

**As Reported by the Senate Health, Human Services and Medicaid
Committee**

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Sub. H. B. No. 101

Representative Merrin

**Cosponsors: Representatives Becker, Thompson, Seitz, Stein, West, Roegner,
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Brenner, Brinkman, Butler, Carfagna, Celebrezze, Clyde, Conditt, Craig, Cupp,
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Patterson, Patton, Pelanda, Perales, Ramos, Reineke, Retherford, Rogers, Ryan,
Schaffer, Slaby, Smith, K., Strahorn, Sweeney, Wiggam, Young**

Senator Beagle

A BILL

To amend sections 3728.03, 4729.16, 4729.23, 1
4729.28, 4729.41, 4729.43, 4729.45, 4729.553, 2
4729.99, and 4731.96 and to enact sections 3
3707.60, 4729.382, 4729.47, and 4731.961 of the 4
Revised Code to establish provisions to be known 5
as the "Epinephrine Accessibility Act" and to 6
make other changes to the laws governing the 7
State Board of Pharmacy. 8

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

Section 1. That sections 3728.03, 4729.16, 4729.23, 9
4729.28, 4729.41, 4729.43, 4729.45, 4729.553, 4729.99, and 10
4731.96 be amended and sections 3707.60, 4729.382, 4729.47, and 11
4731.961 of the Revised Code be enacted to read as follows: 12

Sec. 3707.60. (A) As used in this section, "board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(B) A board of health that has, through a physician serving as the board's health commissioner or medical director, established a protocol that meets the requirements specified by the state board of pharmacy in rules adopted under section 4729.47 of the Revised Code may authorize pharmacists and pharmacy interns practicing pharmacy in a county that includes all or part of the health district represented by the board to use the protocol for the purpose of dispensing epinephrine under section 4729.47 of the Revised Code.

Sec. 3728.03. (A) A qualified entity may acquire and maintain a supply of epinephrine autoinjectors ~~that, in accordance with section 4723.483, 4730.433, or 4731.96 of the Revised Code,~~ pursuant to either of the following:

(1) The autoinjectors are personally furnished by a prescriber, or obtained pursuant to a prescription issued by a prescriber, in accordance with section 4723.483, 4730.433, or 4731.96 of the Revised Code.

(2) The autoinjectors are dispensed by a pharmacist or pharmacy intern in accordance with a protocol as authorized under section 4729.47 of the Revised Code.

(B) Epinephrine autoinjectors acquired pursuant to this section shall be stored in a location readily accessible in an emergency and maintained in accordance with the manufacturer's instructions and any additional requirements that may be established by the department of health under section 3728.11 of

the Revised Code. 42

(C) A qualified entity that acquires epinephrine 43
autoinjectors pursuant to this section shall designate one or 44
more individuals who are employees or agents of the entity and 45
have successfully completed anaphylaxis training in accordance 46
with section 3728.04 of the Revised Code to be responsible for 47
oversight of the epinephrine autoinjectors, including storage, 48
maintenance, and control. The qualified entity may authorize 49
those individuals and other individuals who have successfully 50
completed the anaphylaxis training to administer epinephrine. 51

Sec. 4729.16. (A) (1) The state board of pharmacy, after 52
notice and hearing in accordance with Chapter 119. of the 53
Revised Code, may impose any one or more of the following 54
sanctions on a pharmacist or pharmacy intern if the board finds 55
the individual engaged in any of the conduct set forth in 56
division (A) (2) of this section: 57

(a) Revoke, suspend, restrict, limit, or refuse to grant 58
or renew a license; 59

(b) Reprimand or place the license holder on probation; 60

(c) Impose a monetary penalty or forfeiture not to exceed 61
in severity any fine designated under the Revised Code for a 62
similar offense, or in the case of a violation of a section of 63
the Revised Code that does not bear a penalty, a monetary 64
penalty or forfeiture of not more than five hundred dollars. 65

(2) The board may impose the sanctions listed in division 66
(A) (1) of this section if the board finds a pharmacist or 67
pharmacy intern: 68

(a) Has been convicted of a felony, or a crime of moral 69
turpitude, as defined in section 4776.10 of the Revised Code; 70

(b) Engaged in dishonesty or unprofessional conduct in the practice of pharmacy;	71 72
(c) Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;	73 74 75
(d) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;	76 77
(e) Violated, conspired to violate, attempted to violate, or aided and abetted 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;	78 79 80 81 82
(f) Permitted someone other than a pharmacist or pharmacy intern to practice pharmacy;	83 84
(g) Knowingly lent the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or had a professional connection with an illegal practitioner of pharmacy;	85 86 87 88
(h) Divided or agreed 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;	89 90 91 92 93
(i) Violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;	94 95
(j) Committed fraud, misrepresentation, or deception in applying for or securing a license issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised	96 97 98

Code;	99
(k) Failed to comply with an order of the board or a settlement agreement;	100 101
(1) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code.	102 103 104
(B) Any individual whose license is revoked, suspended, or refused, shall return the license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.	105 106 107 108
(C) As used in this section:	109
"Unprofessional conduct in the practice of pharmacy" includes any of the following:	110 111
(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;	112 113
(2) Except as provided in section 4729.281 or, 4729.44, <u>or 4729.47</u> of the Revised Code, the dispensing or sale of any drug for which a prescription is required, without having received a prescription for the drug;	114 115 116 117
(3) Knowingly dispensing medication pursuant to false or forged prescriptions;	118 119
(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;	120 121 122 123
(5) Obtaining any remuneration by fraud, misrepresentation, or deception;	124 125

(6) Failing to conform to prevailing standards of care of similar pharmacists or pharmacy interns under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Engaging in any other conduct that the board specifies as unprofessional conduct in the practice of pharmacy in rules adopted under section 4729.26 of the Revised Code.

(D) The board may suspend a license 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.

(E) For purposes of this division, an individual authorized to practice as a pharmacist or pharmacy intern accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license to practice as a pharmacist or pharmacy intern, an individual gives consent to submit to a mental or physical examination when ordered to do so by the board in writing and waives all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If the board has reasonable cause to believe that an individual who is a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the individual to submit to a physical or mental examination, or both. The expense of the examination is the responsibility of the individual required to be examined.

