

**As Passed by the Senate**

**131st General Assembly**

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**2015-2016**

**Sub. H. B. No. 39**

**Representatives Duffey, DeVitis**

**Cosponsors: Representatives Butler, Thompson, Roegner, Dever, LaTourette, Blessing, Landis, Gonzales, Perales, Hagan, Retherford, Cera, Hill, Hall, Reece, Bishoff, Stinziano, Fedor, Huffman, Antonio, Barnes, Brown, Celebrezze, Schuring, Sprague, Lepore-Hagan, Amstutz, Anielski, Baker, Boose, Boyd, Buchy, Burkley, Conditt, Craig, Cupp, Derickson, Dovilla, Driehaus, Gerberry, Green, Grossman, Hackett, Hayes, Johnson, T., Kraus, Kunze, Leland, Maag, Manning, McClain, McColley, O'Brien, M., O'Brien, S., Patterson, Pelanda, Phillips, Ramos, Rezabek, Rogers, Ruhl, Ryan, Schaffer, Sears, Sheehy, Slaby, Slesnick, Smith, K., Smith, R., Strahorn, Sweeney, Sykes, Young**

**Senators Beagle, Gardner, Jones, Lehner, Brown, Bacon, Balderson, Burke, Cafaro, Coley, Eklund, Hite, Hughes, LaRose, Manning, Obhof, Oelslager, Patton, Peterson, Schiavoni, Skindell, Thomas, Uecker, Widener, Yuko**

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**A BILL**

To amend sections 3313.713, 4729.51, and 4729.60 1  
and to enact sections 3313.7113, 3313.7114, 2  
3314.144, 3326.30, 3328.30, and 5101.77 of the 3  
Revised Code to permit schools and camps to 4  
procure and use inhalers for alleviating 5  
asthmatic symptoms and to exempt the schools and 6  
camps from licensing requirements related to 7  
possession of inhalers. 8

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

**Section 1.** That sections 3313.713, 4729.51, and 4729.60 be 9  
amended and sections 3313.7113, 3313.7114, 3314.144, 3326.30, 10

3328.30, and 5101.77 of the Revised Code be enacted to read as follows: 11  
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**Sec. 3313.713.** (A) As used in this section: 13

(1) "Drug" means a drug, as defined in section 4729.01 of the Revised Code, that is to be administered pursuant to the instructions of the prescriber, whether or not required by law to be sold only upon a prescription. 14  
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(2) "Federal law" means the "Individuals with Disabilities Education Act of 1997," 111 Stat. 37, 20 U.S.C. 1400, as amended. 18  
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(3) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code. 21  
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(B) The board of education of each city, local, exempted village, and joint vocational school district shall adopt a policy on the authority of its employees, when acting in situations other than those governed by sections 2305.23, 2305.231, 3313.712, ~~and~~ 3313.7110, 3313.7112, and 3313.7113 of the Revised Code, to administer drugs prescribed to students enrolled in the schools of the district. The policy shall provide either that: 23  
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(1) Except as otherwise required by federal law, no person employed by the board shall, in the course of such employment, administer any drug prescribed to any student enrolled in the schools of the district. 31  
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(2) Designated persons employed by the board are authorized to administer to a student a drug prescribed for the student. Effective July 1, 2011, only employees of the board who are licensed health professionals, or who have completed a drug administration training program conducted by a licensed health 35  
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professional and considered appropriate by the board, may 40  
administer to a student a drug prescribed for the student. 41  
Except as otherwise provided by federal law, the board's policy 42  
may provide that certain drugs or types of drugs shall not be 43  
administered or that no employee shall use certain procedures, 44  
such as injection, to administer a drug to a student. 45

(C) No drug prescribed for a student shall be administered 46  
pursuant to federal law or a policy adopted under division (B) 47  
of this section until the following occur: 48

(1) The board, or a person designated by the board, 49  
receives a written request, signed by the parent, guardian, or 50  
other person having care or charge of the student, that the drug 51  
be administered to the student. 52

(2) The board, or a person designated by the board, 53  
receives a statement, signed by the prescriber, that includes 54  
all of the following information: 55

(a) The name and address of the student; 56

(b) The school and class in which the student is enrolled; 57

(c) The name of the drug and the dosage to be 58  
administered; 59

(d) The times or intervals at which each dosage of the 60  
drug is to be administered; 61

(e) The date the administration of the drug is to begin; 62

(f) The date the administration of the drug is to cease; 63

(g) Any severe adverse reactions that should be reported 64  
to the prescriber and one or more phone numbers at which the 65  
prescriber can be reached in an emergency; 66

(h) Special instructions for administration of the drug, 67  
including sterile conditions and storage. 68

(3) The parent, guardian, or other person having care or 69  
charge of the student agrees to submit a revised statement 70  
signed by the prescriber to the board or a person designated by 71  
the board if any of the information provided by the prescriber 72  
pursuant to division (C) (2) of this section changes. 73

