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Representatives Ginter, Sprague

Cosponsors: Representatives Blessing, Green, Riedel, Seitz, Anielski, Antonio, Ashford, Craig, Greenspan, Hambley, Hill, Johnson, Landis, Lanese, Manning, Miller, Schaffer, Slaby, Stein, Young

A BILL

To require the State Board of Pharmacy to operate a 1
pilot program for dispensing schedule II 2
controlled substances in lockable or tamper- 3
evident containers. 4

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

Section 1. As used in this act: 5

(A) "Controlled substance" and "schedule II" have the same 6
meanings as in section 3719.01 of the Revised Code. 7

(B) "Lockable container" means a container that meets both 8
of the following requirements: 9

(1) Has special packaging; 10

(2) Has a locking mechanism that can be unlocked in any of 11
the following ways: 12

(a) Physically by using a key or other object capable of 13
unlocking a locked container; 14

(b) Physically by entering a numeric or alphanumeric 15

combination code that is selected by the patient or an individual acting on behalf of the patient;

(c) Electronically by entering a password or code that is selected by the patient or an individual acting on behalf of the patient.

(C) "Special packaging" has the same meaning as in the "Poison Prevention Packaging Act of 1970," 15 U.S.C. 1471.

(D) "Tamper-evident container" means a container that meets both of the following requirements:

(1) Has special packaging;

(2) Displays a visual sign when there is unauthorized entry into the container or has a numerical display of the time that the container was last opened.

(E) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Section 2. (A) Subject to Section 3 of this act, the State Board of Pharmacy shall operate a two-year pilot program under which drugs containing a schedule II controlled substance are dispensed in lockable containers or tamper-evident containers. Under the pilot program, the Board shall reimburse participating pharmacies for the expenses they incur in participating in the program, including administrative expenses and other expenses associated with stocking lockable containers or tamper-evident containers and dispensing drugs containing a schedule II controlled substance in those containers.

(B) Any pharmacy may volunteer to participate in the pilot program by notifying the Board. From among the volunteers, the Board shall select the pharmacies to be included in the pilot

program. In selecting the pharmacies, the Board shall take into 44
consideration the areas of the state that have the highest 45
levels of dispensing drugs containing a schedule II controlled 46
substance. If some of those areas are not adequately represented 47
by initial volunteers, the Board shall make concerted efforts to 48
recruit pharmacies from those areas to serve as participants in 49
the pilot program. In addition, the Board shall attempt to 50
include pharmacies of varying types. 51

(C) In each of the pilot program's participating 52
pharmacies, all of the following apply: 53

(1) A pharmacist shall dispense a drug containing a 54
schedule II controlled substance in a lockable container or 55
tamper-evident container unless the patient or an individual 56
acting on behalf of the patient requests that the drug not be 57
dispensed in such a container. 58

(2) Before a pharmacist dispenses the drug, the pharmacist 59
or the pharmacist's delegate shall deliver the educational 60
statement described in division (D) of this section. 61

(3) The expenses that the pharmacy incurs for the 62
containers shall not be included in any amount that is to be 63
paid by a patient, an individual acting on behalf of the 64
patient, or a third-party payer. 65

(D) As part of the pilot program, the Board shall develop 66
an educational statement that informs patients and individuals 67
acting on their behalf about the serious potential for abuse and 68
diversion of drugs containing controlled substances, including 69
the possibility of pilfering by adolescents and unauthorized 70
users of those drugs. The statement shall provide a plain and 71
accurate warning of the risks of abuse, diversion, addiction, 72

overdose, and death associated with controlled substances. 73

The statement developed by the Board shall be brief and 74
otherwise efficient, so as not to create undue burdens on the 75
pharmacies participating in the pilot program. The statement may 76
be delivered in any manner a pharmacist chooses, including 77
orally, electronically, or in a written format. 78

(E) A pharmacist, pharmacist's delegate, or pharmacy is 79
not liable for damages in any civil action, subject to 80
prosecution in any criminal proceeding, or subject to 81
professional disciplinary action for actions taken in good faith 82
in accordance with this section, including any of the following: 83

(1) Disclosing information to aid a patient or an 84
individual acting on the patient's behalf in obtaining entry 85
into a lockable container or tamper-evident container; 86

(2) Dispensing a drug in a lockable container or tamper- 87
evident container that fails to restrict unauthorized access 88
into the container. 89

(F) Not later than six months after the pilot program 90
ends, the Board shall prepare a report describing its findings 91
regarding the success of the program. In evaluating the pilot 92
program's success, the Board shall contract with a third-party 93
research organization to assess whether a measured decrease in 94
diversion of schedule II controlled substances occurred 95
regarding drugs dispensed through the program as compared with 96
those dispensed outside of the program. On completion of the 97
report, the Board shall submit the report to the General 98
Assembly in accordance with section 101.68 of the Revised Code. 99

Section 3. The State Board of Pharmacy shall operate the 100
pilot program described in Section 2 of this act only if the 101

General Assembly makes an appropriation for the pilot program.	102
If the appropriation is made, both of the following apply:	103
(A) The Board shall develop and implement the pilot	104
program not later than six months after the appropriation	105
becomes available to the Board.	106
(B) The Board shall adopt any rules necessary to	107
administer the pilot program. The rules shall be adopted in	108
accordance with Chapter 119. of the Revised Code.	109
Section 4. Nothing in this act precludes a pharmacy that	110
is not participating in the pilot program described in Section 2	111
of this act from stocking lockable containers or tamper-evident	112
containers and offering to have drugs containing a schedule II	113
controlled substance dispensed in those containers.	114