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Sub. S. B. No. 59

Senator Antonio

**Cosponsors: Senators Fedor, Kunze, Maharath, O'Brien, Sykes, Thomas, Williams, Yuko, Blessing, Brenner, Burke, Coley, Craig, Eklund, Gavarone, Hackett, Hottinger, Johnson, Manning, Obhof, Roegner, Rulli, Schuring, Wilson
Representatives Clites, Liston, Russo, West**

A BILL

To amend sections 4729.44 and 4729.51 of the 1
Revised Code to require the State Board of 2
Pharmacy to educate certain license holders 3
about the law authorizing naloxone dispensing 4
without a prescription and to authorize other 5
license holders to sell drugs occasionally at 6
wholesale. 7

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

Section 1. That sections 4729.44 and 4729.51 of the 8
Revised Code be amended to read as follows: 9

Sec. 4729.44. (A) As used in this section: 10

(1) "Board of health" means a board of health of a city or 11
general health district or an authority having the duties of a 12
board of health under section 3709.05 of the Revised Code. 13

(2) "Physician" means an individual authorized under 14
Chapter 4731. of the Revised Code to practice medicine and 15

surgery, osteopathic medicine and surgery, or podiatric medicine 16
and surgery. 17

(B) If use of the protocol developed pursuant to rules 18
adopted under division (G) of this section has been authorized 19
under section 3707.56 or 4731.942 of the Revised Code, a 20
pharmacist or pharmacy intern may dispense naloxone without a 21
prescription to either of the following in accordance with that 22
protocol: 23

(1) An individual who there is reason to believe is 24
experiencing or at risk of experiencing an opioid-related 25
overdose; 26

(2) A family member, friend, or other individual in a 27
position to assist an individual who there is reason to believe 28
is at risk of experiencing an opioid-related overdose. 29

(C) A pharmacist or pharmacy intern who dispenses naloxone 30
under this section shall instruct the individual to whom 31
naloxone is dispensed to summon emergency services as soon as 32
practicable either before or after administering naloxone. 33

(D) A pharmacist may document on a prescription form the 34
dispensing of naloxone by the pharmacist or a pharmacy intern 35
supervised by the pharmacist. The form may be assigned a number 36
for record-keeping purposes. 37

(E) This section does not affect the authority of a 38
pharmacist or pharmacy intern to fill or refill a prescription 39
for naloxone. 40

(F) A board of health that in good faith authorizes a 41
pharmacist or pharmacy intern to dispense naloxone without a 42
prescription in accordance with a protocol developed pursuant to 43
rules adopted under division (G) of this section is not liable 44

for or subject to any of the following for any action or 45
omission of the individual to whom the naloxone is dispensed: 46
damages in any civil action, prosecution in any criminal 47
proceeding, or professional disciplinary action. 48

A physician who in good faith authorizes a pharmacist or 49
pharmacy intern to dispense naloxone without a prescription in 50
accordance with a protocol developed pursuant to rules adopted 51
under division (G) of this section is not liable for or subject 52
to any of the following for any action or omission of the 53
individual to whom the naloxone is dispensed: damages in any 54
civil action, prosecution in any criminal proceeding, or 55
professional disciplinary action. 56

A pharmacist or pharmacy intern authorized under this 57
section to dispense naloxone without a prescription who does so 58
in good faith is not liable for or subject to any of the 59
following for any action or omission of the individual to whom 60
the naloxone is dispensed: damages in any civil action, 61
prosecution in any criminal proceeding, or professional 62
disciplinary action. 63

(G) The state board of pharmacy shall, after consulting 64
with the department of health and state medical board, adopt 65
rules to implement this section. The rules shall specify a 66
protocol under which pharmacists or pharmacy interns may 67
dispense naloxone without a prescription. 68

All rules adopted under this section shall be adopted in 69
accordance with Chapter 119. of the Revised Code. 70

(H) (1) The state board of pharmacy shall develop a program 71
to educate all of the following about the authority of a 72
pharmacist or pharmacy intern to dispense naloxone without a 73

