

As Introduced

**124th General Assembly
Regular Session
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H. B. No. 71

**REPRESENTATIVES Faber, Brinkman, DeWine, Driehaus, Callender, Collier,
Flowers, Grendell, Hagan, Husted, Jerse, Krupinski, Reidelbach, Schaffer,
Seaver, Seitz, Setzer, Willamowski, Wolpert, Womer Benjamin**

A B I L L

To amend section 4729.16 and to enact section 4729.162 1
of the Revised Code to provide that a pharmacist 2
may refuse to dispense a drug on the basis of 3
ethical or religious principles. 4

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

Section 1. That section 4729.16 be amended and section 5
4729.162 of the Revised Code be enacted to read as follows: 6

Sec. 4729.16. (A) The state board of pharmacy, after notice 7
and hearing in accordance with Chapter 119. of the Revised Code, 8
may revoke, suspend, limit, place on probation, or refuse to grant 9
or renew an identification card, or may impose a monetary penalty 10
or forfeiture not to exceed in severity any fine designated under 11
the Revised Code for a similar offense, or in the case of a 12
violation of a section of the Revised Code that does not bear a 13
penalty, a monetary penalty or forfeiture of not more than five 14
hundred dollars, if the board finds a pharmacist or pharmacy 15
intern: 16

(1) Guilty of a felony or gross immorality; 17

(2) Guilty of dishonesty or unprofessional conduct in the 18

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| practice of pharmacy; | 19 |
| (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy; | 20 21 22 |
| (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy; | 23 24 |
| (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions; | 25 26 27 28 29 |
| (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy; | 30 31 |
| (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; | 32 33 34 |
| (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home; | 35 36 37 38 39 40 |
| (9) Has <u>Except as provided in division (C)(2) of this section, has</u> violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code; | 41 42 43 |
| (10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code. | 44 45 46 47 |
| (B) Any individual whose identification card is revoked, | 48 |

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.

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(C) The board may not take action under division (A) of this
section against a pharmacist for doing either of the following in
accordance with section 4729.162 of the Revised Code:

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(1) Refusing to dispense a drug;

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(2) Terminating a consult agreement.

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(D) As used in this section:

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"Unprofessional conduct in the practice of pharmacy" includes
any of the following:

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(1) Advertising or displaying signs that promote dangerous
drugs to the public in a manner that is false or misleading;

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(2) Except as provided in section 4729.281 of the Revised
Code, the sale of any drug for which a prescription is required,
without having received a prescription for the drug;

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(3) Knowingly dispensing medication pursuant to false or
forged prescriptions;

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(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;

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(5) Obtaining any remuneration by fraud, misrepresentation,
or deception.

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

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~~(E)~~(F) If, pursuant to an adjudication under Chapter 119. of
the Revised Code, the board has reasonable cause to believe that a

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pharmacist or pharmacy intern is physically or mentally impaired, 78
the board may require the pharmacist or pharmacy intern to submit 79
to a physical or mental examination, or both. 80

Sec. 4729.162. A pharmacist may refuse to dispense a drug if 81
doing so would violate the pharmacist's ethical or religious 82
principles. A pharmacist who has entered into a consult agreement 83
under section 4729.39 of the Revised Code shall terminate the 84
agreement in accordance with that section if the pharmacist 85
refuses to dispense a drug prescribed for the individual who 86
consented to treatment under the agreement. 87

Unless self-employed, a pharmacist who intends to refuse to 88
dispense a drug for ethical or religious reasons shall provide to 89
the pharmacist's employer a written statement of the basis for the 90
refusal before receiving a request to fill a prescription for the 91
drug. If such a written statement has been provided, the 92
pharmacist's employer shall not discharge, discipline, 93
discriminate against, or retaliate against or deny employment or 94
promotion to the pharmacist solely on the basis of refusal to 95
dispense the drug. 96

A pharmacist who refuses, in accordance with this section, to 97
dispense a drug and the pharmacist's employer are not liable in 98
damages for harm resulting from the refusal. 99

A pharmacist or employer may not be denied public funds on 100
the basis of a pharmacist's refusal, in accordance with this 101
section, to dispense a drug. 102

Section 2. That existing section 4729.16 of the Revised Code 103
is hereby repealed. 104