(4) The person authorized by the board to administer the 74  
drug receives a copy of the statement required by division (C) 75  
(2) or (3) of this section. 76

(5) The drug is received by the person authorized to 77  
administer the drug to the student for whom the drug is 78  
prescribed in the container in which it was dispensed by the 79  
prescriber or a licensed pharmacist. 80

(6) Any other procedures required by the board are 81  
followed. 82

(D) If a drug is administered to a student, the board of 83  
education shall acquire and retain copies of the written 84  
requests required by division (C) (1) and the statements required 85  
by divisions (C) (2) and (3) of this section and shall ensure 86  
that by the next school day following the receipt of any such 87  
statement a copy is given to the person authorized to administer 88  
drugs to the student for whom the statement has been received. 89  
The board, or a person designated by the board, shall establish 90  
a location in each school building for the storage of drugs to 91  
be administered under this section and federal law. All such 92  
drugs shall be stored in that location in a locked storage 93  
place, except that drugs that require refrigeration may be kept 94  
in a refrigerator in a place not commonly used by students. 95

(E) No person who has been authorized by a board of education to administer a drug and has a copy of the most recent statement required by division (C) (2) or (3) of this section given to the person in accordance with division (D) of this section prior to administering the drug is liable in civil damages for administering or failing to administer the drug, unless such person acts in a manner that constitutes gross negligence or wanton or reckless misconduct.

(F) A board of education may designate a person or persons to perform any function or functions in connection with a drug policy adopted under this section either by name or by position, training, qualifications, or similar distinguishing factors.

(G) A policy adopted by a board of education pursuant to this section may be changed, modified, or revised by action of the board.

(H) Nothing in this section shall be construed to require a person employed by a board of education to administer a drug to a student unless the board's policy adopted in compliance with this section establishes such a requirement. A board shall not require an employee to administer a drug to a student if the employee objects, on the basis of religious convictions, to administering the drug.

Nothing in this section affects the application of section 2305.23, 2305.231, 3313.712, ~~or~~ 3313.7110, 3313.7112, or 3313.7113 of the Revised Code to the administration of emergency care or treatment to a student.

Nothing in this section affects the ability of a public or nonpublic school to participate in a school-based fluoride mouth rinse program established by the director of health pursuant to

section 3701.136 of the Revised Code. Nothing in this section 125  
affects the ability of a person who is employed by, or who 126  
volunteers for, a school that participates in such a program to 127  
administer fluoride mouth rinse to a student in accordance with 128  
section 3701.136 of the Revised Code and any rules adopted by 129  
the director under that section. 130

Sec. 3313.7113. (A) As used in this section, "inhaler" 131  
means a device that delivers medication to alleviate asthmatic 132  
symptoms, is manufactured in the form of a metered dose inhaler 133  
or dry powdered inhaler, and may include a spacer, holding 134  
chamber, or other device that attaches to the inhaler and is 135  
used to improve the delivery of the medication. 136

(B) The board of education of each city, local, exempted 137  
village, or joint vocational school district may procure 138  
inhalers for each school operated by the district to have on the 139  
school premises for use in emergency situations identified under 140  
division (D) (5) of this section. A district board that elects to 141  
procure inhalers under this section is encouraged to maintain, 142  
at all times, at least two inhalers at each school operated by 143  
the district. 144

(C) A district board that elects to procure inhalers under 145  
this section shall require the district's superintendent to 146  
adopt a policy governing their maintenance and use. Before 147  
adopting the policy, the superintendent shall consult with a 148  
licensed health professional authorized to prescribe drugs, as 149  
defined in section 4729.01 of the Revised Code. 150

(D) A component of a policy adopted by a superintendent 151  
under division (C) of this section shall be a prescriber-issued 152  
protocol specifying definitive orders for inhalers, including 153  
the dosages of medication to be administered through them, the 154

number of times that each inhaler may be used before disposal, 155  
and the methods of disposal. The policy also shall do all of the 156  
following: 157

(1) Identify the one or more locations in each school 158  
operated by the district in which an inhaler must be stored; 159

(2) Specify the conditions under which an inhaler must be 160  
stored, replaced, and disposed; 161

(3) Specify the individuals employed by or under contract 162  
with the district board, in addition to a school nurse licensed 163  
under section 3319.221 of the Revised Code or an athletic 164  
trainer licensed under Chapter 4755. of the Revised Code, who 165  
may access and use an inhaler to provide a dosage of medication 166  
to an individual in an emergency situation identified under 167  
division (D) (5) of this section; 168

(4) Specify any training that employees or contractors 169  
specified under division (D) (3) of this section, other than a 170  
school nurse or athletic trainer, must complete before being 171  
authorized to access and use an inhaler; 172

