharmacy;	75
(d) Has been convicted of a misdemeanor related to, or	76
committed in, the practice of pharmacy;	77
(e) Violated, conspired to violate, attempted to violate,	78
or aided and abetted the violation of any of the provisions of	79
this chapter, sections 3715.52 to 3715.72 of the Revised Code,	80
Chapter 2925. or 3719. of the Revised Code, or any rule adopted	81
by the board under those provisions;	82
(f) Permitted someone other than a pharmacist or pharmacy	83
intern to practice pharmacy;	84
(g) Knowingly lent the pharmacist's or pharmacy intern's	85
name to an illegal practitioner of pharmacy or had a	86
professional connection with an illegal practitioner of	87
pharmacy;	88
(h) Divided or agreed to divide remuneration made in the	89
practice of pharmacy with any other individual, including, but	90
not limited to, any licensed health professional authorized to	91
prescribe drugs or any owner, manager, or employee of a health	92
care facility, residential care facility, or nursing home;	93
(i) Violated the terms of a consult agreement entered into	94
pursuant to section 4729.39 of the Revised Code;	95
(j) Committed fraud, misrepresentation, or deception in	96
applying for or securing a license or identification card issued	97
by the board under this chapter or under Chapter 3715. or 3719.	98
of the Revised Code;	99

(k) Failed to comply with an order of the board or a settlement agreement;	100 101
(l) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code.	102 103 104
(B) Any individual whose identification card or license is revoked, suspended, or refused, shall return the identification card and license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.	105 106 107 108
(C) As used in this section:	109
"Unprofessional conduct in the practice of pharmacy" includes any of the following:	110 111
(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;	112 113
(2) Except as provided in section 4729.281 <del> or, </del> <u>4729.44, </u> <del>or </del> <u>4729.46</u> of the Revised Code, the dispensing or sale of any drug for which a prescription is required, without having received a prescription for the drug;	114 115 116 117
(3) Knowingly dispensing medication pursuant to false or forged prescriptions;	118 119
(4) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;	120 121 122 123
(5) Obtaining any remuneration by fraud, misrepresentation, or deception;	124 125
(6) Failing to conform to prevailing standards of care of	126

similar pharmacists or pharmacy interns under the same or 127  
similar circumstances, whether or not actual injury to a patient 128  
is established; 129

(7) Engaging in any other conduct that the board specifies 130  
as unprofessional conduct in the practice of pharmacy in rules 131  
adopted under section 4729.26 of the Revised Code. 132

(D) The board may suspend a license or identification card 133  
under division (B) of section 3719.121 of the Revised Code by 134  
utilizing a telephone conference call to review the allegations 135  
and take a vote. 136

(E) For purposes of this division, an individual 137  
authorized to practice as a pharmacist or pharmacy intern 138  
accepts the privilege of practicing in this state subject to 139  
supervision by the board. By filing an application for or 140  
holding a license to practice as a pharmacist or pharmacy 141  
intern, an individual gives consent to submit to a mental or 142  
physical examination when ordered to do so by the board in 143  
writing and waives all objections to the admissibility of 144  
testimony or examination reports that constitute privileged 145  
communications. 146

If the board has reasonable cause to believe that an 147  
individual who is a pharmacist or pharmacy intern is physically 148  
or mentally impaired, the board may require the individual to 149  
submit to a physical or mental examination, or both. The expense 150  
of the examination is the responsibility of the individual 151  
required to be examined. 152

Failure of an individual who is a pharmacist or pharmacy 153  
intern to submit to a physical or mental examination ordered by 154  
the board, unless the failure is due to circumstances beyond the 155

individual's control, constitutes an admission of the 156  
allegations and a suspension order shall be entered without the 157  
taking of testimony or presentation of evidence. Any subsequent 158  
adjudication hearing under Chapter 119. of the Revised Code 159  
concerning failure to submit to an examination is limited to 160  
consideration of whether the failure was beyond the individual's 161  
control. 162

If, based on the results of an examination ordered under 163  
this division, the board determines that the individual's 164  
ability to practice is impaired, the board shall suspend the 165  
individual's license or deny the individual's application and 166  
shall require the individual, as a condition for an initial, 167  
continued, reinstated, or renewed license to practice, to submit 168  
to a physical or mental examination and treatment. 169

