

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 80

Representative Lipps

A BILL

To amend sections 4729.01 and 4729.45 and to enact 1
section 4729.21 of the Revised Code regarding 2
pharmacist care. 3

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

Section 1. That sections 4729.01 and 4729.45 be amended 4
and section 4729.21 of the Revised Code be enacted to read as 5
follows: 6

Sec. 4729.01. As used in this chapter: 7

(A) "Pharmacy," except when used in a context that refers 8
to the practice of pharmacy, means any area, room, rooms, place 9
of business, department, or portion of any of the foregoing 10
where the practice of pharmacy is conducted. 11

(B) "Practice of pharmacy" means providing pharmacist care 12
requiring specialized knowledge, judgment, and skill derived 13
from the principles of biological, chemical, behavioral, social, 14
pharmaceutical, and clinical sciences. As used in this division, 15
"pharmacist care" includes the following: 16

(1) Interpreting prescriptions; 17

(2) Dispensing drugs and drug therapy related devices; 18

(3) Compounding drugs;	19
(4) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;	20 21 22 23 24
(5) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs;	25 26 27
(6) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber;	28 29 30 31 32
(7) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;	33 34 35
(8) Acting pursuant to a consult agreement, if an agreement has been established;	36 37
(9) <u>To the extent authorized by section 4729.21 of the Revised Code, and in accordance with a statewide written protocol, conducting screenings and ordering laboratory and diagnostic tests, evaluating the results of such screenings and tests, and treating health conditions;</u>	38 39 40 41 42
<u>(10)</u> Engaging in the administration of immunizations to the extent authorized by section 4729.41 of the Revised Code;	43 44
(10) <u>(11)</u> Engaging in the administration of drugs to the extent authorized by section 4729.45 of the Revised Code.	45 46

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:

(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;

(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;

(3) As an incident to research, teaching activities, or chemical analysis;

(4) In anticipation of orders for drugs pursuant to prescriptions, based on routine, regularly observed dispensing patterns;

(5) Pursuant to a request made by a licensed health professional authorized to prescribe drugs for a drug that is to be used by the professional for the purpose of direct administration to patients in the course of the professional's practice, if all of the following apply:

(a) At the time the request is made, the drug is not commercially available regardless of the reason that the drug is not available, including the absence of a manufacturer for the drug or the lack of a readily available supply of the drug from a manufacturer.

(b) A limited quantity of the drug is compounded and provided to the professional.

(c) The drug is compounded and provided to the professional as an occasional exception to the normal practice of dispensing drugs pursuant to patient-specific prescriptions.

(D) "Consult agreement" means an agreement that has been

entered into under section 4729.39 of the Revised Code.	75
(E) "Drug" means:	76
(1) Any article recognized in the United States	77
pharmacopoeia and national formulary, or any supplement to them,	78
intended for use in the diagnosis, cure, mitigation, treatment,	79
or prevention of disease in humans or animals;	80
(2) Any other article intended for use in the diagnosis,	81
cure, mitigation, treatment, or prevention of disease in humans	82
or animals;	83
(3) Any article, other than food, intended to affect the	84
structure or any function of the body of humans or animals;	85
(4) Any article intended for use as a component of any	86
article specified in division (E) (1), (2), or (3) of this	87
section; but does not include devices or their components,	88
parts, or accessories.	89
"Drug" does not include "hemp" or a "hemp product" as	90
those terms are defined in section 928.01 of the Revised Code.	91
(F) "Dangerous drug" means any of the following:	92
(1) Any drug to which either of the following applies:	93
(a) Under the "Federal Food, Drug, and Cosmetic Act," 52	94
Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is	95
required to bear a label containing the legend "Caution: Federal	96
law prohibits dispensing without prescription" or "Caution:	97
Federal law restricts this drug to use by or on the order of a	98
licensed veterinarian" or any similar restrictive statement, or	99
the drug may be dispensed only upon a prescription;	100
(b) Under Chapter 3715. or 3719. of the Revised Code, the	101

drug may be dispensed only upon a prescription.	102
(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;	103 104 105
(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body;	106 107 108
(4) Any drug that is a biological product, as defined in section 3715.01 of the Revised Code.	109 110
(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.	111 112
(H) "Prescription" means all of the following:	113
(1) A written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs;	114 115 116 117
(2) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, electronic, or oral order for a drug to treat chlamydia, gonorrhea, or trichomoniasis issued to and in the name of a patient who is not the intended user of the drug but is the sexual partner of the intended user;	118 119 120 121 122 123
(3) For purposes of sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.433, 4731.96, and 5101.76 of the Revised Code, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a school, school district, or camp;	124 125 126 127 128
(4) For purposes of Chapter 3728. and sections 4723.483,	129