Failure of an individual who is a pharmacist or pharmacy intern to submit to a physical or mental examination ordered by the board, unless the failure is due to circumstances beyond the

individual's control, constitutes an admission of the 155
allegations and a suspension order shall be entered without the 156
taking of testimony or presentation of evidence. Any subsequent 157
adjudication hearing under Chapter 119. of the Revised Code 158
concerning failure to submit to an examination is limited to 159
consideration of whether the failure was beyond the individual's 160
control. 161

If, based on the results of an examination ordered under 162
this division, the board determines that the individual's 163
ability to practice is impaired, the board shall suspend the 164
individual's license or deny the individual's application and 165
shall require the individual, as a condition for an initial, 166
continued, reinstated, or renewed license to practice, to submit 167
to a physical or mental examination and treatment. 168

An order of suspension issued under this division shall 169
not be subject to suspension by a court during pendency of any 170
appeal filed under section 119.12 of the Revised Code. 171

(F) If the board is required under Chapter 119. of the 172
Revised Code to give notice of an opportunity for a hearing and 173
the applicant or licensee does not make a timely request for a 174
hearing in accordance with section 119.07 of the Revised Code, 175
the board is not required to hold a hearing, but may adopt a 176
final order that contains the board's findings. In the final 177
order, the board may impose any of the sanctions listed in 178
division (A) of this section. 179

(G) Notwithstanding the provision of division (C) (2) of 180
section 2953.32 of the Revised Code specifying that if records 181
pertaining to a criminal case are sealed under that section the 182
proceedings in the case must be deemed not to have occurred, 183
sealing of the following records on which the board has based an 184

action under this section shall have no effect on the board's 185
action or any sanction imposed by the board under this section: 186
records of any conviction, guilty plea, judicial finding of 187
guilt resulting from a plea of no contest, or a judicial finding 188
of eligibility for a pretrial diversion program or intervention 189
in lieu of conviction. The board shall not be required to seal, 190
destroy, redact, or otherwise modify its records to reflect the 191
court's sealing of conviction records. 192

(H) No pharmacist or pharmacy intern shall knowingly 193
engage in any conduct described in divisions (A) (2) (b) or (A) (2) 194
(e) to (l) of this section. 195

Sec. 4729.23. (A) Except as provided in division (B) of 196
this section, information received by the state board of 197
pharmacy pursuant to an investigation is confidential, is not a 198
public record, and is not subject to discovery in any civil 199
action. ~~Any record that identifies a patient, confidential~~ 200
~~informant, or individual who files a complaint with the board or~~ 201
~~may reasonably lead to the identification of the patient,~~ 202
~~informant, or complainant is not a public record for purposes of~~ 203
~~section 149.43 of the Revised Code and is not subject to~~ 204
~~inspection or copying under section 1347.08 of the Revised Code.~~ 205

(B) The board shall conduct all investigations or 206
inspections and proceedings in a manner that protects the 207
confidentiality of patients, confidential informants, and 208
individuals who file complaints with the board. The board shall 209
not make public the names or any other identifying information 210
of patients, confidential informants, or complainants unless 211
proper consent is given or, in the case of a patient, a waiver 212
of the patient privilege exists under division (B) of section 213
2317.02 of the Revised Code. The consent or waiver is not 214

required if the board possesses reliable and substantial 215
evidence that no bona fide physician-patient relationship 216
exists. 217

On request, the board may share any information it 218
receives pursuant to an investigation or inspection, including 219
patient records and patient record information, with law 220
enforcement agencies, other licensing boards, and other state or 221
federal governmental agencies that are prosecuting, 222
adjudicating, or investigating alleged violations of statutes or 223
administrative rules. An agency or board that receives the 224
information shall comply with the same requirements regarding 225
confidentiality as those with which the state board of pharmacy 226
must comply, notwithstanding any conflicting provision of the 227
Revised Code or agency procedure that applies when the agency is 228
dealing with other information in its possession. 229

Any information the board receives from a state or federal 230
agency is subject to the same confidentiality requirements as 231
the agency from which it was received and shall not be released 232
by the board without prior authorization from that agency. 233

The board may, for good cause shown, disclose or authorize 234
disclosure of information gathered pursuant to an investigation. 235

(C) Any board activity that involves continued monitoring 236
of an individual for treatment or recovery purposes as part of 237
or following any disciplinary action taken under ~~section-~~ 238
~~4729.16, 4729.56, or 4729.57 of the Revised Code~~ this chapter 239
shall be conducted in a manner that maintains an individual's 240
confidentiality with respect to the individual's treatment or 241
recovery program. Information received or maintained by the 242
board with respect to the board's monitoring activities is not 243
subject to discovery in any civil action, is not a public 244

record, and is confidential, except that the board may disclose 245
information to law enforcement officers and government entities 246
for purposes of an investigation of a license or certificate 247
holder. 248

Sec. 4729.28. ~~No~~ (A) As used in this section, "dispense" 249
has the meaning specified by the state board of pharmacy in 250
rules adopted under section 4729.26 of the Revised Code. 251

(B)(1) Except as provided in division (B)(2) of this 252
section, no person who is not a pharmacist or a pharmacy intern 253
under the personal supervision of a pharmacist shall compound, 254
~~dispense,~~ or sell dangerous drugs or otherwise engage in the 255
practice of pharmacy. 256

(2) Except as provided in sections 3701.048, 4729.44, and 257
4729.47 of the Revised Code or rules adopted by the board under 258
section 4729.26 of the Revised Code, no person who is not a 259
pharmacist shall dispense dangerous drugs. 260

Sec. 4729.382. (A) As used in this section, "epinephrine 261
autoinjector" means a device used to administer epinephrine only 262
in a manufactured dosage form. 263

(B) Subject to division (C) of this section, a pharmacist 264
dispensing an epinephrine autoinjector pursuant to a 265
prescription that identifies a specific type of epinephrine 266
autoinjector may substitute the prescribed autoinjector with 267
another epinephrine autoinjector, but only if the form of 268
epinephrine contained in the autoinjector to be dispensed by 269
substitution meets either of the following conditions: 270