An order of suspension issued under this division shall 170  
not be subject to suspension by a court during pendency of any 171  
appeal filed under section 119.12 of the Revised Code. 172

(F) If the board is required under Chapter 119. of the 173  
Revised Code to give notice of an opportunity for a hearing and 174  
the applicant or licensee does not make a timely request for a 175  
hearing in accordance with section 119.07 of the Revised Code, 176  
the board is not required to hold a hearing, but may adopt a 177  
final order that contains the board's findings. In the final 178  
order, the board may impose any of the sanctions listed in 179  
division (A) of this section. 180

(G) Notwithstanding the provision of division (C) (2) of 181  
section 2953.32 of the Revised Code specifying that if records 182  
pertaining to a criminal case are sealed under that section the 183  
proceedings in the case must be deemed not to have occurred, 184  
sealing of the following records on which the board has based an 185

action under this section shall have no effect on the board's 186  
action or any sanction imposed by the board under this section: 187  
records of any conviction, guilty plea, judicial finding of 188  
guilt resulting from a plea of no contest, or a judicial finding 189  
of eligibility for a pretrial diversion program or intervention 190  
in lieu of conviction. The board shall not be required to seal, 191  
destroy, redact, or otherwise modify its records to reflect the 192  
court's sealing of conviction records. 193

(H) No pharmacist or pharmacy intern shall knowingly 194  
engage in any conduct described in divisions (A) (2) (b) or (A) (2) 195  
(e) to (l) of this section. 196

Sec. 4729.382. (A) As used in this section, "epinephrine 197  
autoinjector" means a device used to administer epinephrine only 198  
in a manufactured dosage form. 199

(B) Subject to division (C) of this section, a pharmacist 200  
dispensing an epinephrine autoinjector pursuant to a 201  
prescription that identifies a specific type of epinephrine 202  
autoinjector may substitute the prescribed autoinjector with 203  
another epinephrine autoinjector, but only if the form of 204  
epinephrine contained in the autoinjector to be dispensed by 205  
substitution meets either of the following conditions: 206

(1) It is identical to the form of epinephrine in the type 207  
of autoinjector that was prescribed. 208

(2) It is a pharmaceutical equivalent of the form of 209  
epinephrine in the type of autoinjector that was prescribed in 210  
that it contains identical amounts of the identical active 211  
ingredients, but not necessarily the same inactive ingredients; 212  
it has been approved by the United States food and drug 213  
administration; and it has not been excluded from recognition as 214

a pharmaceutical equivalent form of epinephrine by rules adopted 215  
under division (H) of this section. 216

(C) All of the following conditions apply with respect to 217  
a pharmacist's authority to dispense an epinephrine autoinjector 218  
by substitution: 219

(1) The pharmacist shall not make the substitution if the 220  
person receiving the autoinjector pursuant to the prescription 221  
instructs otherwise. 222

(2) The pharmacist shall not make the substitution if 223  
either of the following applies to the prescription: 224

(a) In the case of a written or electronic prescription, 225  
including a computer-generated prescription, the prescriber 226  
handwrites or actively causes to display on the prescription 227  
"dispense as written," "D.A.W.," "do not substitute," "medically 228  
necessary as prescribed," or any other statement or numerical 229  
code that indicates the prescriber's intent to prevent 230  
substitution. Such a designation shall not be preprinted or 231  
stamped on the prescription, but a reminder to the prescriber of 232  
the designation procedure may be preprinted or displayed on the 233  
prescription form or electronic system the prescriber uses to 234  
issue the prescription. 235

(b) In the case of an oral prescription, the prescriber 236  
specifies that the epinephrine autoinjector as prescribed is 237  
medically necessary or otherwise indicates the prescriber's 238  
intent to prevent substitution. 239

(3) The pharmacist shall not make the substitution unless 240  
its price to the patient is less than or equal to the price of 241  
the prescribed epinephrine autoinjector, except that a 242  
pharmacist may substitute an epinephrine autoinjector with a 243

price to the patient that is greater than the prescribed 244  
autoinjector if the patient specifically requests the more 245  
expensive autoinjector. 246