4729.88, 4730.433, and 4731.96 of the Revised Code, a written, 130
electronic, or oral order for an epinephrine autoinjector issued 131
to and in the name of a qualified entity, as defined in section 132
3728.01 of the Revised Code; 133

(5) For purposes of sections 3313.7115, 3313.7116, 134
3314.147, 3326.60, 3328.38, 4723.4811, 4730.437, 4731.92, and 135
5101.78 of the Revised Code, a written, electronic, or oral 136
order for injectable or nasally administered glucagon in the 137
name of a school, school district, or camp. 138

(I) "Licensed health professional authorized to prescribe 139
drugs" or "prescriber" means an individual who is authorized by 140
law to prescribe drugs or dangerous drugs or drug therapy 141
related devices in the course of the individual's professional 142
practice, including only the following: 143

(1) A dentist licensed under Chapter 4715. of the Revised 144
Code; 145

(2) A clinical nurse specialist, certified nurse-midwife, 146
or certified nurse practitioner who holds a current, valid 147
license issued under Chapter 4723. of the Revised Code to 148
practice nursing as an advanced practice registered nurse; 149

(3) A certified registered nurse anesthetist who holds a 150
current, valid license issued under Chapter 4723. of the Revised 151
Code to practice nursing as an advanced practice registered 152
nurse, but only to the extent of the nurse's authority under 153
sections 4723.43 and 4723.434 of the Revised Code; 154

(4) An optometrist licensed under Chapter 4725. of the 155
Revised Code to practice optometry; 156

(5) A physician authorized under Chapter 4731. of the 157
Revised Code to practice medicine and surgery, osteopathic 158

medicine and surgery, or podiatric medicine and surgery;	159
(6) A physician assistant who holds a license to practice as a physician assistant issued under Chapter 4730. of the Revised Code, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority;	160 161 162 163 164
(7) A veterinarian licensed under Chapter 4741. of the Revised Code.	165 166
(J) "Sale" or "sell" includes any transaction made by any person, whether as principal proprietor, agent, or employee, to do or offer to do any of the following: deliver, distribute, broker, exchange, gift or otherwise give away, or transfer, whether the transfer is by passage of title, physical movement, or both.	167 168 169 170 171 172
(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.	173 174 175
(L) "Retail sale" and "sale at retail" mean any sale other than a wholesale sale or sale at wholesale.	176 177
(M) "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration do not constitute control or establish responsibility.	178 179 180 181 182
(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily understandable manner, all of the following:	183 184 185
(1) The proprietary name of the drug product;	186

(2) The established (generic) name of the drug product;	187
(3) The strength of the drug product if the product	188
contains a single active ingredient or if the drug product	189
contains more than one active ingredient and a relevant strength	190
can be associated with the product without indicating each	191
active ingredient. The established name and quantity of each	192
active ingredient are required if such a relevant strength	193
cannot be so associated with a drug product containing more than	194
one ingredient.	195
(4) The dosage form;	196
(5) The price charged for a specific quantity of the drug	197
product. The stated price shall include all charges to the	198
consumer, including, but not limited to, the cost of the drug	199
product, professional fees, handling fees, if any, and a	200
statement identifying professional services routinely furnished	201
by the pharmacy. Any mailing fees and delivery fees may be	202
stated separately without repetition. The information shall not	203
be false or misleading.	204
(O) "Wholesale distributor of dangerous drugs" or	205
"wholesale distributor" means a person engaged in the sale of	206
dangerous drugs at wholesale and includes any agent or employee	207
of such a person authorized by the person to engage in the sale	208
of dangerous drugs at wholesale.	209
(P) "Manufacturer of dangerous drugs" or "manufacturer"	210
means a person, other than a pharmacist or prescriber, who	211
manufactures dangerous drugs and who is engaged in the sale of	212
those dangerous drugs.	213
(Q) "Terminal distributor of dangerous drugs" or "terminal	214
distributor" means a person who is engaged in the sale of	215