(1) It is identical to the form of epinephrine in the type 271
of autoinjector that was prescribed. 272

(2) It is a pharmaceutical equivalent of the form of 273

epinephrine in the type of autoinjector that was prescribed in 274
that it contains identical amounts of the identical active 275
ingredients, but not necessarily the same inactive ingredients; 276
it has been approved by the United States food and drug 277
administration; and it has not been excluded from recognition as 278
a pharmaceutical equivalent form of epinephrine by rules adopted 279
under division (H) of this section. 280

(C) All of the following conditions apply with respect to 281
a pharmacist's authority to dispense an epinephrine autoinjector 282
by substitution: 283

(1) The pharmacist shall not make the substitution if the 284
person receiving the autoinjector pursuant to the prescription 285
instructs otherwise. 286

(2) The pharmacist shall not make the substitution if 287
either of the following applies to the prescription: 288

(a) In the case of a written or electronic prescription, 289
including a computer-generated prescription, the prescriber 290
handwrites or actively causes to display on the prescription 291
"dispense as written," "D.A.W.," "do not substitute," "medically 292
necessary as prescribed," or any other statement or numerical 293
code that indicates the prescriber's intent to prevent 294
substitution. Such a designation shall not be preprinted or 295
stamped on the prescription, but a reminder to the prescriber of 296
the designation procedure may be preprinted or displayed on the 297
prescription form or electronic system the prescriber uses to 298
issue the prescription. 299

(b) In the case of an oral prescription, the prescriber 300
specifies that the epinephrine autoinjector as prescribed is 301
medically necessary or otherwise indicates the prescriber's 302

intent to prevent substitution. 303

(3) The pharmacist shall not make the substitution unless 304
its price to the patient is less than or equal to the price of 305
the prescribed epinephrine autoinjector, except that a 306
pharmacist may substitute an epinephrine autoinjector with a 307
price to the patient that is greater than the prescribed 308
autoinjector if the patient specifically requests the more 309
expensive autoinjector. 310

(4) The pharmacist, or a pharmacy intern or agent of the 311
pharmacist, shall make a reasonable attempt to inform the 312
patient or the patient's representative if a type of epinephrine 313
autoinjector is available at a lower or equal cost. 314

(5) The pharmacist, or a pharmacy intern or agent of the 315
pharmacist, shall inform the patient or the patient's 316
representative of the person's right to refuse substitution of 317
the prescribed epinephrine autoinjector. 318

(D) (1) Unless the prescriber instructs otherwise, the 319
label for every epinephrine autoinjector dispensed shall include 320
the epinephrine autoinjector's name, if any, and the distributor 321
of the autoinjector. Abbreviations may be used as necessary. 322

(2) When dispensing at retail an epinephrine autoinjector 323
by substitution, the pharmacist shall indicate on the 324
autoinjector's label or container that a substitution was made. 325

(3) The labeling requirements established by divisions (D) 326
(1) and (2) of this section are in addition to all other 327
labeling requirements as required in rules adopted by the state 328
board of pharmacy. 329

(E) When a pharmacist dispenses an epinephrine 330
autoinjector by substitution, the pharmacist or a pharmacy 331

intern shall provide to the person receiving the device 332
instruction on the proper method of administering epinephrine 333
with the device, except that the instruction does not have to be 334
provided if the person is receiving the same device that was 335
dispensed when the person last received the device by having a 336
prescription filled or refilled. 337

(F) A pharmacist who dispenses an epinephrine autoinjector 338
pursuant to this section assumes no greater liability for 339
dispensing the autoinjector by substitution than would be 340
incurred for dispensing the autoinjector identified on the 341
prescription. 342

(G) The failure of a prescriber to restrict a prescription 343
by indicating an intent to prevent substitution pursuant to this 344
section shall not constitute evidence of the prescriber's 345
negligence unless the prescriber had reasonable cause to believe 346
that the health condition of the patient for whom the 347
epinephrine autoinjector was intended warranted the prescription 348
of a specific type of epinephrine autoinjector and no other. No 349
prescriber shall be liable for civil damages or in any criminal 350
prosecution arising from a pharmacist dispensing an epinephrine 351
autoinjector by substitution, unless the type of autoinjector 352
prescribed would have reasonably caused the same loss, damage, 353
injury, or death. 354

(H) The state board of pharmacy may adopt rules in 355
accordance with Chapter 119. of the Revised Code to implement 356
this section. The rules may specify forms of epinephrine that 357
are not to be recognized as pharmaceutical equivalents of other 358
forms of epinephrine for purposes of this section. 359

(I) No pharmacist shall knowingly engage in conduct that 360
is prohibited by division (C) or (D) of this section. 361

Sec. 4729.41. (A) (1) A pharmacist licensed under this 362
chapter who meets the requirements of division (B) of this 363
section, and a pharmacy intern licensed under this chapter who 364
meets the requirements of division (B) of this section and is 365
working under the direct supervision of a pharmacist who meets 366
the requirements of that division, may do any of the following: 367

(a) Administer immunizations for influenza to individuals 368
who are seven years of age or older; 369

(b) Only pursuant to a prescription, administer to 370
individuals who are seven years of age or older but not more 371
than thirteen years of age any of the immunizations included in 372
division (A) (2) of this section; 373

(c) Administer to individuals who are thirteen years of 374
age or older any of the immunizations included in division (A) 375
(2) of this section. 376

(2) A pharmacist or pharmacy intern may administer in 377
accordance with divisions (A) (1) (b) and (c) of this section 378
either of the following: 379

(a) Any immunization that on ~~the effective date of this~~ 380
~~amendment~~ March 19, 2015, is included in either of the following 381
immunization schedules recommended by the advisory committee on 382
immunization practices of the centers for disease control and 383
prevention in the United States department of health and human 384
services: 385

(i) The recommended immunization schedule for persons aged 386
zero through eighteen years; 387