(4) The pharmacist, or a pharmacy intern or agent of the 247  
pharmacist, shall inform the patient or the patient's 248  
representative if a type of epinephrine autoinjector is 249  
available at a lower or equal cost, and of the person's right to 250  
refuse substitution of the prescribed epinephrine autoinjector. 251

(D) (1) Unless the prescriber instructs otherwise, the 252  
label for every epinephrine autoinjector dispensed shall include 253  
the epinephrine autoinjector's name, if any, and the distributor 254  
of the autoinjector. Abbreviations may be used as necessary. 255

(2) When dispensing at retail an epinephrine autoinjector 256  
by substitution, the pharmacist shall indicate on the 257  
autoinjector's label or container that a substitution was made. 258

(3) The labeling requirements established by divisions (D) 259  
(1) and (2) of this section are in addition to all other 260  
labeling requirements as required in rules adopted by the state 261  
board of pharmacy. 262

(E) When a pharmacist dispenses an epinephrine 263  
autoinjector by substitution, the pharmacist or a pharmacy 264  
intern shall provide to the person receiving the device 265  
instruction on the proper method of administering epinephrine 266  
with the device, except that the instruction does not have to be 267  
provided if the person is receiving the same device that was 268  
dispensed when the person last received the device by having a 269  
prescription filled or refilled. 270

(F) A pharmacist who dispenses an epinephrine autoinjector 271  
pursuant to this section assumes no greater liability for 272

dispensing the autoinjector by substitution than would be 273  
incurred for dispensing the autoinjector identified on the 274  
prescription. 275

(G) The failure of a prescriber to restrict a prescription 276  
by indicating an intent to prevent substitution pursuant to this 277  
section shall not constitute evidence of the prescriber's 278  
negligence unless the prescriber had reasonable cause to believe 279  
that the health condition of the patient for whom the 280  
epinephrine autoinjector was intended warranted the prescription 281  
of a specific type of epinephrine autoinjector and no other. No 282  
prescriber shall be liable for civil damages or in any criminal 283  
prosecution arising from a pharmacist dispensing an epinephrine 284  
autoinjector by substitution, unless the type of autoinjector 285  
prescribed would have reasonably caused the same loss, damage, 286  
injury, or death. 287

(H) The state board of pharmacy may adopt rules in 288  
accordance with Chapter 119. of the Revised Code to implement 289  
this section. The rules may specify forms of epinephrine that 290  
are not to be recognized as pharmaceutical equivalents of other 291  
forms of epinephrine for purposes of this section. 292

(I) No pharmacist shall knowingly engage in conduct that 293  
is prohibited by division (C) or (D) of this section. 294

**Sec. 4729.46.** (A) As used in this section: 295

(1) "Board of health" means a board of health of a city or 296  
general health district or an authority having the duties of a 297  
board of health under section 3709.05 of the Revised Code. 298

(2) "Physician" means an individual authorized under 299  
Chapter 4731. of the Revised Code to practice medicine and 300  
surgery, osteopathic medicine and surgery, or podiatric medicine 301

and surgery. 302

(B) If use of a protocol that has been developed pursuant 303  
to rules adopted under division (G) of this section has been 304  
authorized under section 3707.60 or 4731.961 of the Revised 305  
Code, a pharmacist or pharmacy intern may dispense epinephrine 306  
without a prescription in accordance with that protocol to 307  
either of the following individuals so long as the individual is 308  
at least eighteen years of age: 309

(1) An individual who there is reason to believe is 310  
experiencing or at risk of experiencing anaphylaxis if the 311  
pharmacy affiliated with the pharmacist or intern has a record 312  
of previously dispensing epinephrine to the individual in 313  
accordance with a prescription issued by a licensed health 314  
professional authorized to prescribe drugs; 315

(2) An individual acting on behalf of a qualified entity, 316  
as defined in section 3728.01 of the Revised Code. 317

(C) (1) A pharmacist or pharmacy intern who dispenses 318  
epinephrine under this section shall instruct the individual to 319  
whom epinephrine is dispensed to summon emergency services as 320  
soon as practicable either before or after administering 321  
epinephrine. 322