(5) Identify the emergency situations, including when an 173  
individual exhibits signs and symptoms of asthma, in which a 174  
school nurse, athletic trainer, or other employees or 175  
contractors specified under division (D) (3) of this section may 176  
access and use an inhaler; 177

(6) Specify that assistance from an emergency medical 178  
service provider must be requested immediately after an employee 179  
or contractor, other than a school nurse, athletic trainer, or 180  
another licensed health professional, uses an inhaler; 181

(7) Specify the individuals, in addition to students, 182  
school employees or contractors, and school visitors, to whom a 183

dosage of medication may be administered through an inhaler in 184  
an emergency situation specified under division (D) (5) of this 185  
section. 186

(E) A school or school district, a member of a district 187  
board of education, or a district or school employee or 188  
contractor is not liable in damages in a civil action for 189  
injury, death, or loss to person or property that allegedly 190  
arises from an act or omission associated with procuring, 191  
maintaining, accessing, or using an inhaler under this section, 192  
unless the act or omission constitutes willful or wanton 193  
misconduct. 194

This section does not eliminate, limit, or reduce any 195  
other immunity or defense that a school or school district, 196  
member of a district board of education, or district or school 197  
employee or contractor may be entitled to under Chapter 2744. or 198  
any other provision of the Revised Code or under the common law 199  
of this state. 200

(F) A school district board of education may accept 201  
donations of inhalers from a wholesale distributor of dangerous 202  
drugs or a manufacturer of dangerous drugs, as defined in 203  
section 4729.01 of the Revised Code, and may accept donations of 204  
money from any person to purchase inhalers. 205

(G) A district board that elects to procure inhalers under 206  
this section shall report to the department of education each 207  
procurement and occurrence in which an inhaler is used from a 208  
school's supply of inhalers. 209

**Sec. 3313.7114.** (A) As used in this section, "inhaler" has 210  
the same meaning as in section 3313.7113 of the Revised Code. 211

(B) With the approval of its governing authority, a 212



chartered or nonchartered nonpublic school may procure inhalers 213  
in the manner prescribed by section 3313.7113 of the Revised 214  
Code. A chartered or nonchartered nonpublic school that elects 215  
to do so shall comply with all provisions of that section as if 216  
it were a school district. 217

(C) A chartered or nonchartered nonpublic school, a member 218  
of a chartered or nonchartered nonpublic school governing 219  
authority, or an employee or contractor of the school is not 220  
liable in damages in a civil action for injury, death, or loss 221  
to person or property that allegedly arises from an act or 222  
omission associated with procuring, maintaining, accessing, or 223  
using an inhaler under this section, unless the act or omission 224  
constitutes willful or wanton misconduct. 225

(D) A chartered or nonchartered nonpublic school may 226  
accept donations of inhalers from a wholesale distributor of 227  
dangerous drugs or a manufacturer of dangerous drugs, as defined 228  
in section 4729.01 of the Revised Code, and may accept donations 229  
of money from any person to purchase inhalers. 230

(E) A chartered or nonchartered nonpublic school that 231  
elects to procure inhalers under this section shall report to 232  
the department of education each procurement and occurrence in 233  
which an inhaler is used from the school's supply of inhalers. 234

**Sec. 3314.144.** (A) As used in this section, "inhaler" has 235  
the same meaning as in section 3313.7113 of the Revised Code. 236

(B) With the approval of its governing authority, a 237  
community school may procure inhalers in the manner prescribed 238  
by section 3313.7113 of the Revised Code. A community school 239  
that elects to do so shall comply with all provisions of that 240  
section as if it were a school district. 241

(C) A community school, a member of a community school 242  
governing authority, or a community school employee or 243  
contractor is not liable in damages in a civil action for 244  
injury, death, or loss to person or property that allegedly 245  
arises from an act or omission associated with procuring, 246  
maintaining, accessing, or using an inhaler under this section, 247  
unless the act or omission constitutes willful or wanton 248  
misconduct. 249

This division does not eliminate, limit, or reduce any 250  
other immunity or defense that a community school or governing 251  
authority, member of a community school governing authority, or 252  
community school employee or contractor may be entitled to under 253  
Chapter 2744. or any other provision of the Revised Code or 254  
under the common law of this state. 255

(D) A community school may accept donations of inhalers 256  
from a wholesale distributor of dangerous drugs or a 257  
manufacturer of dangerous drugs, as defined in section 4729.01 258  
of the Revised Code, and may accept donations of money from any 259  
person to purchase inhalers. 260

(E) A community school that elects to procure inhalers 261  
under this section shall report to the department of education 262  
each procurement and occurrence in which an inhaler is used from 263  
the school's supply of inhalers. 264

**Sec. 3326.30.** (A) As used in this section, "inhaler" has 265  
the same meaning as in section 3313.7113 of the Revised Code. 266

