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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

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 or <u>4729.44</u> or <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.

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