

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 119

Senators Hackett, Hottinger

A BILL

To amend sections 4715.302, 4729.75, 4729.77, 1
4729.79, 4731.052, and 4731.055 and to enact 2
sections 4715.303, 4731.058, 4731.059, and 3
5119.373 of the Revised Code regarding addiction 4
treatment and opioid prescribing by physicians 5
and dentists. 6

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

Section 1. That sections 4715.302, 4729.75, 4729.77, 7
4729.79, 4731.052, and 4731.055 be amended and sections 8
4715.303, 4731.058, 4731.059, and 5119.373 of the Revised Code 9
be enacted to read as follows: 10

Sec. 4715.302. (A) As used in this section: 11

(1) "Drug database" means the database established and 12
maintained by the state board of pharmacy pursuant to section 13
4729.75 of the Revised Code. 14

(2) "Opioid analgesic" and "benzodiazepine" have the same 15
meanings as in section 3719.01 of the Revised Code. 16

(B) Except as provided in divisions (C) and (E) of this 17
section, a dentist shall comply with all of the following as 18

conditions of prescribing a drug that is either an opioid 19
analgesic or a benzodiazepine, or personally furnishing a 20
complete or partial supply of such a drug, as part of a 21
patient's course of treatment for a particular condition: 22

(1) Before initially prescribing or furnishing the drug, 23
the dentist or the dentist's delegate shall request from the 24
drug database a report of information related to the patient 25
that covers at least the twelve months immediately preceding the 26
date of the request. If the dentist practices primarily in a 27
county of this state that adjoins another state, the dentist or 28
delegate also shall request a report of any information 29
available in the drug database that pertains to prescriptions 30
issued or drugs furnished to the patient in the state adjoining 31
that county. 32

(2) If the patient's course of treatment for the condition 33
continues for more than ninety days after the initial report is 34
requested, the dentist or delegate shall make periodic requests 35
for reports of information from the drug database until the 36
course of treatment has ended. The requests shall be made at 37
intervals not exceeding ninety days, determined according to the 38
date the initial request was made. The request shall be made in 39
the same manner provided in division (B) (1) of this section for 40
requesting the initial report of information from the drug 41
database. 42

(3) On receipt of a report under division (B) (1) or (2) of 43
this section, the dentist shall assess the information in the 44
report. The dentist shall document in the patient's record that 45
the report was received and the information was assessed. 46

(C) ~~(1)~~ Division (B) of this section does not apply if a 47
drug database report regarding the patient is not available. In 48

this event, the dentist shall document in the patient's record 49
the reason that the report is not available. 50

~~(2) Division (B) of this section does not apply if the 51
drug is prescribed or personally furnished in an amount 52
indicated for a period not to exceed seven days. 53~~

(D) The state dental board may adopt rules that establish 54
standards and procedures to be followed by a dentist regarding 55
the review of patient information available through the drug 56
database under division (A) (5) of section 4729.80 of the Revised 57
Code. The rules shall be adopted in accordance with Chapter 119. 58
of the Revised Code. 59

(E) This section and any rules adopted under it do not 60
apply if the state board of pharmacy no longer maintains the 61
drug database. 62

Sec. 4715.303. (A) As used in this section, "opioid 63
analgesic" has the same meaning as in section 3719.01 of the 64
Revised Code. 65

(B) The state dental board shall determine, for the 66
purposes of this section, what constitutes the practice of 67
general dentistry. 68

(C) A dentist whose practice is primarily general 69
dentistry shall not prescribe or personally furnish an opioid 70
analgesic if either of the following is the case: 71

(1) The morphine equivalent daily dose for the drug 72
exceeds fifty milligrams. 73

(2) Except as provided in division (D) of this section, 74
the drug is prescribed or furnished in an amount indicated for a 75
period that exceeds three days. 76

(D) A dentist whose practice is primarily general dentistry may prescribe or personally furnish an opioid analgesic in an amount indicated for a period that exceeds three days but is not more than seven days if all of the following conditions are met: 77
78
79
80
81

(1) The dentist has completed at least eight hours of training approved by the state dental board relating to opioids and addiction. 82
83
84