(ii) The recommended adult immunization schedule. 388

(b) Any other immunization specified in rules adopted 389

under division (E) (1) (d) of this section. 390

(3) As part of engaging in the administration of 391
immunizations or supervising a pharmacy intern's administration 392
of immunizations, a pharmacist may administer epinephrine or 393
diphenhydramine, or both, to individuals in emergency situations 394
resulting from adverse reactions to the immunizations 395
administered by the pharmacist or pharmacy intern. 396

(B) For a pharmacist or pharmacy intern to be authorized 397
to engage in the administration of immunizations pursuant to 398
division (A) of this section, the pharmacist or pharmacy intern 399
shall do all of the following: 400

(1) Successfully complete a course in the administration 401
of immunizations that has been approved by the state board of 402
pharmacy as meeting the standards established for such courses 403
by the centers for disease control and prevention; 404

(2) Receive and maintain certification to perform basic 405
life-support procedures by successfully completing a basic life- 406
support training course that is certified by the American red 407
cross or American heart association or approved by the state 408
board of pharmacy; 409

(3) Practice in accordance with a definitive set of 410
treatment guidelines specified in a protocol established by a 411
physician and approved by the state board of pharmacy. 412

(C) The protocol required by division (B) (3) of this 413
section shall include provisions for implementation of the 414
following requirements: 415

(1) The pharmacist or pharmacy intern who administers an 416
immunization shall observe the individual who receives the 417
immunization to determine whether the individual has an adverse 418

reaction to the immunization. The length of time and location of 419
the observation shall comply with the standards specified in 420
rules adopted by the state board of pharmacy under division (E) 421
of this section for the approval of protocols. The protocol 422
shall specify procedures to be followed by a pharmacist when 423
administering epinephrine, diphenhydramine, or both, to an 424
individual who has an adverse reaction to an immunization 425
administered by the pharmacist or a pharmacy intern. 426

(2) For each immunization administered to an individual by 427
a pharmacist or pharmacy intern, other than an immunization for 428
influenza administered to an individual eighteen years of age or 429
older, the pharmacist or pharmacy intern shall notify the 430
individual's family physician or, if the individual has no 431
family physician, the board of health of the health district in 432
which the individual resides or the authority having the duties 433
of a board of health for that district under section 3709.05 of 434
the Revised Code. The notice shall be given not later than 435
thirty days after the immunization is administered. 436

(3) For each immunization administered by a pharmacist or 437
pharmacy intern to an individual younger than eighteen years of 438
age pursuant to division (A) (1) of this section, the pharmacist 439
or a pharmacy intern shall obtain permission from the 440
individual's parent or legal guardian in accordance with the 441
procedures specified in rules adopted under division (E) of this 442
section. 443

(D) (1) No pharmacist shall do either of the following: 444

(a) Engage in the administration of immunizations unless 445
the requirements of division (B) of this section have been met; 446

(b) Delegate to any person the pharmacist's authority to 447

engage in or supervise the administration of immunizations. 448

(2) No pharmacy intern shall engage in the administration 449
of immunizations unless the requirements of division (B) of this 450
section have been met. 451

(E) (1) The state board of pharmacy shall adopt rules to 452
implement this section. The rules shall be adopted in accordance 453
with Chapter 119. of the Revised Code and shall include the 454
following: 455

(a) Provisions for approval of courses in administration 456
of immunizations; 457

(b) Provisions for approval of protocols to be followed by 458
pharmacists and pharmacy interns in engaging in the 459
administration of immunizations, including protocols that 460
contain provisions specifying the locations at which a 461
pharmacist or pharmacy intern may engage in the administration 462
of immunizations; 463

(c) Procedures to be followed by pharmacists and pharmacy 464
interns in obtaining from the individual's parent or legal 465
guardian permission to administer immunizations to an individual 466
younger than eighteen years of age pursuant to division (A) (1) 467
of this section; 468

(d) Provisions specifying any immunizations that may be 469
administered under division (A) (2) (b) of this section. 470

(2) Prior to adopting rules regarding approval of 471
protocols to be followed by pharmacists and pharmacy interns in 472
engaging in the administration of immunizations, the state board 473
of pharmacy shall consult with the state medical board and the 474
board of nursing. 475

(3) Prior to adopting rules specifying any immunizations 476
that may be administered under division (A) (2) (b) of this 477
section, the state board of pharmacy shall consult with the 478
state medical board. 479

(F) In addition to the rules it adopts under division (E) 480
of this section, the board may adopt rules that change the 481
immunizations authorized by division (A) (2) (a) of this section 482
to reflect changes in the recommendations of the advisory 483
committee on immunization practices. The rules shall be adopted 484
in accordance with Chapter 119. of the Revised Code. 485

Sec. 4729.43. (A) As used in this section: 486

(1) "Home health agency" has the same meaning as in 487
section 3701.881 of the Revised Code. 488

(2) "Hospice care program" and "hospice patient" have the 489
same meanings as in section 3712.01 of the Revised Code. 490

(B) With regard to a dangerous drug that is indicated for 491
the treatment of cancer or a cancer-related illness, must be 492
administered intravenously or by subcutaneous injection, and 493
cannot reasonably be self-administered by the patient to whom 494
the drug is prescribed or by an individual assisting the patient 495
with the self-administration, a pharmacist ~~or pharmacy intern~~ 496
shall not dispense the drug by delivering the drug directly to 497
any of the following or causing the drug to be delivered 498
directly to any of the following: 499

(1) The patient; 500

(2) The patient's representative, which may include the 501
patient's guardian or a family member or friend of the patient; 502

(3) The patient's private residence unless any of the 503

following is the case: 504

(a) The patient's private residence is a nursing home, 505
residential care facility, rehabilitation facility, or similar 506
institutional facility or health care facility. 507

(b) If the patient is an adult and a hospice patient or 508
client of a home health agency, the patient, the licensed health 509
professional authorized to prescribe drugs who prescribed the 510
drug to the patient, or an employee or agent of the prescriber 511
has notified the pharmacist ~~or pharmacy intern~~ that the patient 512
is a hospice patient or client of a home health agency and an 513
employee or agent of the hospice care program or home health 514
agency will be administering the drug to the patient. 515

