

As Reported by the House Health Committee

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 377

Representative Raga

A BILL

To amend sections 4729.25 and 4729.26, to enact
sections 4729.75 to 4729.81, and to repeal
sections 4729.63 and 4729.66 of the Revised Code
to require the State Board of Pharmacy to
establish and maintain a drug database to monitor
the misuse and diversion of controlled substances
and certain dangerous drugs.

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

Section 1. That sections 4729.25 and 4729.26 be amended and
sections 4729.75, 4729.76, 4729.77, 4729.78, 4729.79, 4729.80, and
4729.81 of the Revised Code be enacted to read as follows:

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

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(B) Nothing in this chapter shall be construed to require the

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state board of pharmacy to enforce minor violations of this 21
chapter if the board determines that the public interest is 22
adequately served by a notice or warning to the alleged offender. 23

Sec. 4729.26. The state board of pharmacy may adopt rules in 24
accordance with Chapter 119. of the Revised Code, not inconsistent 25
with the law, as may be necessary to carry out the purposes of and 26
to enforce the provisions of this chapter ~~pertaining to the~~ 27
~~practice of pharmacy.~~ The rules shall be published and made 28
available by the board to each pharmacist licensed under this 29
chapter. 30

Sec. 4729.75. The state board of pharmacy shall establish and 31
maintain a drug database. The board shall use the drug database to 32
monitor the misuse and diversion of controlled substances, as 33
defined in section 3719.01 of the Revised Code, and other 34
dangerous drugs the board includes in the database pursuant to 35
division (A)(10) of section 4729.81 of the Revised Code. The board 36
shall electronically collect and disseminate information pursuant 37
to sections 4729.79 and 4729.80 of the Revised Code and rules 38
adopted under section 4729.81 of the Revised Code. 39

Sec. 4729.76. The executive director of the state board of 40
pharmacy shall do all of the following: 41

(A) Employ an administrator to manage and direct the duties 42
of staff employed to operate the drug database. The administrator 43
shall be a person who has had training and experience in areas 44
related to the duties of the database. 45

(B) Employ such professional, technical, and clerical 46
employees as are necessary, and employ or hire on a consulting 47
basis other technical services required for the operation of the 48
database; 49

(C) Fix the compensation of the administrator and all other 50
staff employed to operate the database. 51

Sec. 4729.77. (A) Each pharmacy licensed as a terminal 52
distributor of dangerous drugs that dispenses drugs to patients in 53
the state shall submit the following prescription information to 54
the state board of pharmacy: 55

(1) Terminal distributor identification; 56

(2) Patient identification; 57

(3) Prescriber identification; 58

(4) Date prescription was issued by prescriber; 59

(5) Date prescription was dispensed; 60

(6) Indication of whether prescription dispensed is new or a 61
refill; 62

(7) Name, strength, and national drug code of the drug 63
dispensed; 64

(8) Quantity of drug dispensed; 65

(9) Number of days' supply of drug dispensed; 66

(10) Serial or prescription number assigned by the terminal 67
distributor; 68

(11) Source of payment for the prescription. 69

(B) Information shall be submitted electronically in the 70
format specified by the board unless a waiver has been granted by 71
the board to the terminal distributor. 72

(C) Information shall be transmitted as designated by rule of 73
the board, unless the board grants an extension. 74

An extension may be granted if either of the following 75
occurs: 76

(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. 77
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(2) The board is unable to receive electronic submissions. 80

(D) This section does not apply to a prescriber personally furnishing or administering dangerous drugs to the prescriber's patient. 81
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Sec. 4729.78. (A) Each wholesale distributor of dangerous drugs that delivers drugs to prescribers in the state shall submit the following purchase information to the state board of pharmacy: 84
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(1) Purchaser identification; 87

(2) Identification of the drug sold; 88

(3) Quantity of the drug sold; 89

(4) Date of sale; 90

(5) The wholesale distributor's license number issued by the board. 91
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(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. 93
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(C) Information shall be transmitted as designated by rule of the board unless the board grants an extension. 96
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An extension may be granted if either of the following occurs: 98
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(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. 100
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(2) The board of pharmacy is unable to receive electronic submissions. 103
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Sec. 4729.79. (A) The state board of pharmacy may provide 105
information from the drug database to all of the following: 106

(1) A person who is a designated representative of a 107
government entity responsible for the licensure, regulation, or 108
discipline of licensed health care professionals authorized to 109
prescribe drugs and is involved in an investigation of a person 110
licensed, regulated, or subject to discipline by the entity; 111

(2) A federal, state, county, township, or municipal officer 112
of this or any other state, or the United States, whose duty is to 113
enforce the laws relating to drugs and who is actively engaged in 114
a specific investigation; 115

(3) A properly convened grand jury pursuant to a subpoena 116
properly issued; 117

