

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 377

Representative Raga

A BILL

To amend section 4729.25, to enact sections 4729.75 1
to 4729.81, and to repeal sections 4729.63 and 2
4729.64 of the Revised Code to require the State 3
Board of Pharmacy to establish and maintain a 4
dangerous drugs database to monitor the use, 5
misuse, and diversion of dangerous drugs. 6

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

Section 1. That section 4729.25 be amended and sections 7
4729.75, 4729.76, 4729.77, 4729.78, 4729.79, 4729.80, and 4729.81 8
of the Revised Code be enacted to read as follows: 9

Sec. 4729.25. (A) The state board of pharmacy shall enforce, 10
or cause to be enforced, this chapter. If it has information that 11
any provision of this chapter has been violated, it shall 12
investigate the matter, and take such action as it considers 13
appropriate in accordance with its rules adopted under section 14
4729.26 of the Revised Code. ~~With regard to violations of sections 15
4729.51 to 4729.62 of the Revised Code, the board's actions also 16
shall be taken in accordance with section 4729.63 of the Revised 17
Code.~~ 18

(B) Nothing in this chapter shall be construed to require the 19
state board of pharmacy to enforce minor violations of this 20

chapter if the board determines that the public interest is 21
adequately served by a notice or warning to the alleged offender. 22

Sec. 4729.75. The state board of pharmacy shall establish and 23
maintain a dangerous drugs database. The board shall use the 24
dangerous drugs database to monitor the use, misuse, and diversion 25
of dangerous drugs. The board shall electronically collect and 26
disseminate information pursuant to section 4729.79 of the Revised 27
Code and rules adopted under section 4729.81 of the Revised Code. 28

Sec. 4729.76. The executive director of the state board of 29
pharmacy shall do all of the following: 30

(A) Employ an administrator to manage and direct the duties 31
of staff employed to operate the dangerous drugs database. The 32
administrator shall be a person who has had training and 33
experience in areas related to the duties of the dangerous drugs 34
database. 35

(B) Employ such professional, technical, and clerical 36
employees as are necessary, and employ or hire on a consulting 37
basis other technical services required for the operation of the 38
dangerous drugs database; 39

(C) Fix the compensation of the administrator and all other 40
staff employed to operate the dangerous drugs database. 41

Sec. 4729.77. (A) Each licensed terminal distributor of 42
dangerous drugs delivered in the state that is required to submit 43
prescription information to the state board of pharmacy shall 44
submit to the board all of the following information: 45

(1) Terminal distributor identification; 46

(2) Patient identification; 47

(3) Prescriber identification; 48

<u>(4) Date prescription was issued by prescriber;</u>	49
<u>(5) Date prescription was dispensed;</u>	50
<u>(6) Indication of whether prescription dispensed is new or a refill;</u>	51 52
<u>(7) Name, strength, and national drug code of the drug dispensed;</u>	53 54
<u>(8) Quantity of drug dispensed;</u>	55
<u>(9) Number of days' supply of drug dispensed;</u>	56
<u>(10) Serial or prescription number assigned by the terminal distributor;</u>	57 58
<u>(11) Source of payment for the prescription.</u>	59
<u>(B) Information shall be submitted electronically in the format specified by the board unless a waiver has been granted by the board to the terminal distributor.</u>	60 61 62
<u>(C) Information shall be transmitted as designated by rule of the board, unless the board grants an extension.</u>	63 64
<u>An extension may be granted if either of the following occurs:</u>	65 66
<u>(1) The distributor suffers a mechanical or electronic failure, or cannot meet the deadline established by this division for other reasons beyond the distributor's control.</u>	67 68 69
<u>(2) The board is unable to receive electronic submissions.</u>	70
<u>(D) This section does not apply to a prescriber personally furnishing or administering dangerous drugs to the prescriber's patient.</u>	71 72 73
<u>Sec. 4729.78. (A) Each wholesale distributor of dangerous drugs delivered in the state that is required to submit purchase information to the state board of pharmacy shall submit to the</u>	74 75 76

<u>board all of the following information:</u>	77
<u>(1) Purchaser identification;</u>	78
<u>(2) Identification of the drug sold;</u>	79
<u>(3) Quantity of the drug sold;</u>	80
<u>(4) Date of sale;</u>	81
<u>(5) The wholesale distributor's license number issued by the board.</u>	82 83
<u>(B) The information shall be submitted electronically in the format specified by the state board of pharmacy unless a waiver has been granted by the board to the distributor.</u>	84 85 86
<u>(C) Information shall be transmitted as designated by rule of the board unless the board grants an extension.</u>	87 88
<u>An extension may be granted if either of the following occurs:</u>	89 90
<u>(1) The distributor suffers a mechanical or electronic failure, or cannot meet the deadline established by this division for other reasons beyond the distributor's control.</u>	91 92 93
<u>(2) The board of pharmacy is unable to receive electronic submissions.</u>	94 95
Sec. 4729.79. <u>(A) The state board of pharmacy may provide information from the dangerous drugs database to all of the following:</u>	96 97 98
<u>(1) A person who is a designated representative of a government entity responsible for the licensure, regulation, or discipline of licensed health care professionals authorized to prescribe drugs and is involved in an investigation of a person licensed, regulated, or subject to discipline by the entity;</u>	99 100 101 102 103