(c) If the patient is a minor and a hospice patient or 516
client of a home health agency, either of the following has 517
notified the pharmacist ~~or pharmacy intern~~ that the patient is a 518
client of a home health agency and an employee or agent of the 519
hospice care program or home health agency will be administering 520
the drug to the patient: 521

(i) The licensed health professional authorized to 522
prescribe drugs who prescribed the drug to the patient or an 523
employee or agent of the prescriber; 524

(ii) The parent, guardian, or other person who has care or 525
charge of the patient and is authorized to consent to medical 526
treatment on behalf of the patient. 527

Sec. 4729.45. (A) As used in this section, "physician" 528
means an individual authorized under Chapter 4731. of the 529
Revised Code to practice medicine and surgery or osteopathic 530
medicine and surgery. 531

(B) (1) Subject to division (C) of this section, a 532

pharmacist licensed under this chapter may administer by 533
injection any of the following drugs as long as the drug that is 534
to be administered has been prescribed by a physician and the 535
individual to whom the drug was prescribed has an ongoing 536
physician-patient relationship with the physician: 537

(a) An opioid antagonist used for treatment of drug 538
addiction and administered in a long-acting or extended-release 539
form; 540

(b) An antipsychotic drug administered in a long-acting or 541
extended-release form; 542

(c) Hydroxyprogesterone caproate; 543

(d) Medroxyprogesterone acetate; 544

(e) Cobalamin. 545

(2) As part of engaging in the administration of drugs by 546
injection pursuant to this section, a pharmacist may administer 547
epinephrine or diphenhydramine, or both, to an individual in an 548
emergency situation resulting from an adverse reaction to a drug 549
administered by the pharmacist. 550

(C) To be authorized to administer drugs pursuant to this 551
section, a pharmacist must do all of the following: 552

(1) Successfully complete a course in the administration 553
of drugs that satisfies the requirements established by the 554
state board of pharmacy in rules adopted under division (H) (1) 555
(a) of this section; 556

(2) Receive and maintain certification to perform basic 557
life-support procedures by successfully completing a basic life- 558
support training course that is certified by the American red 559
cross or American heart association or approved by the state 560

<u>board of pharmacy;</u>	561
(3) Practice in accordance with a protocol that meets the requirements of division (F) of this section.	562 563
(D) Each time a pharmacist administers a drug pursuant to this section, the pharmacist shall do all of the following:	564 565
(1) Obtain permission in accordance with the procedures specified in rules adopted under division (H) of this section and comply with the following requirements:	566 567 568
(a) Except as provided in division (D)(1)(c) of this section, for each drug administered by a pharmacist to an individual who is eighteen years of age or older, the pharmacist shall obtain permission from the individual.	569 570 571 572
(b) For each drug administered by a pharmacist to an individual who is under eighteen years of age, the pharmacist shall obtain permission from the individual's parent or other person having care or charge of the individual.	573 574 575 576
(c) For each drug administered by a pharmacist to an individual who lacks the capacity to make informed health care decisions, the pharmacist shall obtain permission from the person authorized to make such decisions on the individual's behalf.	577 578 579 580 581
(2) In the case of an opioid antagonist described in division (B) of this section, obtain in accordance with division (E) of this section test results indicating that it is appropriate to administer the drug to the individual if either of the following is to be administered:	582 583 584 585 586
(a) The initial dose of the drug;	587
(b) Any subsequent dose, if the administration occurs more	588

than thirty days after the previous dose of the drug was 589
administered. 590

(3) Observe the individual to whom the drug is 591
administered to determine whether the individual has an adverse 592
reaction to the drug; 593

(4) Notify the physician who prescribed the drug that the 594
drug has been administered to the individual. 595

(E) A pharmacist may obtain the test results described in 596
division (D) (2) of this section in either of the following ways: 597

(1) From the physician; 598

(2) By ordering blood and urine tests for the individual 599
to whom the opioid antagonist is to be administered. 600

If a pharmacist orders blood and urine tests, the 601
pharmacist shall evaluate the results of the tests to determine 602
whether they indicate that it is appropriate to administer the 603
opioid antagonist. A pharmacist's authority to evaluate test 604
results under this division does not authorize the pharmacist to 605
make a diagnosis. 606

(F) All of the following apply with respect to the 607
protocol required by division (C) (3) of this section: 608

(1) The protocol must be established by a physician who 609
has a scope of practice that includes treatment of the condition 610
for which the individual has been prescribed the drug to be 611
administered. 612

(2) The protocol must satisfy the requirements established 613
in rules adopted under division (H) (1) (b) of this section. 614

(3) The protocol must do all of the following: 615

(a) Specify a definitive set of treatment guidelines;	616
(b) Specify the locations at which a pharmacist may engage in the administration of drugs pursuant to this section;	617 618
(c) Include provisions for implementing the requirements of division (D) of this section, including for purposes of division (D) (3) of this section provisions specifying the length of time and location at which a pharmacist must observe an individual who receives a drug to determine whether the individual has an adverse reaction to the drug;	619 620 621 622 623 624
(d) Specify procedures to be followed by a pharmacist when administering epinephrine, diphenhydramine, or both, to an individual who has an adverse reaction to a drug administered by the pharmacist.	625 626 627 628
(G) A pharmacist shall not do either of the following:	629
(1) Engage in the administration of drugs pursuant to this section unless the requirements of division (C) of this section have been met;	630 631 632
(2) Delegate to any person the pharmacist's authority to engage in the administration of drugs pursuant to this section.	633 634
(H) (1) The state board of pharmacy shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and include all of the following:	635 636 637 638
(a) Requirements for courses in administration of drugs;	639
(b) Requirements for protocols to be followed by pharmacists in administering drugs pursuant to this section;	640 641
(c) Procedures to be followed by a pharmacist in obtaining	642

permission to administer a drug to an individual. 643

(2) The board shall consult with the state medical board 644
before adopting rules regarding requirements for protocols under 645
this section. 646

Sec. 4729.47. (A) As used in this section: 647

(1) "Board of health" means a board of health of a city or 648
general health district or an authority having the duties of a 649
board of health under section 3709.05 of the Revised Code. 650