(2) The dentist or dentist's employer or dental practice utilizes an electronic medical records system that provides direct access to reports of patient information from the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code. 85
86
87
88
89

(3) The dentist annually completes at least two hours of continuing education approved by the state dental board relating to prescribing opioids. 90
91
92

(4) The dentist is able to refer patients to treatment for opioid dependence or addiction, which may include medication-assisted treatment and behavioral health services. 93
94
95

(E) The state dental board may establish limits on the amount or morphine equivalent daily dose of an opioid analgesic that may be prescribed or personally furnished by a dentist whose practice is primarily in a specialty other than general dentistry. 96
97
98
99
100

Sec. 4729.75. The state board of pharmacy may establish and maintain a drug database. The board shall use the drug database to monitor the misuse and diversion of the following: 101
102
103
104
105
controlled substances, as defined in section 3719.01 of the Revised Code; medical marijuana, as authorized under Chapter

3796. of the Revised Code; naltrexone; and other dangerous drugs 106
the board includes in the database pursuant to rules adopted 107
under section 4729.84 of the Revised Code. In establishing and 108
maintaining the database, the board shall electronically collect 109
information pursuant to sections 4729.77, 4729.771, and 4729.79 110
of the Revised Code and shall disseminate information as 111
authorized or required by sections 4729.80 and 4729.81 of the 112
Revised Code. The board's collection and dissemination of 113
information shall be conducted in accordance with rules adopted 114
under section 4729.84 of the Revised Code. 115

Sec. 4729.77. (A) If the state board of pharmacy 116
establishes and maintains a drug database pursuant to section 117
4729.75 of the Revised Code, each pharmacy licensed as a 118
terminal distributor of dangerous drugs that dispenses drugs to 119
patients in this state and is included in the types of 120
pharmacies specified in rules adopted under section 4729.84 of 121
the Revised Code shall submit to the board the following 122
prescription information: 123

- (1) Terminal distributor identification; 124
- (2) Patient identification; 125
- (3) Prescriber identification; 126
- (4) Date prescription was issued by prescriber; 127
- (5) Date drug was dispensed; 128
- (6) Indication of whether the drug dispensed is new or a 129
refill; 130
- (7) Name, strength, and national drug code of the drug 131
dispensed; 132
- (8) Quantity of drug dispensed; 133

| | |
|--|--------------------------|
| (9) Number of days' supply of drug dispensed; | 134 |
| (10) Serial or prescription number assigned by the terminal distributor; | 135 136 |
| (11) Source of payment for the drug dispensed; | 137 |
| <u>(12) If applicable, the morphine equivalent daily dose of the drug dispensed.</u> | 138 139 |
| (B) (1) The information shall be transmitted as specified by the board in rules adopted under section 4729.84 of the Revised Code. | 140 141 142 |
| (2) The information shall be submitted electronically in the format specified by the board, except that the board may grant a waiver allowing the distributor to submit the information in another format. | 143 144 145 146 |
| (3) The information shall be submitted in accordance with any time limits specified by the board, except that the board may grant an extension if either of the following occurs: | 147 148 149 |
| (a) The distributor suffers a mechanical or electronic failure, or cannot meet the deadline for other reasons beyond the distributor's control. | 150 151 152 |
| (b) The board is unable to receive electronic submissions. | 153 |
| (C) This section does not apply to a prescriber personally furnishing or administering dangerous drugs to the prescriber's patient. | 154 155 156 |
| Sec. 4729.79. (A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, each licensed health professional authorized to prescribe drugs, except as provided in division | 157 158 159 160 |

(C) of this section, who personally furnishes to a patient a controlled substance, naltrexone, or other dangerous drug the board includes in the database pursuant to rules adopted under section 4729.84 of the Revised Code shall submit to the board the following information:

- (1) Prescriber identification;
- (2) Patient identification;
- (3) Date drug was furnished by the prescriber;
- (4) Indication of whether the drug furnished is new or a refill;
- (5) Name, strength, and national drug code of drug furnished;
- (6) Quantity of drug furnished;
- (7) Number of days' supply of drug furnished;
- (8) Source of payment for the drug furnished;
- (9) Identification of the owner of the drug furnished;
- (10) If applicable, the morphine equivalent daily dose of the drug furnished.