(2) A federal, state, county, township, or municipal officer of this or any other state, or the United States, whose duty is to enforce the laws relating to drugs and who is actively engaged in a specific investigation of a specific person or drug specified by the officer; 104
105
106
107
108

(3) A properly convened grand jury pursuant to a subpoena properly issued; 109
110

(4) A pharmacist or prescriber who requests the information and certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical treatment to a current patient of the pharmacist or prescriber; 111
112
113
114

(5) An individual who requests the individual's own dangerous drugs database information in accordance with the procedure established in rules adopted under section 4729.81 of the Revised Code. 115
116
117
118

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the dangerous drugs database. Pursuant to rules adopted by the board under section 4729.81 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes. 119
120
121
122
123
124

The board may provide records of an individual's requests for dangerous drugs database information to the following individuals: 125
126

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of licensed health care professionals authorized to prescribe drugs who is involved in a specific investigation of the individual who submitted the dangerous drugs database information request; 127
128
129
130
131

(2) A federal, state, county, township, or municipal officer of this or any other state, or the United States, whose duty is to 132
133

enforce the laws relating to drugs and who is actively engaged in 134
a specific investigation of the individual who submitted the 135
dangerous drugs database information request. 136

(C) Information contained in the dangerous drugs database and 137
any information obtained from it is not a public record. 138
Information contained in the records of requests for information 139
from the dangerous drugs database is not a public record. 140

(D) Information collected for the dangerous drugs database 141
shall be retained in the dangerous drugs database for two years. 142
It shall then be destroyed unless a law enforcement agency or a 143
government entity responsible for the licensure, regulation, or 144
discipline of licensed health care professionals authorized to 145
prescribe drugs has submitted a written request to the board for 146
retention of specific information in accordance with rules adopted 147
by the board under this chapter. 148

(E) Nothing in this section requires a pharmacist or 149
prescriber to obtain information about a patient from the 150
dangerous drugs database. A pharmacist or prescriber shall not be 151
held liable in damages to any person in any civil action for 152
injury, death, or loss to person or property on the basis that the 153
pharmacist or prescriber did or did not seek or obtain information 154
from the dangerous drugs database. 155

(F) The state board of pharmacy shall not impose any charge 156
on a pharmacist or prescriber for the establishment or maintenance 157
of the dangerous drugs database. The board shall not charge any 158
fees for the transmission of data to the dangerous drugs database 159
or for the receipt of information from the dangerous drugs 160
database, except that the board may charge a fee in accordance 161
with rules adopted under section 4729.81 of the Revised Code to an 162
individual who requests the individual's own dangerous drugs 163
database information. 164

Sec. 4729.80. The state board of pharmacy shall review the information in the dangerous drugs database. If the board determines that a violation of law may have occurred, it may notify the appropriate law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health care professionals authorized to prescribe drugs and supply information required for an investigation.

Sec. 4729.81. (A) In addition to rules adopted under sections 4729.26 and 4729.66 of the Revised Code, the state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of and enforce sections 4729.75 to 4729.80 of the Revised Code. The rules shall specify all of the following:

(1) A means of identifying each patient, terminal distributor, and each purchase at wholesale of dangerous drugs about which information is entered into the database;

(2) An electronic format for the submission of information from terminal distributors and wholesale distributors of dangerous drugs;

(3) A procedure whereby a terminal distributor or a wholesale distributor of dangerous drugs unable to submit information electronically may obtain a waiver to submit information in another format;

(4) A procedure whereby the board may grant a request from a law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health care professionals authorized to prescribe drugs that information that has been stored for two years be retained when the information pertains to an open investigation being conducted by the agency or board;

(5) A procedure whereby a terminal or wholesale distributor may apply for an extension to the time by which information must be transmitted to the board; 195
196
197

(6) A procedure whereby a person or government entity to which the board is authorized to provide information may submit a request to the board for the information and the board may verify the identity of the requestor; 198
199
200
201

(7) A procedure whereby the board can use the dangerous drugs database request records required by division (B) of section 4729.77 of the Revised Code to document and report statistics and law enforcement outcomes; 202
203
204
205

(8) A procedure whereby an individual may request the individual's own dangerous drugs database information and the board may verify the identity of the requestor; 206
207
208

(9) A reasonable fee that the board shall assess for providing an individual with the individual's own dangerous drugs database information pursuant to division (A)(5) of section 4729.79 of the Revised Code. 209
210
211
212

(B) The board shall designate which types of terminal distributors of dangerous drugs shall be required to submit prescription information to the board pursuant to section 4729.77 of the Revised Code. 213
214
215
216

(C) The board shall specify the dangerous drugs required to be monitored by the database, either by schedule or by specific dangerous drug. 217
218
219

(D) Two years after the effective date of this section and every two years thereafter, the board shall present to the standing committees of the house of representatives and the senate that are primarily responsible for considering health and human services issues a report of the following: 220
221
222
223
224

<u>(1) The cost to the state of implementing and maintaining the dangerous drugs database;</u>	225
	226
<u>(2) Information from terminal distributors, prescribers, and the state board of pharmacy regarding the board's effectiveness in providing information from the dangerous drugs database;</u>	227
	228
	229
<u>(3) The board's timeliness in transmitting information from the dangerous drugs database.</u>	230
	231
Section 2. That existing section 4729.25 and sections 4729.63 and 4729.64 of the Revised Code are hereby repealed.	232
	233