(2) "Physician" means an individual authorized under 651
Chapter 4731. of the Revised Code to practice medicine and 652
surgery, osteopathic medicine and surgery, or podiatric medicine 653
and surgery. 654

(B) If use of a protocol that has been developed pursuant 655
to rules adopted under division (G) of this section has been 656
authorized under section 3707.60 or 4731.961 of the Revised 657
Code, a pharmacist or pharmacy intern may dispense epinephrine 658
without a prescription in accordance with that protocol to 659
either of the following individuals so long as the individual is 660
at least eighteen years of age: 661

(1) An individual who there is reason to believe is 662
experiencing or at risk of experiencing anaphylaxis if the 663
pharmacy affiliated with the pharmacist or intern has a record 664
of previously dispensing epinephrine to the individual in 665
accordance with a prescription issued by a licensed health 666
professional authorized to prescribe drugs; 667

(2) An individual acting on behalf of a qualified entity, 668
as defined in section 3728.01 of the Revised Code. 669

(C) (1) A pharmacist or pharmacy intern who dispenses 670

epinephrine under this section shall instruct the individual to 671
whom epinephrine is dispensed to summon emergency services as 672
soon as practicable either before or after administering 673
epinephrine. 674

(2) A pharmacist or pharmacy intern who dispenses 675
epinephrine to an individual identified in division (B)(1)(a) of 676
this section shall provide notice of the dispensing to the 677
individual's primary care provider, if known, or to the 678
prescriber who issued the individual the initial prescription 679
for epinephrine. 680

(D) A pharmacist may document the dispensing of 681
epinephrine by the pharmacist or a pharmacy intern supervised by 682
the pharmacist on a prescription form. The form may be assigned 683
a number for record-keeping purposes. 684

(E) This section does not affect the authority of a 685
pharmacist or pharmacy intern to fill or refill a prescription 686
for epinephrine. 687

(F) A board of health that in good faith authorizes a 688
pharmacist or pharmacy intern to dispense epinephrine without a 689
prescription in accordance with a protocol developed pursuant to 690
rules adopted under division (G) of this section is not liable 691
for or subject to any of the following for any action or 692
omission of the individual to whom the epinephrine is dispensed: 693
damages in any civil action, prosecution in any criminal 694
proceeding, or professional disciplinary action. 695

A physician who in good faith authorizes a pharmacist or 696
pharmacy intern to dispense epinephrine without a prescription 697
in accordance with a protocol developed pursuant to rules 698
adopted under division (G) of this section is not liable for or 699

subject to any of the following for any action or omission of 700
the individual to whom the epinephrine is dispensed: damages in 701
any civil action, prosecution in any criminal proceeding, or 702
professional disciplinary action. 703

A pharmacist or pharmacy intern authorized under this 704
section to dispense epinephrine without a prescription who does 705
so in good faith is not liable for or subject to any of the 706
following for any action or omission of the individual to whom 707
the epinephrine is dispensed: damages in any civil action, 708
prosecution in any criminal proceeding, or professional 709
disciplinary action. 710

(G) Not later than ninety days after the effective date of 711
this section, the state board of pharmacy shall, after 712
consulting with the state medical board, adopt rules to 713
implement this section. The rules shall specify minimum 714
requirements for protocols established by physicians under which 715
pharmacists or pharmacy interns may dispense epinephrine without 716
a prescription. 717

All rules adopted under this section shall be adopted in 718
accordance with Chapter 119. of the Revised Code. 719

Sec. 4729.553. (A) As used in this section: 720

(1) "Controlled substance" has the same meaning as in 721
section 3719.01 of the Revised Code. 722

(2) "Hospital" means a hospital registered with the 723
department of health under section 3701.07 of the Revised Code. 724

(3) "Office-based opioid treatment" means the treatment of 725
opioid dependence or addiction using a controlled substance. 726

(B) (1) Except as provided in division (B) (2) of this 727

section, no person shall knowingly operate a facility, clinic, 728
or other location where a prescriber provides office-based 729
opioid treatment to more than thirty patients or that meets any 730
other identifying criteria established in rules adopted under 731
~~division (C) of this section~~ without holding a category III 732
terminal distributor of dangerous drugs license with an office- 733
based opioid treatment classification. 734

(2) Division (B) (1) of this section does not apply to any 735
of the following: 736

(a) A hospital; 737

(b) A facility for the treatment of opioid dependence or 738
addiction that is operated by a hospital; 739

(c) A physician practice owned or controlled, in whole or 740
in part, by a hospital or by an entity that owns or controls, in 741
whole or in part, one or more hospitals; 742

(d) A facility that conducts only clinical research and 743
uses controlled substances in studies approved by a hospital- 744
based institutional review board or an institutional review 745
board that is accredited by the association for the 746
accreditation of human research protection programs, inc.; 747

(e) A facility that holds a category III terminal 748
distributor of dangerous drugs license in accordance with 749
section 4729.54 of the Revised Code for the purpose of treating 750
drug dependence or addiction as part of an opioid treatment 751
program and is the subject of a current, valid certification 752
from the substance abuse and mental health services 753
administration of the United States department of health and 754
human services pursuant to 42 C.F.R. 8.11; 755

(f) A program or facility that ~~is licensed or certified~~ 756

holds a license or certification issued by the department of 757
mental health and addiction services under Chapter 5119. of the 758
Revised Code if the license or certification is approved by the 759
state board of pharmacy; 760

(g) A federally qualified health center or federally 761
qualified health center look-alike, as defined in section 762
3701.047 of the Revised Code; 763

(h) A state or local correctional facility, as defined in 764
section 5163.45 of the Revised Code; 765

(i) Any other facility specified in rules adopted under 766
this section. 767

(C) To be eligible to receive a license as a category III 768
terminal distributor of dangerous drugs with an office-based 769
opioid treatment classification, an applicant shall submit 770
evidence satisfactory to the ~~state board of pharmacy~~ that the 771
applicant's office-based opioid treatment will be operated in 772
accordance with the requirements specified in division (D) of 773
this section and that the applicant meets any other applicable 774
requirements of this chapter. 775

