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Representative Sprague

Cosponsors: Representatives Buchy, Hood, Phillips, Ruhl, Smith, Antonio, Barnes, Bishoff, Brown, Hagan, R., Schuring, Sears, Johnson, Adams, R., Amstutz, Anielski, Ashford, Baker, Beck, Blair, Blessing, Boose, Boyce, Budish, Burkley, Butler, Conditt, Damschroder, Derickson, DeVitis, Dovilla, Duffey, Fedor, Gerberry, Green, Hackett, Hagan, C., Hall, Hayes, Heard, Henne, Huffman, Landis, Letson, Lundy, Mallory, McClain, Milkovich, O'Brien, Perales, Pillich, Rogers, Rosenberger, Stebelton, Stinziano, Strahorn, Wachtmann, Williams, Winburn, Young Speaker Batchelder

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A B I L L

To amend sections 3712.04 and 3712.99 and to enact	1
section 3712.062 of the Revised Code to require	2
hospice care programs to establish policies to	3
prevent diversion of controlled substances that	4
contain opioids.	5

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

Section 1. That sections 3712.04 and 3712.99 be amended and	6
section 3712.062 of the Revised Code be enacted to read as	7
follows:	8

Sec. 3712.04. (A) Every person or public agency that proposes	9
to provide a hospice care program shall apply to the department of	10
health for a license. Application shall be made on forms	11
prescribed and provided by the department, shall include such	12

information as the department requires, and shall be accompanied 13
by the license fee established by rules of the director of health 14
adopted under division (A) of section 3712.03 of the Revised Code. 15

The department shall grant a license to the applicant if the 17
applicant is in compliance with this chapter and rules adopted 18
under it. 19

(B) A license granted under this section shall be valid for 20
three years. Application for renewal of a license shall be made at 21
least ninety days before the expiration of the license in the same 22
manner as for an initial license, except that, if the program 23
provides hospice care and services in a hospice patient's home, 24
the application for renewal shall include written evidence 25
demonstrating that the applicant is in compliance with section 26
3712.062 of the Revised Code. The department shall renew the 27
license if the applicant meets the requirements of this chapter 28
and rules adopted under it. 29

(C) Subject to Chapter 119. of the Revised Code, the 30
department may suspend or revoke a license if the licensee made 31
any material misrepresentation in the application for the license 32
or no longer meets the requirements of this chapter or rules 33
adopted under it. 34

(D) A hospital, nursing home, home for the aged, county 35
medical care facility, or other health facility or agency that 36
provides a hospice care program shall be licensed to provide a 37
hospice care program under this section. 38

(E) A nursing home licensed under Chapter 3721. of the 39
Revised Code that does not hold itself out to be a hospice, does 40
not hold itself out as providing a hospice care program, does not 41
use the term hospice to describe or refer to its activities or 42
facilities, and that does not provide all of the services 43

enumerated in division (A) of section 3712.01 of the Revised Code 44
is not subject to the licensing provisions of this chapter. 45

Sec. 3712.062. (A) Each hospice care program licensed under 46
this chapter that provides hospice care and services in a hospice 47
patient's home shall establish a written policy establishing 48
procedures to be followed in preventing the diversion of 49
controlled substances containing opioids that are prescribed to 50
its hospice patients. The policy shall include procedures for the 51
disposal of any such drugs prescribed to a hospice patient as part 52
of the patient's interdisciplinary plan of care that are 53
relinquished to the program after the patient's death or that 54
otherwise are no longer needed by the patient. The policy shall 55
require that the disposal be documented by a program employee and 56
conducted in any of the following ways: 57

(1) Performed by a program employee and witnessed by the 58
patient or patient's family member; 59

(2) Performed by the patient or patient's family member and 60
witnessed by a program employee; 61

(3) Performed by a program employee and witnessed by another 62
program employee. 63

(B) As part of a hospice patient's interdisciplinary plan of 64
care required by section 3712.06 of the Revised Code, each hospice 65
care program that provides hospice care and services in the 66
patient's home shall do all of the following: 67