(2) A pharmacist or pharmacy intern who dispenses 323  
epinephrine to an individual identified in division (B) (1) (a) of 324  
this section shall provide notice of the dispensing to the 325  
individual's primary care provider, if known, or to the 326  
prescriber who issued the individual the initial prescription 327  
for epinephrine. 328

(D) A pharmacist may document the dispensing of 329  
epinephrine by the pharmacist or a pharmacy intern supervised by 330

the pharmacist on a prescription form. The form may be assigned 331  
a number for record-keeping purposes. 332

(E) This section does not affect the authority of a 333  
pharmacist or pharmacy intern to fill or refill a prescription 334  
for epinephrine. 335

(F) A board of health that in good faith authorizes a 336  
pharmacist or pharmacy intern to dispense epinephrine without a 337  
prescription in accordance with a protocol developed pursuant to 338  
rules adopted under division (G) of this section is not liable 339  
for or subject to any of the following for any action or 340  
omission of the individual to whom the epinephrine is dispensed: 341  
damages in any civil action, prosecution in any criminal 342  
proceeding, or professional disciplinary action. 343

A physician who in good faith authorizes a pharmacist or 344  
pharmacy intern to dispense epinephrine without a prescription 345  
in accordance with a protocol developed pursuant to rules 346  
adopted under division (G) of this section is not liable for or 347  
subject to any of the following for any action or omission of 348  
the individual to whom the epinephrine is dispensed: damages in 349  
any civil action, prosecution in any criminal proceeding, or 350  
professional disciplinary action. 351

A pharmacist or pharmacy intern authorized under this 352  
section to dispense epinephrine without a prescription who does 353  
so in good faith is not liable for or subject to any of the 354  
following for any action or omission of the individual to whom 355  
the epinephrine is dispensed: damages in any civil action, 356  
prosecution in any criminal proceeding, or professional 357  
disciplinary action. 358

(G) Not later than ninety days after the effective date of 359

this section, the state board of pharmacy shall, after 360  
consulting with the state medical board, adopt rules to 361  
implement this section. The rules shall specify minimum 362  
requirements for protocols established by physicians under which 363  
pharmacists or pharmacy interns may dispense epinephrine without 364  
a prescription. 365

All rules adopted under this section shall be adopted in 366  
accordance with Chapter 119. of the Revised Code. 367

**Sec. 4729.99.** (A) Whoever violates division (H) of section 368  
4729.16, division (G) of section 4729.38, division (I) of 369  
section 4729.382, section 4729.57, or division (F) of section 370  
4729.96 of the Revised Code is guilty of a minor misdemeanor, 371  
unless a different penalty is otherwise specified in the Revised 372  
Code. Each day's violation constitutes a separate offense. 373

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 374  
of the Revised Code is guilty of a misdemeanor of the third 375  
degree. Each day's violation constitutes a separate offense. If 376  
the offender previously has been convicted of or pleaded guilty 377  
to a violation of this chapter, that person is guilty of a 378  
misdemeanor of the second degree. 379

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 380  
of the Revised Code is guilty of a misdemeanor. 381

(D) Whoever violates division (A), (B), (C), (D), (F), or 382  
(G) of section 4729.51 of the Revised Code is guilty of a 383  
misdemeanor of the first degree. 384

(E) (1) Whoever violates section 4729.37, division (E) (1) 385  
(b) of section 4729.51, division (J) of section 4729.54, 386  
division (B) or (D) of section 4729.553, or section 4729.61 of 387  
the Revised Code is guilty of a felony of the fifth degree. If 388

the offender previously has been convicted of or pleaded guilty 389  
to a violation of this chapter or a violation of Chapter 2925. 390  
or 3719. of the Revised Code, that person is guilty of a felony 391  
of the fourth degree. 392