(B) With the approval of its governing body, a STEM school 267  
may procure inhalers in the manner prescribed by section 268  
3313.7113 of the Revised Code. A STEM school that elects to do 269  
so shall comply with all provisions of that section as if it 270

were a school district. 271

(C) A STEM school, a member of a STEM school governing 272  
body, or a STEM school employee or contractor is not liable in 273  
damages in a civil action for injury, death, or loss to person 274  
or property that allegedly arises from an act or omission 275  
associated with procuring, maintaining, accessing, or using an 276  
inhaler under this section, unless the act or omission 277  
constitutes willful or wanton misconduct. 278

This division does not eliminate, limit, or reduce any 279  
other immunity or defense that a STEM school or governing body, 280  
member of a STEM school governing body, or STEM school employee 281  
or contractor may be entitled to under Chapter 2744. or any 282  
other provision of the Revised Code or under the common law of 283  
this state. 284

(D) A STEM school may accept donations of inhalers from a 285  
wholesale distributor of dangerous drugs or a manufacturer of 286  
dangerous drugs, as defined in section 4729.01 of the Revised 287  
Code, and may accept donations of money from any person to 288  
purchase inhalers. 289

(E) A STEM school that elects to procure inhalers under 290  
this section shall report to the department of education each 291  
procurement and occurrence in which an inhaler is used from the 292  
school's supply of inhalers. 293

**Sec. 3328.30.** (A) As used in this section, "inhaler" has 294  
the same meaning as in section 3313.7113 of the Revised Code. 295

(B) With the approval of its board of trustees, a college- 296  
preparatory boarding school may procure inhalers in the manner 297  
prescribed by section 3313.7113 of the Revised Code. A college- 298  
preparatory boarding school that elects to do so shall comply 299

with all provisions of that section as if it were a school 300  
district. 301

(C) A college-preparatory boarding school, a member of a 302  
college-preparatory boarding school board of trustees, or a 303  
college-preparatory boarding school employee or contractor is 304  
not liable in damages in a civil action for injury, death, or 305  
loss to person or property that allegedly arises from an act or 306  
omission associated with procuring, maintaining, accessing, or 307  
using an inhaler under this section, unless the act or omission 308  
constitutes willful or wanton misconduct. 309

This division does not eliminate, limit, or reduce any 310  
other immunity or defense that a college-preparatory boarding 311  
school or board of trustees, member of a college-preparatory 312  
boarding school board of trustees, or college-preparatory 313  
boarding school employee or contractor may be entitled to under 314  
Chapter 2744. or any other provision of the Revised Code or 315  
under the common law of this state. 316

(D) A college-preparatory boarding school may accept 317  
donations of inhalers from a wholesale distributor of dangerous 318  
drugs or a manufacturer of dangerous drugs, as defined in 319  
section 4729.01 of the Revised Code, and may accept donations of 320  
money from any person to purchase inhalers. 321

(E) A college-preparatory boarding school that elects to 322  
procure inhalers under this section shall report to the 323  
department of education each procurement and occurrence in which 324  
an inhaler is used from a school's supply of inhalers. 325

**Sec. 4729.51.** (A) (1) Except as provided in division (A) (2) 326  
of this section, no person other than a registered wholesale 327  
distributor of dangerous drugs shall possess for sale, sell, 328

distribute, or deliver, at wholesale, dangerous drugs, except as 329  
follows: 330

(a) A pharmacist who is a licensed terminal distributor of 331  
dangerous drugs or who is employed by a licensed terminal 332  
distributor of dangerous drugs may make occasional sales of 333  
dangerous drugs at wholesale. 334

(b) A licensed terminal distributor of dangerous drugs 335  
having more than one establishment or place may transfer or 336  
deliver dangerous drugs from one establishment or place for 337  
which a license has been issued to the terminal distributor to 338  
another establishment or place for which a license has been 339  
issued to the terminal distributor if the license issued for 340  
each establishment or place is in effect at the time of the 341  
transfer or delivery. 342

(c) A licensed terminal distributor of dangerous drugs may 343  
make occasional sales of naloxone at wholesale to a state or 344  
local law enforcement agency if the terminal distributor is any 345  
of the following: 346

(i) A board of health of a city or general health 347  
district; 348

(ii) An authority having the duties of a board of health 349  
under section 3709.05 of the Revised Code; 350

(iii) A health department operated by such a board or 351  
authority. 352

(2) A manufacturer of dangerous drugs may donate inhalers, 353  
as defined in section 3313.7113 of the Revised Code, and 354  
epinephrine autoinjectors to any of the following: 355