dangerous drugs at retail, or any person, other than a 216
manufacturer, repackager, outsourcing facility, third-party 217
logistics provider, wholesale distributor, or pharmacist, who 218
has possession, custody, or control of dangerous drugs for any 219
purpose other than for that person's own use and consumption. 220
"Terminal distributor" includes pharmacies, hospitals, nursing 221
homes, and laboratories and all other persons who procure 222
dangerous drugs for sale or other distribution by or under the 223
supervision of a pharmacist, licensed health professional 224
authorized to prescribe drugs, or other person authorized by the 225
state board of pharmacy. 226

(R) "Promote to the public" means disseminating a 227
representation to the public in any manner or by any means, 228
other than by labeling, for the purpose of inducing, or that is 229
likely to induce, directly or indirectly, the purchase of a 230
dangerous drug at retail. 231

(S) "Person" includes any individual, partnership, 232
association, limited liability company, or corporation, the 233
state, any political subdivision of the state, and any district, 234
department, or agency of the state or its political 235
subdivisions. 236

(T) (1) "Animal shelter" means a facility operated by a 237
humane society or any society organized under Chapter 1717. of 238
the Revised Code or a dog pound operated pursuant to Chapter 239
955. of the Revised Code. 240

(2) "County dog warden" means a dog warden or deputy dog 241
warden appointed or employed under section 955.12 of the Revised 242
Code. 243

(U) "Food" has the same meaning as in section 3715.01 of 244

the Revised Code.	245
(V) "Pain management clinic" has the same meaning as in section 4731.054 of the Revised Code.	246 247
(W) "Investigational drug or product" means a drug or product that has successfully completed phase one of the United States food and drug administration clinical trials and remains under clinical trial, but has not been approved for general use by the United States food and drug administration.	248 249 250 251 252
"Investigational drug or product" does not include controlled substances in schedule I, as defined in section 3719.01 of the Revised Code.	253 254 255
(X) "Product," when used in reference to an investigational drug or product, means a biological product, other than a drug, that is made from a natural human, animal, or microorganism source and is intended to treat a disease or medical condition.	256 257 258 259 260
(Y) "Third-party logistics provider" means a person that provides or coordinates warehousing or other logistics services pertaining to dangerous drugs including distribution, on behalf of a manufacturer, wholesale distributor, or terminal distributor of dangerous drugs, but does not take ownership of the drugs or have responsibility to direct the sale or disposition of the drugs.	261 262 263 264 265 266 267
(Z) "Repackager of dangerous drugs" or "repackager" means a person that repacks and relabels dangerous drugs for sale or distribution.	268 269 270
(AA) "Outsourcing facility" means a facility that is engaged in the compounding and sale of sterile drugs and is registered as an outsourcing facility with the United States	271 272 273

food and drug administration. 274

(BB) "Laboratory" means a laboratory licensed under this 275
chapter as a terminal distributor of dangerous drugs and 276
entrusted to have custody of any of the following drugs and to 277
use the drugs for scientific and clinical purposes and for 278
purposes of instruction: dangerous drugs that are not controlled 279
substances, as defined in section 3719.01 of the Revised Code; 280
dangerous drugs that are controlled substances, as defined in 281
that section; and controlled substances in schedule I, as 282
defined in that section. 283

(CC) "Overdose reversal drug" means both of the following: 284

(1) Naloxone; 285

(2) Any other drug that the state board of pharmacy, 286
through rules adopted in accordance with Chapter 119. of the 287
Revised Code, designates as a drug that is approved by the 288
federal food and drug administration for the reversal of a known 289
or suspected opioid-related overdose. 290