(2) If an offender is convicted of or pleads guilty to a 393  
violation of section 4729.37, division (E) of section 4729.51, 394  
division (J) of section 4729.54, or section 4729.61 of the 395  
Revised Code, if the violation involves the sale, offer to sell, 396  
or possession of a schedule I or II controlled substance, with 397  
the exception of marihuana, and if the court imposing sentence 398  
upon the offender finds that the offender as a result of the 399  
violation is a major drug offender, as defined in section 400  
2929.01 of the Revised Code, and is guilty of a specification of 401  
the type described in section 2941.1410 of the Revised Code, the 402  
court, in lieu of the prison term authorized or required by 403  
division (E)(1) of this section and sections 2929.13 and 2929.14 404  
of the Revised Code and in addition to any other sanction 405  
imposed for the offense under sections 2929.11 to 2929.18 of the 406  
Revised Code, shall impose upon the offender, in accordance with 407  
division (B)(3) of section 2929.14 of the Revised Code, the 408  
mandatory prison term specified in that division. 409

(3) Notwithstanding any contrary provision of section 410  
3719.21 of the Revised Code, the clerk of court shall pay any 411  
fine imposed for a violation of section 4729.37, division (E) of 412  
section 4729.51, division (J) of section 4729.54, or section 413  
4729.61 of the Revised Code pursuant to division (A) of section 414  
2929.18 of the Revised Code in accordance with and subject to 415  
the requirements of division (F) of section 2925.03 of the 416  
Revised Code. The agency that receives the fine shall use the 417  
fine as specified in division (F) of section 2925.03 of the 418  
Revised Code. 419

(F) Whoever violates section 4729.531 of the Revised Code 420  
or any rule adopted thereunder or section 4729.532 of the 421  
Revised Code is guilty of a misdemeanor of the first degree. 422

(G) Whoever violates division (E)(1)(a) of section 4729.51 423  
of the Revised Code is guilty of a felony of the fourth degree. 424  
If the offender has previously been convicted of or pleaded 425  
guilty to a violation of this chapter, or of a violation of 426  
Chapter 2925. or 3719. of the Revised Code, that person is 427  
guilty of a felony of the third degree. 428

(H) Whoever violates division (E)(1)(c) of section 4729.51 429  
of the Revised Code is guilty of a misdemeanor of the first 430  
degree. If the offender has previously been convicted of or 431  
pleaded guilty to a violation of this chapter, or of a violation 432  
of Chapter 2925. or 3719. of the Revised Code, that person is 433  
guilty of a felony of the fifth degree. 434

(I)(1) Whoever violates division (A) of section 4729.95 of 435  
the Revised Code is guilty of unauthorized pharmacy-related drug 436  
conduct. Except as otherwise provided in this section, 437  
unauthorized pharmacy-related drug conduct is a misdemeanor of 438  
the second degree. If the offender previously has been convicted 439  
of or pleaded guilty to a violation of division (A), (B), or (C) 440  
of that section, unauthorized pharmacy-related drug conduct is a 441  
misdemeanor of the first degree on a second offense and a felony 442  
of the fifth degree on a third or subsequent offense. 443

(2) Whoever violates division (B) or (C) of section 444  
4729.95 of the Revised Code is guilty of permitting unauthorized 445  
pharmacy-related drug conduct. Except as otherwise provided in 446  
this section, permitting unauthorized pharmacy-related drug 447  
conduct is a misdemeanor of the second degree. If the offender 448  
previously has been convicted of or pleaded guilty to a 449

violation of division (A), (B), or (C) of that section, 450  
permitting unauthorized pharmacy-related drug conduct is a 451  
misdemeanor of the first degree on a second offense and a felony 452  
of the fifth degree on a third or subsequent offense. 453

(3) Notwithstanding any contrary provision of section 454  
3719.21 of the Revised Code or any other provision of law that 455  
governs the distribution of fines, the clerk of the court shall 456  
pay any fine imposed pursuant to division (I) (1) or (2) of this 457  
section to the state board of pharmacy if the board has adopted 458  
a written internal control policy under division (F) (2) of 459  
section 2925.03 of the Revised Code that addresses fine moneys 460  
that it receives under Chapter 2925. of the Revised Code and if 461  
the policy also addresses fine moneys paid under this division. 462  
The state board of pharmacy shall use the fines so paid in 463  
accordance with the written internal control policy to subsidize 464  
the board's law enforcement efforts that pertain to drug 465  
offenses. 466