(a) The board of education of a city, local, exempted 356

village, or joint vocational school district;	357
(b) A community school established under Chapter 3314. of the Revised Code;	358 359
(c) A STEM school established under Chapter 3326. of the Revised Code;	360 361
(d) A college-preparatory boarding school established under Chapter 3328. of the Revised Code;	362 363
(e) A chartered or nonchartered nonpublic school.	364
(B) (1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs to any person other than the following:	365 366 367
(a) Except as provided in division (B) (2) (a) of this section and division (B) of section 4729.541 of the Revised Code, a licensed health professional authorized to prescribe drugs;	368 369 370 371
(b) An optometrist licensed under Chapter 4725. of the Revised Code who holds a topical ocular pharmaceutical agents certificate;	372 373 374
(c) A registered wholesale distributor of dangerous drugs;	375
(d) A manufacturer of dangerous drugs;	376
(e) Subject to division (B) (3) of this section, a licensed terminal distributor of dangerous drugs;	377 378
(f) Carriers or warehouses for the purpose of carriage or storage;	379 380
(g) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;	381 382 383

(h) An individual who holds a current license, 384  
certificate, or registration issued under Title XLVII of the 385  
Revised Code and has been certified to conduct diabetes 386  
education by a national certifying body specified in rules 387  
adopted by the state board of pharmacy under section 4729.68 of 388  
the Revised Code, but only with respect to insulin that will be 389  
used for the purpose of diabetes education and only if diabetes 390  
education is within the individual's scope of practice under 391  
statutes and rules regulating the individual's profession; 392

(i) An individual who holds a valid certificate issued by 393  
a nationally recognized S.C.U.B.A. diving certifying 394  
organization approved by the state board of pharmacy in rule, 395  
but only with respect to medical oxygen that will be used for 396  
the purpose of emergency care or treatment at the scene of a 397  
diving emergency; 398

(j) Except as provided in division (B)(2)(b) of this 399  
section and division (A) of section 4729.541 of the Revised 400  
Code, a business entity that is a corporation formed under 401  
division (B) of section 1701.03 of the Revised Code, a limited 402  
liability company formed under Chapter 1705. of the Revised 403  
Code, or a professional association formed under Chapter 1785. 404  
of the Revised Code if the entity has a sole shareholder who is 405  
a licensed health professional authorized to prescribe drugs and 406  
is authorized to provide the professional services being offered 407  
by the entity; 408

(k) Except as provided in division (B)(2)(c) of this 409  
section and division (A) of section 4729.541 of the Revised 410  
Code, a business entity that is a corporation formed under 411  
division (B) of section 1701.03 of the Revised Code, a limited 412  
liability company formed under Chapter 1705. of the Revised 413

Code, a partnership or a limited liability partnership formed 414  
under Chapter 1775. of the Revised Code, or a professional 415  
association formed under Chapter 1785. of the Revised Code, if, 416  
to be a shareholder, member, or partner, an individual is 417  
required to be licensed, certified, or otherwise legally 418  
authorized under Title XLVII of the Revised Code to perform the 419  
professional service provided by the entity and each such 420  
individual is a licensed health professional authorized to 421  
prescribe drugs; 422

(l) With respect to epinephrine autoinjectors that may be 423  
possessed under section 3313.7110, 3313.7111, 3314.143, 3326.28, 424  
or 3328.29 of the Revised Code, any of the following: the board 425  
of education of a city, local, exempted village, or joint 426  
vocational school district; a chartered or nonchartered 427  
nonpublic school; a community school established under Chapter 428  
3314. of the Revised Code; a STEM school established under 429  
Chapter 3326. of the Revised Code; or a college-preparatory 430  
boarding school established under Chapter 3328. of the Revised 431  
Code; 432

(m) With respect to epinephrine autoinjectors that may be 433  
possessed under section 5101.76 of the Revised Code, any of the 434  
following: a residential camp, as defined in section 2151.011 of 435  
the Revised Code; a child day camp, as defined in section 436  
5104.01 of the Revised Code; or a child day camp operated by any 437  
county, township, municipal corporation, township park district 438  
created under section 511.18 of the Revised Code, park district 439  
created under section 1545.04 of the Revised Code, or joint 440  
recreation district established under section 755.14 of the 441  
Revised Code; 442

(n) With respect to naloxone that may be possessed under 443



section 2925.61 of the Revised Code, a law enforcement agency 444  
and its peace officers; 445

(o) With respect to inhalers that may be possessed under 446  
section 3313.7113, 3313.7114, 3314.144, 3326.30, or 3328.30 of 447  
the Revised Code, any of the following: the board of education 448  
of a city, local, exempted village, or joint vocational school 449  
district; a chartered or nonchartered nonpublic school; a 450  
community school established under Chapter 3314. of the Revised 451  
Code; a STEM school established under Chapter 3326. of the 452  
Revised Code; or a college-preparatory boarding school 453  
established under Chapter 3328. of the Revised Code; 454