(B)(1) The information shall be transmitted as specified by the board in rules adopted under section 4729.84 of the Revised Code.

(2) The information shall be submitted electronically in the format specified by the board, except that the board may grant a waiver allowing the prescriber to submit the information in another format.

(3) The information shall be submitted in accordance with

| | |
|--|-----|
| any time limits specified by the board, except that the board | 187 |
| may grant an extension if either of the following occurs: | 188 |
| (a) The prescriber's transmission system suffers a | 189 |
| mechanical or electronic failure, or the prescriber cannot meet | 190 |
| the deadline for other reasons beyond the prescriber's control. | 191 |
| (b) The board is unable to receive electronic submissions. | 192 |
| (C) (1) The information required to be submitted under | 193 |
| division (A) of this section may be submitted on behalf of the | 194 |
| prescriber by the owner of the drug being personally furnished | 195 |
| or by a delegate approved by that owner. | 196 |
| (2) The requirements of this section to submit information | 197 |
| to the board do not apply to a prescriber who is a veterinarian. | 198 |
| (D) If the board becomes aware of a prescriber's failure | 199 |
| to comply with this section, the board shall notify the | 200 |
| government entity responsible for licensing the prescriber. | 201 |
| Sec. 4731.052. (A) As used in this section: | 202 |
| (1) "Chronic pain" means pain that has persisted after | 203 |
| reasonable medical efforts have been made to relieve the pain or | 204 |
| cure its cause and that has continued, either continuously or | 205 |
| episodically, for longer than three continuous months. "Chronic | 206 |
| pain" does not include pain associated with a terminal condition | 207 |
| or with a progressive disease that, in the normal course of | 208 |
| progression, may reasonably be expected to result in a terminal | 209 |
| condition. | 210 |
| (2) "Controlled substance" has the same meaning as in | 211 |
| section 3719.01 of the Revised Code. | 212 |
| (3) "Physician" means an individual authorized under this | 213 |
| chapter to practice medicine and surgery or osteopathic medicine | 214 |

and surgery. 215

(B) The state medical board shall adopt rules in 216
accordance with Chapter 119. of the Revised Code that establish 217
standards and procedures to be followed by physicians in the 218
diagnosis and treatment of chronic pain, including standards for 219
a physician's consultation with one or more other physicians who 220
specialize in the treatment of the area, system, or organ of the 221
body perceived as the source of pain and managing chronic pain 222
by prescribing, personally furnishing, or administering 223
controlled substances or products containing tramadol. 224

(C) When a physician diagnoses a patient as having chronic 225
pain, the physician may, subject to division (D) of this 226
section, treat the pain by managing it with controlled 227
substances and products containing tramadol. The physician's 228
diagnosis and treatment decisions shall be made according to 229
accepted and prevailing standards for medical care. For the 230
purpose of assisting with the diagnosis of chronic pain, the 231
physician shall obtain and review all available medical records 232
or detailed written summaries of the patient's treatment for 233
chronic pain or the condition causing the chronic pain. It is 234
recommended that the physician also consider having the patient 235
evaluated by one or more other physicians who specialize in the 236
treatment of the area, system, or organ of the body perceived as 237
the source of the pain. 238

(D) (1) To be authorized to treat chronic pain with a 239
controlled substance or product containing tramadol, a physician 240
must do all of the following: 241

(a) Complete at least eight hours of training approved by 242
the state medical board relating to addiction; 243