Sec. 4729.21. (A) Pursuant to a statewide written protocol 291
established by the state board of pharmacy in rules adopted 292
under this section, a pharmacist may conduct screenings and 293
order laboratory and diagnostic tests and evaluate the results 294
of the screenings conducted and tests that are ordered, in order 295
to treat the following health conditions: 296

(1) Influenza; 297

(2) COVID-19; 298

(3) Pharyngitis caused by the bacteria known as group A 299
streptococcus. 300

(B) For purposes of the screening and testing authorized 301

<u>by this section:</u>	302
<u>(1) A pharmacist may use any established screening procedures that can safely be performed by a pharmacist.</u>	303 304
<u>(2) A pharmacist may use any tests to guide diagnosis or clinical decision-making that qualify for a waiver under the "Clinical Laboratory Improvement Amendments of 1988," 42 U.S.C. 263a, or the federal regulations adopted thereunder, as determined by the United States centers for medicare and medicaid services.</u>	305 306 307 308 309 310
<u>(3) Notwithstanding any provision of the Revised Code to the contrary, a pharmacist may delegate technical and administrative tasks associated with screening and testing to any of the following who is working under the direct supervision of the pharmacist: a pharmacy intern, registered pharmacy technician, or certified pharmacy technician.</u>	311 312 313 314 315 316
<u>(C) As part of treating a health condition under this section, a pharmacist may initiate drug therapy, notwithstanding the definition of "licensed health professional authorized to prescribe drugs" in section 4729.01 of the Revised Code.</u>	317 318 319 320
<u>(D) The board shall adopt rules as necessary to implement this section, including rules establishing the statewide written protocol described in division (A) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.</u>	321 322 323 324 325
<u>(E) This section is an alternative to the authority granted by sections 4729.39 and 4729.42 of the Revised Code.</u>	326 327
Sec. 4729.45. (A) As used in this section, "physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic	328 329 330

medicine and surgery.	331
(B) (1) Subject to division (C) of this section, a	332
pharmacist licensed under this chapter may administer by	333
injection any of the following drugs as long as the drug that is	334
to be administered has been prescribed by a physician and the	335
individual to whom the drug was prescribed has an ongoing	336
physician-patient relationship with the physician:	337
(a) An addiction treatment drug administered in a long-	338
acting or extended-release form;	339
(b) An antipsychotic drug administered in a long-acting or	340
extended-release form;	341
(c) <u>A human immunodeficiency virus treatment drug</u>	342
<u>administered in a long-acting or extended-release form;</u>	343
<u>(d) Hydroxyprogesterone caproate;</u>	344
(d) <u>(e) Medroxyprogesterone acetate;</u>	345
(e) <u>(f) Cobalamin;</u>	346
<u>(g) Any other drug that is specified in rules adopted</u>	347
<u>under division (H) (2) of this section.</u>	348
(2) As part of engaging in the administration of drugs by	349
injection pursuant to this section, a pharmacist may administer	350
epinephrine or diphenhydramine, or both, to an individual in an	351
emergency situation resulting from an adverse reaction to a drug	352
administered by the pharmacist.	353
(C) To be authorized to administer drugs pursuant to this	354
section, a pharmacist must do all of the following:	355
(1) Successfully complete a course in the administration	356
of drugs that satisfies the requirements established by the	357

state board of pharmacy in rules adopted under division (H) (1)	358
(a) of this section;	359
(2) Receive and maintain certification to perform basic	360
life-support procedures by successfully completing a basic life-	361
support training course that is certified by the American red	362
cross or American heart association or approved by the state	363
board of pharmacy;	364
(3) Practice in accordance with a protocol that meets the	365
requirements of division (F) of this section.	366
(D) Each time a pharmacist administers a drug pursuant to	367
this section, the pharmacist shall do all of the following:	368
(1) Obtain permission in accordance with the procedures	369
specified in rules adopted under division (H) of this section	370
and comply with the following requirements:	371
(a) Except as provided in division (D) (1) (c) of this	372
section, for each drug administered by a pharmacist to an	373
individual who is eighteen years of age or older, the pharmacist	374
shall obtain permission from the individual.	375
(b) For each drug administered by a pharmacist to an	376
individual who is under eighteen years of age, the pharmacist	377
shall obtain permission from the individual's parent or other	378
person having care or charge of the individual.	379
(c) For each drug administered by a pharmacist to an	380
individual who lacks the capacity to make informed health care	381
decisions, the pharmacist shall obtain permission from the	382
person authorized to make such decisions on the individual's	383
behalf.	384
(2) In the case of an addiction treatment drug described	385

in division (B) (1) (a) of this section, obtain in accordance with 386
division (E) of this section test results indicating that it is 387
appropriate to administer the drug to the individual if either 388
of the following is to be administered: 389