(p) With respect to inhalers that may be possessed under 455  
section 5101.77 of the Revised Code, any of the following: a 456  
residential camp, as defined in section 2151.011 of the Revised 457  
Code; a child day camp, as defined in section 5104.01 of the 458  
Revised Code; or a child day camp operated by any county, 459  
township, municipal corporation, township park district created 460  
under section 511.18 of the Revised Code, park district created 461  
under section 1545.04 of the Revised Code, or joint recreation 462  
district established under section 755.14 of the Revised Code. 463

(2) No registered wholesale distributor of dangerous drugs 464  
shall possess for sale, or sell, at wholesale, dangerous drugs 465  
to any of the following: 466

(a) A prescriber who is employed by a pain management 467  
clinic that is not licensed as a terminal distributor of 468  
dangerous drugs with a pain management clinic classification 469  
issued under section 4729.552 of the Revised Code; 470

(b) A business entity described in division (B) (1) (j) of 471  
this section that is, or is operating, a pain management clinic 472

without a license as a terminal distributor of dangerous drugs 473  
with a pain management clinic classification issued under 474  
section 4729.552 of the Revised Code; 475

(c) A business entity described in division (B) (1) (k) of 476  
this section that is, or is operating, a pain management clinic 477  
without a license as a terminal distributor of dangerous drugs 478  
with a pain management clinic classification issued under 479  
section 4729.552 of the Revised Code. 480

(3) No registered wholesale distributor of dangerous drugs 481  
shall possess dangerous drugs for sale at wholesale, or sell 482  
such drugs at wholesale, to a licensed terminal distributor of 483  
dangerous drugs, except as follows: 484

(a) In the case of a terminal distributor with a category 485  
I license, only dangerous drugs described in category I, as 486  
defined in division (A) (1) of section 4729.54 of the Revised 487  
Code; 488

(b) In the case of a terminal distributor with a category 489  
II license, only dangerous drugs described in category I and 490  
category II, as defined in divisions (A) (1) and (2) of section 491  
4729.54 of the Revised Code; 492

(c) In the case of a terminal distributor with a category 493  
III license, dangerous drugs described in category I, category 494  
II, and category III, as defined in divisions (A) (1), (2), and 495  
(3) of section 4729.54 of the Revised Code; 496

(d) In the case of a terminal distributor with a limited 497  
category I, II, or III license, only the dangerous drugs 498  
specified in the certificate furnished by the terminal 499  
distributor in accordance with section 4729.60 of the Revised 500  
Code. 501

(C) (1) Except as provided in division (C) (4) of this section, no person shall sell, at retail, dangerous drugs. 502  
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(2) Except as provided in division (C) (4) of this section, no person shall possess for sale, at retail, dangerous drugs. 504  
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(3) Except as provided in division (C) (4) of this section, no person shall possess dangerous drugs. 506  
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(4) Divisions (C) (1), (2), and (3) of this section do not apply to a registered wholesale distributor of dangerous drugs or a licensed terminal distributor of dangerous drugs. 508  
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Divisions (C) (1), (2), and (3) of this section do not apply to a person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the Revised Code. 511  
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Divisions (C) (1), (2), and (3) of this section do not apply to an individual who holds a current license, certificate, or registration issued under Title XLVII of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only to the extent that the individual possesses insulin or personally supplies insulin solely for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession. 516  
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Divisions (C) (1), (2), and (3) of this section do not apply to an individual who holds a valid certificate issued by a nationally recognized S.C.U.B.A. diving certifying organization approved by the state board of pharmacy in rule, but only to the 527  
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extent that the individual possesses medical oxygen or 531  
personally supplies medical oxygen for the purpose of emergency 532  
care or treatment at the scene of a diving emergency. 533

Division (C) (3) of this section does not apply to the 534  
board of education of a city, local, exempted village, or joint 535  
vocational school district, a school building operated by a 536  
school district board of education, a chartered or nonchartered 537  
nonpublic school, a community school, a STEM school, or a 538  
college-preparatory boarding school for the purpose of 539  
possessing epinephrine autoinjectors under section 3313.7110, 540  
3313.7111, 3314.143, 3326.28, or 3328.29 of the Revised Code and 541  
for the purpose of possessing inhalers under section 3313.7113, 542  
3313.7114, 3314.144, 3326.30, or 3328.30 of the Revised Code. 543

Division (C) (3) of this section does not apply to a 544  
residential camp, as defined in section 2151.011 of the Revised 545  
Code, a child day camp, as defined in section 5104.01 of the 546  
Revised Code, or a child day camp operated by any county, 547  
township, municipal corporation, township park district created 548  
under section 511.18 of the Revised Code, park district created 549  
under section 1545.04 of the Revised Code, or joint recreation 550  
district established under section 755.14 of the Revised Code 551  
for the purpose of possessing epinephrine autoinjectors under 552  
section 5101.76 of the Revised Code and for the purpose of 553  
possessing inhalers under section 5101.77 of the Revised Code. 554