(4) A pharmacist or prescriber who requests the information 118
and certifies in a form specified by the board that it is for the 119
purpose of providing medical or pharmaceutical treatment to a 120
current patient of the pharmacist or prescriber; 121

(5) An individual who requests the individual's own database 122
information in accordance with the procedure established in rules 123
adopted under section 4729.81 of the Revised Code. 124

(B) The state board of pharmacy shall maintain a record of 125
each individual or entity that requests information from the 126
database. Pursuant to rules adopted by the board under section 127
4729.81 of the Revised Code, the board may use the records to 128
document and report statistics and law enforcement outcomes. 129

The board may provide records of an individual's requests for 130
database information to the following individuals: 131

(1) A designated representative of a government entity that 132
is responsible for the licensure, regulation, or discipline of 133
licensed health care professionals authorized to prescribe drugs 134

who is involved in a specific investigation of the individual who 135
submitted the request; 136

(2) A federal, state, county, township, or municipal officer 137
of this or any other state, or the United States, whose duty is to 138
enforce the laws relating to drugs and who is actively engaged in 139
a specific investigation of the individual who submitted the 140
request. 141

(C) Information contained in the database and any information 142
obtained from it is not a public record. Information contained in 143
the records of requests for information from the database is not a 144
public record. 145

(D) Information collected for the database shall be retained 146
in the database for two years. It shall then be destroyed unless a 147
law enforcement agency or a government entity responsible for the 148
licensure, regulation, or discipline of licensed health care 149
professionals authorized to prescribe drugs has submitted a 150
written request to the board for retention of specific information 151
in accordance with rules adopted by the board under this chapter. 152

(E) Nothing in this section requires a pharmacist or 153
prescriber to obtain information about a patient from the 154
database. A pharmacist or prescriber shall not be held liable in 155
damages to any person in any civil action for injury, death, or 156
loss to person or property on the basis that the pharmacist or 157
prescriber did or did not seek or obtain information from the 158
database. 159

(F) The state board of pharmacy shall not impose any charge 160
on a terminal distributor of dangerous drugs, pharmacist, or 161
prescriber for the establishment or maintenance of the database. 162
The board shall not charge any fees for the transmission of data 163
to the database or for the receipt of information from the 164
database, except that the board may charge a fee in accordance 165

with rules adopted under section 4729.81 of the Revised Code to an
individual who requests the individual's own database information.

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Sec. 4729.80. The state board of pharmacy shall review the
information in the drug 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.

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Sec. 4729.81. (A) In addition to rules adopted under section
4729.26 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:

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

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

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(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;

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(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

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<u>entity;</u>	196
<u>(5) A procedure whereby a terminal or wholesale distributor</u>	197
<u>may apply for an extension to the time by which information must</u>	198
<u>be transmitted to the board;</u>	199
<u>(6) A procedure whereby a person or government entity to</u>	200
<u>which the board is authorized to provide information may submit a</u>	201
<u>request to the board for the information and the board may verify</u>	202
<u>the identity of the requestor;</u>	203
<u>(7) A procedure whereby the board can use the database</u>	204
<u>request records required by division (B) of section 4729.77 of the</u>	205
<u>Revised Code to document and report statistics and law enforcement</u>	206
<u>outcomes;</u>	207
<u>(8) A procedure whereby an individual may request the</u>	208
<u>individual's own database information and the board may verify the</u>	209
<u>identity of the requestor;</u>	210
<u>(9) A reasonable fee that the board shall assess for</u>	211
<u>providing an individual with the individual's own database</u>	212
<u>information pursuant to division (A)(5) of section 4729.79 of the</u>	213
<u>Revised Code.</u>	214
<u>(10) The specific dangerous drugs other than controlled</u>	215
<u>substances that must be included in the database.</u>	216
<u>(B) The board shall designate which types of terminal</u>	217
<u>distributors of dangerous drugs shall be required to submit</u>	218
<u>prescription information to the board pursuant to section 4729.77</u>	219
<u>of the Revised Code.</u>	220
<u>(C) Two years after the effective date of this section and</u>	221
<u>every two years thereafter, the board shall present to the</u>	222
<u>standing committees of the house of representatives and the senate</u>	223
<u>that are primarily responsible for considering health and human</u>	224
<u>services issues a report of the following:</u>	225

<u>(1) The cost to the state of implementing and maintaining the</u>	226
<u>database;</u>	227
<u>(2) Information from terminal distributors, prescribers, and</u>	228
<u>the state board of pharmacy regarding the board's effectiveness in</u>	229
<u>providing information from the database;</u>	230
<u>(3) The board's timeliness in transmitting information from</u>	231
<u>the drug database.</u>	232
Section 2. That existing sections 4729.25 and 4729.26 and	233
sections 4729.63 and 4729.66 of the Revised Code are hereby	234
repealed.	235