<u>prescription:</u>	74
<u>(a) Holders of licenses issued under this chapter that</u>	75
<u>engage in the sale or dispensing of naloxone pursuant to this</u>	76
<u>section;</u>	77
<u>(b) Registered pharmacy technicians, certified pharmacy</u>	78
<u>technicians, and pharmacy technician trainees registered under</u>	79
<u>this chapter who engage in the sale of naloxone pursuant to this</u>	80
<u>section;</u>	81
<u>(c) Individuals who are not licensed or registered under</u>	82
<u>this chapter but are employed by license holders described in</u>	83
<u>division (H) (1) (a) of this section.</u>	84
<u>(2) As part of the program, the board also shall educate</u>	85
<u>the license holders, pharmacy technicians, and employees</u>	86
<u>described in division (H) (1) of this section about maintaining</u>	87
<u>an adequate supply of naloxone and methods for determining a</u>	88
<u>pharmacy's stock of the drug.</u>	89
<u>(3) The board may use its web site to share information</u>	90
<u>under the program.</u>	91
Sec. 4729.51. (A) No person other than a licensed	92
manufacturer of dangerous drugs, outsourcing facility, third-	93
party logistics provider, repackager of dangerous drugs, or	94
wholesale distributor of dangerous drugs shall possess for sale,	95
sell, distribute, or deliver, at wholesale, dangerous drugs or	96
investigational drugs or products, except as follows:	97
(1) A licensed terminal distributor of dangerous drugs	98
that is a pharmacy may make occasional sales of dangerous drugs	99
or investigational drugs or products at wholesale.	100
(2) A licensed terminal distributor of dangerous drugs	101

having more than one licensed location may transfer or deliver 102
dangerous drugs from one licensed location to another licensed 103
location owned by the terminal distributor if the license issued 104
for each location is in effect at the time of the transfer or 105
delivery. 106

(3) A licensed terminal distributor of dangerous drugs 107
that is not a pharmacy may make occasional sales of ~~naloxone~~ the 108
following at wholesale. 109

~~(4) A licensed terminal distributor of dangerous drugs 110
that is not a pharmacy may make occasional sales of dangerous; 111~~

(a) Naloxone; 112

(b) Dangerous drugs at wholesale if the drugs being sold 113
are in shortage, as defined in rules adopted ~~by the state board~~ 114
~~of pharmacy~~ under section 4729.26 of the Revised Code; 115

(c) Dangerous drugs other than those described in 116
divisions (A) (3) (a) and (b) of this section or investigational 117
drugs or products if authorized by rules adopted under section 118
4729.26 of the Revised Code. 119

(B) No licensed manufacturer, outsourcing facility, third- 120
party logistics provider, repackager, or wholesale distributor 121
shall possess for sale, sell, or distribute, at wholesale, 122
dangerous drugs or investigational drugs or products to any 123
person other than the following: 124

(1) Subject to division (D) of this section, a licensed 125
terminal distributor of dangerous drugs; 126

(2) Subject to division (C) of this section, any person 127
exempt from licensure as a terminal distributor of dangerous 128
drugs under section 4729.541 of the Revised Code; 129

(3) A licensed manufacturer, outsourcing facility, third-	130
party logistics provider, repackager, or wholesale distributor;	131
(4) A terminal distributor, manufacturer, outsourcing	132
facility, third-party logistics provider, repackager, or	133
wholesale distributor that is located in another state, is not	134
engaged in the sale of dangerous drugs within this state, and is	135
actively licensed to engage in the sale of dangerous drugs by	136
the state in which the distributor conducts business.	137
(C) No licensed manufacturer, outsourcing facility, third-	138
party logistics provider, repackager, or wholesale distributor	139
shall possess for sale, sell, or distribute, at wholesale,	140
dangerous drugs or investigational drugs or products to either	141
of the following:	142
(1) A prescriber who is employed by either of the	143
following:	144
(a) A pain management clinic that is not licensed as a	145
terminal distributor of dangerous drugs with a pain management	146
clinic classification issued under section 4729.552 of the	147
Revised Code;	148
(b) A facility, clinic, or other location that provides	149
office-based opioid treatment but is not licensed as a terminal	150
distributor of dangerous drugs with an office-based opioid	151
treatment classification issued under section 4729.553 of the	152
Revised Code if such a license is required by that section.	153
(2) A business entity described in division (A) (2) or (3)	154
of section 4729.541 of the Revised Code that is, or is	155
operating, either of the following:	156
(a) A pain management clinic without a license as a	157
terminal distributor of dangerous drugs with a pain management	158