(a) The initial dose of the drug; 390

(b) Any subsequent dose, if the administration occurs more 391
than thirty days after the previous dose of the drug was 392
administered. 393

(3) Observe the individual to whom the drug is 394
administered to determine whether the individual has an adverse 395
reaction to the drug; 396

(4) Notify the physician who prescribed the drug that the 397
drug has been administered to the individual. 398

(E) A pharmacist may obtain the test results described in 399
division (D) (2) of this section in either of the following ways: 400

(1) From the physician; 401

(2) By ordering blood and urine tests for the individual 402
to whom the drug is to be administered. 403

If a pharmacist orders blood and urine tests, the 404
pharmacist shall evaluate the results of the tests to determine 405
whether they indicate that it is appropriate to administer the 406
drug. A pharmacist's authority to evaluate test results under 407
this division does not authorize the pharmacist to make a 408
diagnosis. 409

(F) All of the following apply with respect to the 410
protocol required by division (C) (3) of this section: 411

(1) The protocol must be established by a physician who 412

has a scope of practice that includes treatment of the condition 413
for which the individual has been prescribed the drug to be 414
administered. 415

(2) The protocol must satisfy the requirements established 416
in rules adopted under division (H) (1) (b) of this section. 417

(3) The protocol must do all of the following: 418

(a) Specify a definitive set of treatment guidelines; 419

(b) Specify the locations at which a pharmacist may engage 420
in the administration of drugs pursuant to this section; 421

(c) Include provisions for implementing the requirements 422
of division (D) of this section, including for purposes of 423
division (D) (3) of this section provisions specifying the length 424
of time and location at which a pharmacist must observe an 425
individual who receives a drug to determine whether the 426
individual has an adverse reaction to the drug; 427

(d) Specify procedures to be followed by a pharmacist when 428
administering epinephrine, diphenhydramine, or both, to an 429
individual who has an adverse reaction to a drug administered by 430
the pharmacist. 431

(G) A pharmacist shall not do either of the following: 432

(1) Engage in the administration of drugs pursuant to this 433
section unless the requirements of division (C) of this section 434
have been met; 435

(2) Delegate to any person the pharmacist's authority to 436
engage in the administration of drugs pursuant to this section. 437

(H) (1) The state board of pharmacy shall adopt rules to 438
implement this section. The rules shall be adopted in accordance 439

with Chapter 119. of the Revised Code and include all of the 440
following: 441

(a) Requirements for courses in administration of drugs; 442

(b) Requirements for protocols to be followed by 443
pharmacists in administering drugs pursuant to this section; 444

(c) Procedures to be followed by a pharmacist in obtaining 445
permission to administer a drug to an individual. 446

(2) The board may adopt rules in accordance with Chapter 447
119. of the Revised Code to specify other drugs that a 448
pharmacist may administer by injection in accordance with this 449
section. 450

(3) The board shall consult with the state medical board 451
before adopting rules ~~regarding requirements for protocols~~ under 452
divisions (H) (1) (b) and (2) of this section. 453

Section 2. That existing sections 4729.01 and 4729.45 of 454
the Revised Code are hereby repealed. 455

Section 3. Section 4729.01 of the Revised Code is 456
presented in this act as a composite of the section as amended 457
by both H.B. 509 and H.B. 558 of the 134th General Assembly. The 458
General Assembly, applying the principle stated in division (B) 459
of section 1.52 of the Revised Code that amendments are to be 460
harmonized if reasonably capable of simultaneous operation, 461
finds that the composite is the resulting version of the section 462
in effect prior to the effective date of the section as 463
presented in this act. 464