Division (C) (3) of this section does not apply to a law 555  
enforcement agency or the agency's peace officers if the agency 556  
or officers possess naloxone for administration to individuals 557  
who are apparently experiencing opioid-related overdoses. 558

(D) No licensed terminal distributor of dangerous drugs 559  
shall purchase for the purpose of resale dangerous drugs from 560

any person other than a registered wholesale distributor of 561  
dangerous drugs, except as follows: 562

(1) A licensed terminal distributor of dangerous drugs may 563  
make occasional purchases of dangerous drugs for resale from a 564  
pharmacist who is a licensed terminal distributor of dangerous 565  
drugs or who is employed by a licensed terminal distributor of 566  
dangerous drugs; 567

(2) A licensed terminal distributor of dangerous drugs 568  
having more than one establishment or place may transfer or 569  
receive dangerous drugs from one establishment or place for 570  
which a license has been issued to the terminal distributor to 571  
another establishment or place for which a license has been 572  
issued to the terminal distributor if the license issued for 573  
each establishment or place is in effect at the time of the 574  
transfer or receipt. 575

(E) No licensed terminal distributor of dangerous drugs 576  
shall engage in the sale or other distribution of dangerous 577  
drugs at retail or maintain possession, custody, or control of 578  
dangerous drugs for any purpose other than the distributor's 579  
personal use or consumption, at any establishment or place other 580  
than that or those described in the license issued by the state 581  
board of pharmacy to such terminal distributor. 582

(F) Nothing in this section shall be construed to 583  
interfere with the performance of official duties by any law 584  
enforcement official authorized by municipal, county, state, or 585  
federal law to collect samples of any drug, regardless of its 586  
nature or in whose possession it may be. 587

(G) Notwithstanding anything to the contrary in this 588  
section, the board of education of a city, local, exempted 589

village, or joint vocational school district may deliver 590  
epinephrine autoinjectors to a school under its control for the 591  
purpose of possessing the epinephrine autoinjectors under 592  
section 3313.7110 of the Revised Code and may deliver inhalers 593  
to a school under its control for the purpose of possessing the 594  
inhalers under section 3313.7113 of the Revised Code. 595

**Sec. 4729.60.** (A) Before a registered wholesale 596  
distributor of dangerous drugs may sell dangerous drugs at 597  
wholesale to any person, other than the persons specified in 598  
divisions (B) (1) (a) to (d), (f) to (h), and (l) to ~~(n)~~ (p) of 599  
section 4729.51 of the Revised Code, such wholesale distributor 600  
shall obtain from the purchaser and the purchaser shall furnish 601  
to the wholesale distributor a certificate indicating that the 602  
purchaser is a licensed terminal distributor of dangerous drugs. 603  
The certificate shall be in the form that the state board of 604  
pharmacy shall prescribe, and shall set forth the name of the 605  
licensee, the number of the license, a description of the place 606  
or establishment or each place or establishment for which the 607  
license was issued, the category of licensure, and, if the 608  
license is a limited category I, II, or III license, the 609  
dangerous drugs that the licensee is authorized to possess, have 610  
custody or control of, and distribute. 611

If no certificate is obtained or furnished before a sale 612  
is made, it shall be presumed that the sale of dangerous drugs 613  
by the wholesale distributor is in violation of division (B) of 614  
section 4729.51 of the Revised Code and the purchase of 615  
dangerous drugs by the purchaser is in violation of division (C) 616  
of section 4729.51 of the Revised Code. If a registered 617  
wholesale distributor of dangerous drugs obtains or is furnished 618  
a certificate from a terminal distributor of dangerous drugs and 619  
relies on the certificate in selling dangerous drugs at 620

wholesale to the terminal distributor of dangerous drugs, the 621  
wholesale distributor of dangerous drugs shall be deemed not to 622  
have violated division (B) of section 4729.51 of the Revised 623  
Code in making the sale. 624

(B) Before a licensed terminal distributor of dangerous 625  
drugs may purchase dangerous drugs at wholesale, the terminal 626  
distributor shall obtain from the seller and the seller shall 627  
furnish to the terminal distributor the number of the seller's 628  
registration certificate to engage in the sale of dangerous 629  
drugs at wholesale. 630

If no registration number is obtained or furnished before 631  
a purchase is made, it shall be presumed that the purchase of 632  
dangerous drugs by the terminal distributor is in violation of 633  
division (D) of section 4729.51 of the Revised Code and the sale 634  
of dangerous drugs by the seller is in violation of division (A) 635  
of section 4729.51 of the Revised Code. If a licensed terminal 636  
distributor of dangerous drugs obtains or is furnished a 637  
registration number from a wholesale distributor of dangerous 638  
drugs and relies on the registration number in purchasing 639  
dangerous drugs at wholesale from the wholesale distributor of 640  
dangerous drugs, the terminal distributor shall be deemed not to 641  
have violated division (D) of section 4729.51 of the Revised 642  
Code in making the purchase. 643