clinic classification issued under section 4729.552 of the Revised Code;	159 160
(b) A facility, clinic, or other location that provides office-based opioid treatment without a license as a terminal distributor of dangerous drugs with an office-based opioid treatment classification issued under section 4729.553 of the Revised Code if such a license is required by that section.	161 162 163 164 165
(D) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess dangerous drugs or investigational drugs or products for sale at wholesale, or sell or distribute such drugs at wholesale, to a licensed terminal distributor of dangerous drugs, except as follows:	166 167 168 169 170 171
(1) In the case of a terminal distributor with a category II license, only dangerous drugs in category II, as defined in division (A)(1) of section 4729.54 of the Revised Code;	172 173 174
(2) In the case of a terminal distributor with a category III license, dangerous drugs in category II and category III, as defined in divisions (A)(1) and (2) of section 4729.54 of the Revised Code;	175 176 177 178
(3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.	179 180 181
(E)(1) Except as provided in division (E)(2) of this section, no person shall do any of the following:	182 183
(a) Sell or distribute, at retail, dangerous drugs;	184
(b) Possess for sale, at retail, dangerous drugs;	185
(c) Possess dangerous drugs.	186

(2) (a) Divisions (E) (1) (a), (b), and (c) of this section	187
do not apply to any of the following:	188
(i) A licensed terminal distributor of dangerous drugs;	189
(ii) A person who possesses, or possesses for sale or	190
sells, at retail, a dangerous drug in accordance with Chapters	191
3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of	192
the Revised Code;	193
(iii) Any of the persons identified in divisions (A) (1) to	194
(5) and (13) of section 4729.541 of the Revised Code, but only	195
to the extent specified in that section.	196
(b) Division (E) (1) (c) of this section does not apply to	197
any of the following:	198
(i) A licensed manufacturer, outsourcing facility, third-	199
party logistics provider, repackager, or wholesale distributor;	200
(ii) Any of the persons identified in divisions (A) (6) to	201
(12) of section 4729.541 of the Revised Code, but only to the	202
extent specified in that section.	203
(F) No licensed terminal distributor of dangerous drugs or	204
person that is exempt from licensure under section 4729.541 of	205
the Revised Code shall purchase dangerous drugs or	206
investigational drugs or products from any person other than a	207
licensed manufacturer, outsourcing facility, third-party	208
logistics provider, repackager, or wholesale distributor, except	209
as follows:	210
(1) A licensed terminal distributor of dangerous drugs or	211
person that is exempt from licensure under section 4729.541 of	212
the Revised Code may make occasional purchases of dangerous	213
drugs or investigational drugs or products that are sold in	214

accordance with division (A) (1) or (3) of this section.	215
(2) A licensed terminal distributor of dangerous drugs	216
having more than one licensed location may transfer or deliver	217
dangerous drugs or investigational drugs or products from one	218
licensed location to another licensed location if the license	219
issued for each location is in effect at the time of the	220
transfer or delivery.	221
(G) No licensed terminal distributor of dangerous drugs	222
shall engage in the retail sale or other distribution of	223
dangerous drugs or investigational drugs or products or maintain	224
possession, custody, or control of dangerous drugs or	225
investigational drugs or products for any purpose other than the	226
distributor's personal use or consumption, at any establishment	227
or place other than that or those described in the license	228
issued by the <u>state board of pharmacy</u> to such terminal	229
distributor.	230
(H) Nothing in this section shall be construed to	231
interfere with the performance of official duties by any law	232
enforcement official authorized by municipal, county, state, or	233
federal law to collect samples of any drug, regardless of its	234
nature or in whose possession it may be.	235
(I) Notwithstanding anything to the contrary in this	236
section, the board of education of a city, local, exempted	237
village, or joint vocational school district may distribute	238
epinephrine autoinjectors for use in accordance with section	239
3313.7110 of the Revised Code and may distribute inhalers for	240
use in accordance with section 3313.7113 of the Revised Code.	241
Section 2. That existing sections 4729.44 and 4729.51 of	242
the Revised Code are hereby repealed.	243