(1) Before providing hospice care and services, distribute a 68
copy of the written policy established under division (A) of this 69
section to the patient and patient's family and discuss the 70
procedures included in the policy with the patient and patient's 71
family; 72

(2) Assess the patient, the patient's family, and the care 73

environment for any risk factors associated with diversion; 74

(3) Maintain records of controlled substances containing 75
opioids prescribed to the patient and included in the patient's 76
interdisciplinary plan of care, including accurate counts of the 77
numbers dispensed and used; 78

(4) Monitor the use and consumption of controlled substances 79
containing opioids prescribed to the patient and included in the 80
patient's interdisciplinary plan of care, including prescription 81
refills, for signs of diversion; 82

(5) Report any sign of suspected diversion to a local law 83
enforcement agency; 84

(6) Before providing hospice care and services, inform the 85
patient and the patient's family that the hospice care program 86
will dispose of any controlled substances containing opioids that 87
are no longer needed by the patient and were included in the 88
patient's interdisciplinary plan of care; 89

(7) After the patient's death or when no longer needed by the 90
patient, request, in writing, that the patient or patient's family 91
relinquish to the program for disposal any remaining controlled 92
substances containing opioids that were included in the patient's 93
interdisciplinary plan of care to the program; 94

(8) Report to a local law enforcement agency the quantity and 95
type of any remaining controlled substances containing opioids 96
that were included in the patient's interdisciplinary plan of care 97
and were not relinquished to the program by the patient or 98
patient's family. 99

(C) If a hospice care program complies with divisions (B)(7) 100
and (8) of this section, neither the program nor its employees, 101
officers, or directors shall be liable in damages to any person or 102
government entity in a civil action for injury, death, or loss to 103
person or property that allegedly arises from an action or 104

omission of the program or an employee relative to this section 105
unless the action or omission constitutes willful or wanton 106
misconduct. 107

(D) No person who receives a written request under division 108
(B)(7) of this section shall fail to relinquish controlled 109
substances containing opioids that were included in a patient's 110
interdisciplinary plan of care. 111

(E) Immediately following a report from a hospice program 112
under division (B)(8) of this section, the local law enforcement 113
agency shall investigate and dispose of the remaining controlled 114
substances containing opioids that were reported to the agency 115
pursuant to division (B)(8) of this section. 116

(F) After a review of the written evidence submitted under 117
division (B) of section 3701.04 of the Revised Code with an 118
application for license renewal, if the department determines that 119
the program is not in compliance with this section, the department 120
may suspend the program's license for not more than six months and 121
impose a fine not to exceed twenty thousand dollars. 122

(G) Not later than one year after the effective date of this 123
section, the director of health shall adopt rules in accordance 124
with Chapter 119. of the Revised Code establishing standards and 125
procedures for the submission and review of the written evidence 126
required by division (B) of section 3701.04 of the Revised Code 127
for renewal of a hospice care program license. 128

Sec. 3712.99. (A) Any person who violates division (A) of 129
section 3712.05 or division (A) of section 3712.051 of the Revised 130
Code is guilty of a misdemeanor of the second degree on a first 131
offense; on each subsequent offense the person is guilty of a 132
misdemeanor of the first degree. 133

(B) Any person who violates division (D) of section 3712.062 134

of the Revised Code is guilty of a minor misdemeanor. 135

Section 2. That existing sections 3712.04 and 3712.99 of the 136
Revised Code are hereby repealed. 137

Section 3. Not later than one year after the effective date 138
of this act, each hospice care program that holds a license under 139
Chapter 3712. of the Revised Code on the act's effective date and 140
that provides hospice care and services in a hospice patient's 141
home shall submit to the Department of Health written evidence 142
demonstrating that the program is in compliance with section 143
3712.062 of the Revised Code, as enacted by this act. After a 144
review of the evidence submitted, if the Department determines 145
that the program is not in compliance with that section, the 146
Department may suspend the program's license for not more than six 147
months and impose a fine not to exceed twenty thousand dollars. 148