If the board determines that an applicant meets all of the 776
requirements, the board shall issue to the applicant a license 777
as a category III terminal distributor of dangerous drugs with 778
an office-based opioid treatment classification. 779

(D) The holder of a category III terminal distributor 780
license with an office-based opioid treatment classification 781
shall do all of the following: 782

(1) Be in control of a facility that is owned and operated 783
solely by one or more physicians authorized under Chapter 4731. 784
of the Revised Code to practice medicine and surgery or 785

osteopathic medicine and surgery, unless the state board of 786
pharmacy ~~has exempted the holder from~~ waives this requirement 787
for the holder; 788

(2) Comply with the requirements for conducting office- 789
based opioid treatment, as established by the state medical 790
board in rules adopted under section 4731.056 of the Revised 791
Code; 792

(3) Require any person with ownership of the facility to 793
submit to a criminal records check in accordance with section 794
4776.02 of the Revised Code and send the results of the criminal 795
records check directly to the state board of pharmacy for review 796
and decision under section 4729.071 of the Revised Code; 797

(4) Require ~~all employees of each person employed by or~~ 798
seeking employment with the facility to submit to a criminal 799
records check in accordance with section 4776.02 of the Revised 800
Code ~~and ensure~~; 801

(5) Ensure that no a person is not employed who has 802
previously been by the facility if the person, within the ten 803
years immediately preceding the date the person applied for 804
employment, was convicted of, or pleaded guilty to, either of 805
the following, unless the state board of pharmacy permits the 806
person to be employed by waiving this requirement for the 807
facility: 808

(a) A theft offense, described in division (K) (3) of 809
section 2913.01 of the Revised Code, that would constitute a 810
felony under the laws of this state, any other state, or the 811
United States; 812

(b) A felony drug offense, as defined in section 2925.01 813
of the Revised Code. 814

~~(5)~~ (6) Maintain a list of each person with ownership of 815
the facility and notify the state board of pharmacy of any 816
change to that list. 817

(E) No person subject to licensure as a category III 818
terminal distributor of dangerous drugs with an office-based 819
opioid treatment classification shall knowingly fail to remain 820
in compliance with the requirements of division (D) of this 821
section and any other applicable requirements of this chapter. 822

(F) The state board of pharmacy may impose a fine of not 823
more than five thousand dollars on a person who violates 824
division (B) or (E) of this section. A separate fine may be 825
imposed for each day the violation continues. In imposing the 826
fine, the board's actions shall be taken in accordance with 827
Chapter 119. of the Revised Code. 828

(G) The state board of pharmacy shall adopt rules as it 829
considers necessary to implement and administer this section. 830
The rules shall be adopted in accordance with Chapter 119. of 831
the Revised Code. 832

Sec. 4729.99. (A) Whoever violates division (H) of section 833
4729.16, division (G) of section 4729.38, division (I) of 834
section 4729.382, section 4729.57, or division (F) of section 835
4729.96 of the Revised Code is guilty of a minor misdemeanor, 836
unless a different penalty is otherwise specified in the Revised 837
Code. Each day's violation constitutes a separate offense. 838

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 839
of the Revised Code is guilty of a misdemeanor of the third 840
degree. Each day's violation constitutes a separate offense. If 841
the offender previously has been convicted of or pleaded guilty 842
to a violation of this chapter, that person is guilty of a 843

misdemeanor of the second degree. 844

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 845
of the Revised Code is guilty of a misdemeanor. 846

(D) Whoever violates division (A), (B), (C), (D), (F), or 847
(G) of section 4729.51 of the Revised Code is guilty of a 848
misdemeanor of the first degree. 849

(E) (1) Whoever violates section 4729.37, division (E) (1) 850
(b) of section 4729.51, division (J) of section 4729.54, 851
division (B) or (D) of section 4729.553, or section 4729.61 of 852
the Revised Code is guilty of a felony of the fifth degree. If 853
the offender previously has been convicted of or pleaded guilty 854
to a violation of this chapter or a violation of Chapter 2925. 855
or 3719. of the Revised Code, that person is guilty of a felony 856
of the fourth degree. 857

(2) If an offender is convicted of or pleads guilty to a 858
violation of section 4729.37, division (E) of section 4729.51, 859
division (J) of section 4729.54, or section 4729.61 of the 860
Revised Code, if the violation involves the sale, offer to sell, 861
or possession of a schedule I or II controlled substance, with 862
the exception of marihuana, and if the court imposing sentence 863
upon the offender finds that the offender as a result of the 864
violation is a major drug offender, as defined in section 865
2929.01 of the Revised Code, and is guilty of a specification of 866
the type described in division (A) of section 2941.1410 of the 867
Revised Code, the court, in lieu of the prison term authorized 868
or required by division (E) (1) of this section and sections 869
2929.13 and 2929.14 of the Revised Code and in addition to any 870
other sanction imposed for the offense under sections 2929.11 to 871
2929.18 of the Revised Code, shall impose upon the offender, in 872
accordance with division (B) (3) of section 2929.14 of the 873

Revised Code, the mandatory prison term specified in that 874
division. 875

(3) Notwithstanding any contrary provision of section 876
3719.21 of the Revised Code, the clerk of court shall pay any 877
fine imposed for a violation of section 4729.37, division (E) of 878
section 4729.51, division (J) of section 4729.54, or section 879
4729.61 of the Revised Code pursuant to division (A) of section 880
2929.18 of the Revised Code in accordance with and subject to 881
the requirements of division (F) of section 2925.03 of the 882
Revised Code. The agency that receives the fine shall use the 883
fine as specified in division (F) of section 2925.03 of the 884
Revised Code. 885

(F) Whoever violates section 4729.531 of the Revised Code 886
or any rule adopted thereunder or section 4729.532 of the 887
Revised Code is guilty of a misdemeanor of the first degree. 888

(G) Whoever violates division (E) (1) (a) of section 4729.51 889
of the Revised Code is guilty of a felony of the fourth degree. 890
If the offender has previously been convicted of or pleaded 891
guilty to a violation of this chapter, or of a violation of 892
Chapter 2925. or 3719. of the Revised Code, that person is 893
guilty of a felony of the third degree. 894