| | |
|---|-----|
| <u>(b) Utilize an electronic medical records system that</u> | 244 |
| <u>provides direct access to reports of patient information from</u> | 245 |
| <u>the drug database established and maintained by the state board</u> | 246 |
| <u>of pharmacy pursuant to section 4729.75 of the Revised Code;</u> | 247 |
| <u>(c) Annually complete at least two hours of continuing</u> | 248 |
| <u>education approved by the state medical board relating to</u> | 249 |
| <u>prescribing controlled substances.</u> | 250 |
| <u>(2) A physician shall not prescribe, furnish, or</u> | 251 |
| <u>administer a controlled substance or product containing tramadol</u> | 252 |
| <u>for treatment of chronic pain if its morphine equivalent daily</u> | 253 |
| <u>dose exceeds fifty milligrams.</u> | 254 |
| <u>(3) For each patient a physician diagnoses as having</u> | 255 |
| chronic pain, the physician shall maintain a written record of | 256 |
| all of the following: | 257 |
| (1) <u>(a) Medical history and physical examination of the</u> | 258 |
| patient; | 259 |
| (2) <u>(b) The diagnosis of chronic pain, including signs,</u> | 260 |
| symptoms, and causes; | 261 |
| (3) <u>(c) The plan of treatment proposed, the patient's</u> | 262 |
| response to treatment, and any modification to the plan of | 263 |
| treatment, including all of the following: | 264 |
| (a) <u>(i) Documentation that other medically reasonable</u> | 265 |
| treatments for relief of the patient's chronic pain have been | 266 |
| offered or attempted without adequate or reasonable success; | 267 |
| (b) <u>(ii) Periodic assessment and documentation of the</u> | 268 |
| patient's functional status, including the ability to engage in | 269 |
| work or other purposeful activities, the pain intensity and its | 270 |
| interference with activities of daily living, quality of family | 271 |

| | |
|---|--|
| life and social activities, and physical activity of the patient; | 272 273 |
| (e) <u>(iii)</u> Periodic assessment and documentation of the patient's progress toward treatment objectives, including the intended role of controlled substances or products containing tramadol within the overall plan of treatment; | 274 275 276 277 |
| (d) <u>(iv)</u> Periodic assessment and documentation for indicators of possible addiction, drug abuse, or drug diversion; | 278 279 |
| (e) <u>(v)</u> Notation of any adverse drug effects. | 280 |
| (4) <u>(d)</u> The dates on which controlled substances or products containing tramadol were prescribed, furnished, or administered, the name and address of the patient to or for whom the controlled substances or products containing tramadol were prescribed, furnished, or administered, and the amounts and , <u>dosage forms, and if applicable, morphine equivalent daily dose</u> for the controlled substances or products containing tramadol prescribed, furnished, or administered; | 281 282 283 284 285 286 287 288 |
| (5) <u>(e)</u> A copy of any record or report made by another physician that was used or consulted for the purpose of diagnosing the patient's chronic pain or treating the patient for chronic pain. | 289 290 291 292 |
| <u>(4) For each patient diagnosed as having chronic pain who a physician determines will no longer benefit from treatment with a controlled substance or product containing tramadol, the physician shall do both of the following:</u> | 293 294 295 296 |
| <u>(a) Review the guidelines regarding opioid tapering or discontinuation established by the federal centers for disease control and prevention and presented in the document "CDC Guideline for Prescribing Opioids for Chronic Pain - United</u> | 297 298 299 300 |

States, 2016" or a successor document, unless the guidelines are 301
no longer in effect at the time of the physician's 302
determination; 303

(b) Modify the plan of treatment to cause the patient's 304
dosage to be tapered until the controlled substance or product 305
is no longer prescribed, furnished, or administered. 306

(E) A physician shall not prescribe, personally furnish, 307
or administer to a patient a controlled substance or product 308
containing tramadol without taking into account the potential 309
for abuse of the controlled substance or product, the 310
possibility the controlled substance or product may lead to 311
dependence, the possibility the patient will obtain the 312
controlled substance or product for a nontherapeutic use or 313
distribute it to other persons, and the potential existence of 314
an illicit market for the controlled substance or product. In 315
addition, the physician shall address with the patient the risks 316
associated with protracted treatment with controlled substances 317
or products containing tramadol, including informing the patient 318
of the potential for dependence, tolerance, and addiction and 319
the clinical or monitoring tools the physician may use if signs 320
of addiction, drug abuse, or drug diversion are present. 321

(F) A physician who treats chronic pain by managing it 322
with controlled substances or products containing tramadol is 323
not subject to disciplinary action by the board under section 324
4731.22 of the Revised Code solely because the physician treated 325
the chronic pain with controlled substances or products 326
containing tramadol. 327