(J) (1) Whoever violates division (A) (1) of section 4729.86 467  
of the Revised Code is guilty of a misdemeanor of the third 468  
degree. If the offender has previously been convicted of or 469  
pleaded guilty to a violation of division (A) (1), (2), or (3) of 470  
section 4729.86 of the Revised Code, that person is guilty of a 471  
misdemeanor of the first degree. 472

(2) Whoever violates division (A) (2) of section 4729.86 of 473  
the Revised Code is guilty of a misdemeanor of the first degree. 474  
If the offender has previously been convicted of or pleaded 475  
guilty to a violation of division (A) (1), (2), or (3) of section 476  
4729.86 of the Revised Code, that person is guilty of a felony 477  
of the fifth degree. 478

(3) Whoever violates division (A) (3) of section 4729.86 of 479

the Revised Code is guilty of a felony of the fifth degree. If 480  
the offender has previously been convicted of or pleaded guilty 481  
to a violation of division (A) (1), (2), or (3) of section 482  
4729.86 of the Revised Code, that person is guilty of a felony 483  
of the fourth degree. 484

(K) A person who violates division (C) of section 4729.552 485  
of the Revised Code is guilty of a misdemeanor of the first 486  
degree. If the person previously has been convicted of or 487  
pleaded guilty to a violation of division (C) of section 488  
4729.552 of the Revised Code, that person is guilty of a felony 489  
of the fifth degree. 490

**Sec. 4731.96.** (A) As used in this section and section 491  
4731.961 of the Revised Code, "physician" means an individual 492  
authorized under this chapter to practice medicine and surgery, 493  
osteopathic medicine and surgery, or podiatric medicine and 494  
surgery. 495

(B) (1) Subject to division (B) (2) of this section, and 496  
notwithstanding any provision of this chapter or rule adopted by 497  
the state medical board, a physician may do either of the 498  
following without having examined an individual to whom 499  
epinephrine may be administered: 500

(a) Personally furnish a supply of epinephrine 501  
autoinjectors for use in accordance with sections 3313.7110, 502  
3313.7111, 3314.143, 3326.28, 3328.29, 3728.03 to 3728.05, and 503  
5101.76 of the Revised Code; 504

(b) Issue a prescription for epinephrine autoinjectors for 505  
use in accordance with sections 3313.7110, 3313.7111, 3314.143, 506  
3326.28, 3328.29, 3728.03 to 3728.05, and 5101.76 of the Revised 507  
Code. 508

(2) An epinephrine autoinjector personally furnished or 509  
prescribed under division (B) (1) of this section must be 510  
furnished or prescribed in such a manner that it may be 511  
administered only in a manufactured dosage form. 512

(C) A physician who acts in good faith in accordance with 513  
this section is not liable for or subject to any of the 514  
following for any action or omission of an entity to which an 515  
epinephrine autoinjector is furnished or a prescription is 516  
issued: damages in any civil action, prosecution in any criminal 517  
proceeding, or professional disciplinary action. 518

Sec. 4731.961. A physician who has established a protocol 519  
that meets the requirements specified by the state board of 520  
pharmacy in rules adopted under section 4729.46 of the Revised 521  
Code may authorize one or more pharmacists and any of the 522  
pharmacy interns supervised by the pharmacist or pharmacists to 523  
use the protocol for the purpose of dispensing epinephrine under 524  
section 4729.46 of the Revised Code. 525

**Section 2.** That existing sections 3728.03, 4729.16, 526  
4729.99, and 4731.96 of the Revised Code are hereby repealed. 527

**Section 3.** This act shall be known as the "Epinephrine 528  
Accessibility Act." 529

**Section 4.** Section 4729.99 of the Revised Code is 530  
presented in this act as a composite of the section as amended 531  
by both Sub. H.B. 505 and Sub. S.B. 319 of the 131st General 532  
Assembly. The General Assembly, applying the principle stated in 533  
division (B) of section 1.52 of the Revised Code that amendments 534  
are to be harmonized if reasonably capable of simultaneous 535  
operation, finds that the composite is the resulting version of 536  
the section in effect prior to the effective date of the section 537

as presented in this act.

538