(H) Whoever violates division (E) (1) (c) of section 4729.51 895
of the Revised Code is guilty of a misdemeanor of the first 896
degree. If the offender has previously been convicted of or 897
pleaded guilty to a violation of this chapter, or of a violation 898
of Chapter 2925. or 3719. of the Revised Code, that person is 899
guilty of a felony of the fifth degree. 900

(I) (1) Whoever violates division (A) of section 4729.95 of 901
the Revised Code is guilty of unauthorized pharmacy-related drug 902

conduct. Except as otherwise provided in this section, 903
unauthorized pharmacy-related drug conduct is a misdemeanor of 904
the second degree. If the offender previously has been convicted 905
of or pleaded guilty to a violation of division (A), (B), or (C) 906
of that section, unauthorized pharmacy-related drug conduct is a 907
misdemeanor of the first degree on a second offense and a felony 908
of the fifth degree on a third or subsequent offense. 909

(2) Whoever violates division (B) or (C) of section 910
4729.95 of the Revised Code is guilty of permitting unauthorized 911
pharmacy-related drug conduct. Except as otherwise provided in 912
this section, permitting unauthorized pharmacy-related drug 913
conduct is a misdemeanor of the second degree. If the offender 914
previously has been convicted of or pleaded guilty to a 915
violation of division (A), (B), or (C) of that section, 916
permitting unauthorized pharmacy-related drug conduct is a 917
misdemeanor of the first degree on a second offense and a felony 918
of the fifth degree on a third or subsequent offense. 919

(3) Notwithstanding any contrary provision of section 920
3719.21 of the Revised Code or any other provision of law that 921
governs the distribution of fines, the clerk of the court shall 922
pay any fine imposed pursuant to division (I)(1) or (2) of this 923
section to the state board of pharmacy if the board has adopted 924
a written internal control policy under division (F)(2) of 925
section 2925.03 of the Revised Code that addresses fine moneys 926
that it receives under Chapter 2925. of the Revised Code and if 927
the policy also addresses fine moneys paid under this division. 928
The state board of pharmacy shall use the fines so paid in 929
accordance with the written internal control policy to subsidize 930
the board's law enforcement efforts that pertain to drug 931
offenses. 932

(J) (1) Whoever violates division (A) (1) of section 4729.86 933
of the Revised Code is guilty of a misdemeanor of the third 934
degree. If the offender has previously been convicted of or 935
pleaded guilty to a violation of division (A) (1), (2), or (3) of 936
section 4729.86 of the Revised Code, that person is guilty of a 937
misdemeanor of the first degree. 938

(2) Whoever violates division (A) (2) of section 4729.86 of 939
the Revised Code is guilty of a misdemeanor of the first degree. 940
If the offender has previously been convicted of or pleaded 941
guilty to a violation of division (A) (1), (2), or (3) of section 942
4729.86 of the Revised Code, that person is guilty of a felony 943
of the fifth degree. 944

(3) Whoever violates division (A) (3) of section 4729.86 of 945
the Revised Code is guilty of a felony of the fifth degree. If 946
the offender has previously been convicted of or pleaded guilty 947
to a violation of division (A) (1), (2), or (3) of section 948
4729.86 of the Revised Code, that person is guilty of a felony 949
of the fourth degree. 950

(K) A person who violates division (C) of section 4729.552 951
of the Revised Code is guilty of a misdemeanor of the first 952
degree. If the person previously has been convicted of or 953
pleaded guilty to a violation of division (C) of section 954
4729.552 of the Revised Code, that person is guilty of a felony 955
of the fifth degree. 956

Sec. 4731.96. (A) As used in this section and section 957
4731.961 of the Revised Code, "physician" means an individual 958
authorized under this chapter to practice medicine and surgery, 959
osteopathic medicine and surgery, or podiatric medicine and 960
surgery. 961

(B) (1) Subject to division (B) (2) of this section, and 962
notwithstanding any provision of this chapter or rule adopted by 963
the state medical board, a physician may do either of the 964
following without having examined an individual to whom 965
epinephrine may be administered: 966

(a) Personally furnish a supply of epinephrine 967
autoinjectors for use in accordance with sections 3313.7110, 968
3313.7111, 3314.143, 3326.28, 3328.29, 3728.03 to 3728.05, and 969
5101.76 of the Revised Code; 970

(b) Issue a prescription for epinephrine autoinjectors for 971
use in accordance with sections 3313.7110, 3313.7111, 3314.143, 972
3326.28, 3328.29, 3728.03 to 3728.05, and 5101.76 of the Revised 973
Code. 974

(2) An epinephrine autoinjector personally furnished or 975
prescribed under division (B) (1) of this section must be 976
furnished or prescribed in such a manner that it may be 977
administered only in a manufactured dosage form. 978

(C) A physician who acts in good faith in accordance with 979
this section is not liable for or subject to any of the 980
following for any action or omission of an entity to which an 981
epinephrine autoinjector is furnished or a prescription is 982
issued: damages in any civil action, prosecution in any criminal 983
proceeding, or professional disciplinary action. 984

Sec. 4731.961. A physician who has established a protocol 985
that meets the requirements specified by the state board of 986
pharmacy in rules adopted under section 4729.47 of the Revised 987
Code may authorize one or more pharmacists and any of the 988
pharmacy interns supervised by the pharmacist or pharmacists to 989
use the protocol for the purpose of dispensing epinephrine under 990

section 4729.47 of the Revised Code. 991

Section 2. That existing sections 3728.03, 4729.16, 992
4729.23, 4729.28, 4729.41, 4729.43, 4729.45, 4729.553, 4729.99, 993
and 4731.96 of the Revised Code are hereby repealed. 994

Section 3. The provisions of this act that amend and enact 995
sections 3707.60, 3728.03, 4729.16, 4729.382, 4729.47, 4729.99, 996
4731.96, and 4731.961 of the Revised Code shall be known as the 997
"Epinephrine Accessibility Act." 998