Sec. 4731.055. (A) As used in this section: 328

(1) "Drug database" means the database established and 329

maintained by the state board of pharmacy pursuant to section 330
4729.75 of the Revised Code. 331

(2) "Physician" means an individual authorized under this 332
chapter to practice medicine and surgery, osteopathic medicine 333
and surgery, or podiatric medicine and surgery. 334

(3) "Opioid analgesic" and "benzodiazepine" have the same 335
meanings as in section 3719.01 of the Revised Code. 336

(B) Except as provided in divisions (C) and (E) of this 337
section, a physician shall comply with all of the following as 338
conditions of prescribing a drug that is either an opioid 339
analgesic or a benzodiazepine, or personally furnishing a 340
complete or partial supply of such a drug, as part of a 341
patient's course of treatment for a particular condition: 342

(1) Before initially prescribing or furnishing the drug, 343
the physician or the physician's delegate shall request from the 344
drug database a report of information related to the patient 345
that covers at least the twelve months immediately preceding the 346
date of the request. If the physician practices primarily in a 347
county of this state that adjoins another state, the physician 348
or delegate also shall request a report of any information 349
available in the drug database that pertains to prescriptions 350
issued or drugs furnished to the patient in the state adjoining 351
that county. 352

(2) If the patient's course of treatment for the condition 353
continues for more than ninety days after the initial report is 354
requested, the physician or delegate shall make periodic 355
requests for reports of information from the drug database until 356
the course of treatment has ended. The requests shall be made at 357
intervals not exceeding ninety days, determined according to the 358

date the initial request was made. The request shall be made in 359
the same manner provided in division (B) (1) of this section for 360
requesting the initial report of information from the drug 361
database. 362

(3) On receipt of a report under division (B) (1) or (2) of 363
this section, the physician shall assess the information in the 364
report. The physician shall document in the patient's record 365
that the report was received and the information was assessed. 366

(C) Division (B) of this section does not apply in any of 367
the following circumstances: 368

(1) A drug database report regarding the patient is not 369
available, in which case the physician shall document in the 370
patient's record the reason that the report is not available. 371

~~(2) The drug is prescribed or personally furnished in an 372
amount indicated for a period not to exceed seven days. 373~~

~~(3) The drug is prescribed or personally furnished for the 374
treatment of cancer or another condition associated with cancer. 375~~

~~(4) (3) The drug is prescribed or personally furnished to 376
a hospice patient in a hospice care program, as those terms are 377
defined in section 3712.01 of the Revised Code, or any other 378
patient diagnosed as terminally ill. 379~~

~~(5) (4) The drug is prescribed or personally furnished for 380
administration in a hospital, nursing home, or residential care 381
facility. 382~~

~~(6) (5) The drug is prescribed or personally furnished to 383
treat acute pain resulting from a surgical or other invasive 384
procedure or a delivery. 385~~

(D) The state medical board may adopt rules that establish 386

standards and procedures to be followed by a physician regarding 387
the review of patient information available through the drug 388
database under division (A) (5) of section 4729.80 of the Revised 389
Code. The rules shall be adopted in accordance with Chapter 119. 390
of the Revised Code. 391

(E) This section and any rules adopted under it do not 392
apply if the state board of pharmacy no longer maintains the 393
drug database. 394

Sec. 4731.058. (A) As used in this section: 395

(1) "Opioid agonist treatment medication" and "opioid 396
treatment program" have the same meanings as in 42 C.F.R. 8.2. 397

(2) "Physician" means an individual authorized under this 398
chapter to practice medicine and surgery or osteopathic medicine 399
and surgery. 400

(B) To the extent permitted by federal law, a patient 401
accepted for treatment of opioid dependence or addiction by 402
either of the following shall be offered treatment with 403
naltrexone: 404

(1) An opioid treatment program that is the subject of a 405
valid certification pursuant to 42 C.F.R. 8.11; 406

(2) A physician who practices in a location other than an 407
opioid treatment program, but holds a waiver pursuant to 21 408
U.S.C. 823(g) (2) and is authorized to issue prescriptions for 409
buprenorphine from the practice location. 410