Sec. 5101.77. (A) As used in this section, "inhaler" means 644  
a device that delivers medication to alleviate asthmatic 645  
symptoms, is manufactured in the form of a metered dose inhaler 646  
or dry powdered inhaler, and may include a spacer, holding 647  
chamber, or other device that attaches to the inhaler and is 648  
used to improve the delivery of the medication. 649

(B) A residential camp, as defined in section 2151.011 of 650

the Revised Code, a child day camp, as defined in section 651  
5104.01 of the Revised Code, or a child day camp operated by any 652  
county, township, municipal corporation, township park district 653  
created under section 511.18 of the Revised Code, park district 654  
created under section 1545.04 of the Revised Code, or joint 655  
recreation district established under section 755.14 of the 656  
Revised Code may procure inhalers for use in emergency 657  
situations identified under division (D)(5) of this section. A 658  
camp that elects to procure inhalers under this section is 659  
encouraged to maintain at least two inhalers at all times. 660

(C) A camp that elects to procure inhalers under this 661  
section shall adopt a policy governing their maintenance and 662  
use. Before adopting the policy, the camp shall consult with a 663  
licensed health professional authorized to prescribe drugs, as 664  
defined in section 4729.01 of the Revised Code. 665

(D) A component of a policy adopted by a camp under 666  
division (C) of this section shall be a prescriber-issued 667  
protocol specifying definitive orders for inhalers, including 668  
the dosages of medication to be administered through them, the 669  
number of times that each inhaler may be used before disposal, 670  
and the methods of disposal. The policy also shall do all of the 671  
following: 672

(1) Identify the one or more locations in which an inhaler 673  
must be stored; 674

(2) Specify the conditions under which an inhaler must be 675  
stored, replaced, and disposed; 676

(3) Specify the individuals employed by or under contract 677  
with the camp who may access and use an inhaler to provide a 678  
dosage of medication to an individual in an emergency situation 679



identified under division (D) (5) of this section; 680

(4) Specify any training that employees or contractors 681  
specified under division (D) (3) of this section must complete 682  
before being authorized to access and use an inhaler; 683

(5) Identify the emergency situations, including when an 684  
individual exhibits signs and symptoms of asthma, in which 685  
employees or contractors specified under division (D) (3) of this 686  
section may access and use an inhaler; 687

(6) Specify that assistance from an emergency medical 688  
service provider must be requested immediately after an employee 689  
or contractor, other than a licensed health professional, uses 690  
an inhaler; 691

(7) Specify the individuals to whom a dosage of medication 692  
may be administered through an inhaler in an emergency situation 693  
specified under division (D) (5) of this section. 694

(E) A camp or camp employee or contractor is not liable in 695  
damages in a civil action for injury, death, or loss to person 696  
or property that allegedly arises from an act or omission 697  
associated with procuring, maintaining, accessing, or using an 698  
inhaler under this section, unless the act or omission 699  
constitutes willful or wanton misconduct. 700

This section does not eliminate, limit, or reduce any 701  
other immunity or defense that a camp or camp employee or 702  
contractor may be entitled to under Chapter 2744. or any other 703  
provision of the Revised Code or under the common law of this 704  
state. 705

(F) A camp may accept donations of inhalers from a 706  
wholesale distributor of dangerous drugs, as defined in section 707  
4729.01 of the Revised Code, and may accept donations of money 708

from any person to purchase inhalers. 709

(G) A camp that elects to procure inhalers under this 710  
section shall report to the department of job and family 711  
services each procurement and occurrence in which an inhaler is 712  
used from a camp's supply of inhalers. 713

**Section 2.** That existing sections 3313.713, 4729.51, and 714  
4729.60 of the Revised Code are hereby repealed. 715

**Section 3.** Section 3313.713 of the Revised Code is 716  
presented in this act as a composite of the section as amended 717  
by both Sub. H.B. 264 and Sub. H.B. 296 of the 130th General 718  
Assembly. The General Assembly, applying the principle stated in 719  
division (B) of section 1.52 of the Revised Code that amendments 720  
are to be harmonized if reasonably capable of simultaneous 721  
operation, finds that the composite is the resulting version of 722  
the section in effect prior to the effective date of the section 723  
as presented in this act. 724

**Section 4.** Section 4729.51 of the Revised Code is 725  
presented in this act as a composite of the section as amended 726  
by both Am. Sub. H.B. 4 and Am. Sub. H.B. 64 of the 131st 727  
General Assembly. The General Assembly, applying the principle 728  
stated in division (B) of section 1.52 of the Revised Code that 729  
amendments are to be harmonized if reasonably capable of 730  
simultaneous operation, finds that the composite is the 731  
resulting version of the section in effect prior to the 732  
effective date of the section as presented in this act. 733