(C) When offering treatment with naltrexone, a physician 411
described in division (B) (2) of this section or practicing in an 412
opioid treatment program shall do all of the following: 413

(1) Discuss with the patient the benefits and risks of 414

treatment with naltrexone as opposed to the benefits and risks 415
of treatment with an opioid agonist treatment medication such as 416
buprenorphine; 417

(2) Obtain a consent form signed by the patient indicating 418
the type of treatment to be provided; 419

(3) Sign the consent form after it is signed by the 420
patient; 421

(4) Place in the patient's medical record a copy of the 422
consent form signed by the patient and physician. 423

Sec. 4731.059. (A) As used in this section: 424

(1) "Opioid analgesic" has the same meaning as in section 425
3719.01 of the Revised Code. 426

(2) "Physician" means an individual authorized under this 427
chapter to practice medicine and surgery or osteopathic medicine 428
and surgery. 429

(B) The state medical board shall determine, for the 430
purposes of this section, what constitutes a primary care 431
specialty. 432

(C) Except as provided in division (E) of this section, a 433
physician whose practice is primarily in a primary care 434
specialty shall not prescribe or personally furnish an opioid 435
analgesic if either of the following is the case: 436

(1) The morphine equivalent daily dose for the drug 437
exceeds fifty milligrams. 438

(2) Except as provided in division (D) of this section, 439
the drug is prescribed or furnished in an amount indicated for a 440
period that exceeds three days. 441

(D) A physician whose practice is primarily in a primary care specialty may prescribe or personally furnish an opioid analgesic in an amount indicated for a period that exceeds three days but is not more than seven days if all of the following conditions are met: 442
443
444
445
446

(1) The physician has completed at least eight hours of training approved by the state medical board relating to opioids and addiction. 447
448
449

(2) The physician or physician's employer or medical practice utilizes an electronic medical records system that provides direct access to reports of patient information from the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code. 450
451
452
453
454

(3) The physician completes on an annual basis at least two hours of continuing education approved by the state medical board relating to prescribing opioids. 455
456
457

(4) The physician is able to provide treatment for opioid dependence or addiction, which may include medication-assisted treatment and behavioral health services. In the case of behavioral health services, a physician may refer a patient to another individual who provides such services. 458
459
460
461
462

(E) This section does not apply when, as part of the physician's regular practice, a physician prescribes or personally furnishes opioid analgesics in any of the following circumstances: 463
464
465
466

(1) For the treatment of cancer or another condition associated with cancer; 467
468

(2) To a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, 469
470

or to any other patient diagnosed as terminally ill; 471

(3) To an inpatient for administration in a hospital; 472

(4) To a resident of a nursing home or residential care 473
facility for administration in the home or facility; 474

(5) To treat chronic pain in accordance with section 475
4731.052 of the Revised Code. 476

(F) The state medical board may establish limits on the 477
amount or morphine equivalent daily dose of an opioid analgesic 478
that may be prescribed or personally furnished by a physician 479
whose practice is primarily in a specialty other than primary 480
care. 481

Sec. 5119.373. (A) The department of mental health and 482
addiction services shall develop and make available one or more 483
online courses that provide the counseling and other ancillary 484
services required by 21 C.F.R. 1301.28(b)(1)(ii) to the patients 485
of a physician who meets all of the following criteria: 486

(1) Is authorized under Chapter 4731. of the Revised Code 487
to practice medicine and surgery or osteopathic medicine and 488
surgery; 489

(2) Holds a waiver issued pursuant to 21 U.S.C. 823(g)(2); 490

(3) Practices in a location other than an opioid treatment 491
program and is authorized to issue prescriptions for 492
buprenorphine from the practice location. 493

(B) In developing the online courses required by this 494
section, the department may consult with one or more individuals 495
or entities specializing in providing services, including 496
counseling, educational, or vocational services, to persons 497
treated for opioid dependence or addiction. 498

| | |
|--|-----|
| Section 2. That existing sections 4715.302, 4729.75, | 499 |
| 4729.77, 4729.79, 4731.052, and 4731.055 of the Revised Code are | 500 |
| hereby repealed. | 501 |
| | |
| Section 3. This act shall be known as Daniel's Law. | 502 |