

**As Passed by the Senate**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. S. B. No. 203**

**Senator Grendell**

**Cosponsors: Senators Padgett, Cates, Faber, Fedor, Goodman, Harris,  
Mason, Miller, D., Miller, R., Morano, Mumper, Niehaus, Sawyer, Schaffer,  
Stivers, Wagoner, Wilson, Bocchieri, Spada, Austria**

—

**A B I L L**

To amend sections 3719.21, 4729.99, 4776.02, and 1  
4776.04 and to enact section 4729.42 of the 2  
Revised Code to prohibit unauthorized 3  
pharmacy-related drug conduct relative to persons 4  
employed as pharmacy technicians. 5

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

**Section 1.** That sections 3719.21, 4729.99, 4776.02, and 6  
4776.04 be amended and section 4729.42 of the Revised Code be 7  
enacted to read as follows: 8

**Sec. 3719.21.** Except as provided in division (C) of section 9  
2923.42, division (B) of section 2923.44, divisions (D)(1), (F), 10  
and (H) of section 2925.03, division (D)(1) of section 2925.02, 11  
2925.04, or 2925.05, division (E)(1) of section 2925.11, division 12  
(F) of section 2925.13, division (F) of section 2925.36, division 13  
(D) of section 2925.22, division (H) of section 2925.23, division 14  
(M) of section 2925.37, division (B) of section 2925.42, division 15  
(B) of section 2929.18, division (D) of section 3719.99, division 16  
(B)(1) of section 4729.65, ~~and~~ division (E)(3) of section 4729.99, 17

and division (I)(3) of section 4729.99 of the Revised Code, the 18  
clerk of the court shall pay all fines or forfeited bail assessed 19  
and collected under prosecutions or prosecutions commenced for 20  
violations of this chapter, section 2923.42 of the Revised Code, 21  
or Chapter 2925. of the Revised Code, within thirty days, to the 22  
executive director of the state board of pharmacy, and the 23  
executive director shall deposit the fines into the state treasury 24  
to the credit of the occupational licensing and regulatory fund. 25

Sec. 4729.42. (A) As used in this section, "qualified 27  
pharmacy technician" means a person who is under the personal 28  
supervision of a pharmacist and to whom all of the following 29  
apply: 30

(1) The person is eighteen years of age or older. 31

(2) The person possesses a high school diploma, possesses a 32  
certificate of high school equivalence, or was employed prior to 33  
the effective date of this section as a pharmacy technician 34  
without a high school diploma or a certificate of high school 35  
equivalence. 36

(3) The person has passed an examination approved by the 37  
state board of pharmacy to determine a person's competency to 38  
perform services as a pharmacy technician. 39

(4) Except as otherwise provided in this section, the person 40  
has submitted to a criminal records check in accordance with 41  
section 4776.02 of the Revised Code as if the person was an 42  
applicant for an initial license who is subject to that section, 43  
and the results of the criminal records check do not show that the 44  
person previously has been convicted of or pleaded guilty to any 45  
felony in this state, any other state, or the United States. 46

(B) Except as provided in division (E) of this section, no 47

person who is not a pharmacist, pharmacy intern, or qualified 48  
pharmacy technician shall do any of the following in a pharmacy or 49  
while performing a function of a pharmacy: 50

(1) Engage in the compounding of any drug; 51

(2) Package or label any drug; 52

(3) Prepare or mix any intravenous drug to be injected into a 53  
human being. 54

(C) No pharmacist shall allow any person employed or 55  
otherwise under the control of the pharmacist to violate division 56  
(B) of this section. 57

(D) No person who owns, manages, or conducts a pharmacy shall 58  
allow any person employed or otherwise under the control of the 59  
person who owns, manages, or conducts the pharmacy to violate 60  
division (B) of this section. 61

(E)(1) Division (B) of this section does not prohibit a 62  
health care professional authorized to engage in the activities 63  
specified in division (B)(1), (2), or (3) of this section while 64  
acting in the course of the professional's practice. 65

(2) Division (B) of this section does not prohibit the 66  
activities performed by a student as an integral part of a 67  
pharmacy technician training program that is operated by a 68  
vocational school district or joint vocational school district, 69  
certified by the department of education, or approved by the Ohio 70  
board of regents. 71

(3) In the case of a person employed after the effective date 72  
of this section, division (B) of this section does not prohibit 73  
the person's activities for the first two hundred ten days 74  
following the initial date of employment, if both of the following 75  
apply: 76

(a) The person is participating in or has completed a 77

pharmacy technician training program that meets the board's 78  
standards for those programs and is making substantial progress in 79  
preparation to take a pharmacy technician examination approved by 80  
the board. 81

(b) The results of the person's criminal records check show 82  
that the person previously has not been convicted of or has not 83  
pleaded guilty to any felony in this state, any other state, or 84  
the United States. 85

(4) In the case of a person who completes a pharmacy 86  
technician training program that is operated by a vocational 87  
school district or joint vocational school district, division (B) 88  
of this section does not prohibit the person's activities for the 89  
first two hundred ten days following the date of completing the 90  
program, if both of the following apply: 91

(a) The person is making substantial progress in preparation 92  
to take a pharmacy technician examination approved by the board. 93

(b) The results of the person's criminal records check show 94  
that the person previously has not been convicted of or has not 95  
pleaded guilty to any felony in this state, any other state, or 96  
the United States. 97

(5) In the case of a person employed on the effective date of 98  
this section in the capacity of a pharmacy technician, division 99  
(B) of this section does not do either of the following: 100

(a) Require the person to undergo a criminal records check if 101  
the person has been employed for five years or longer; 102

(b) Prohibit the person's activities until the earlier of one 103  
of the following: 104

(i) One year after the effective date of this section; 105

(ii) The date on which the person receives notice of the 106  
results of a pharmacy technician examination approved by the 107

board; 108

(iii) If a criminal records check is required because the 109  
person has not been employed for five years or longer, the date on 110  
which the person and the employer receive the results of a 111  
criminal records check that show the person previously has been 112  
convicted of or pleaded guilty to any felony in this state, any 113  
other state, or the United States. 114

**Sec. 4729.99.** (A) Whoever violates section 4729.16, division 115  
(A) or (B) of section 4729.38, or section 4729.57 of the Revised 116  
Code is guilty of a minor misdemeanor. Each day's violation 117  
constitutes a separate offense. 118

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of 119  
the Revised Code is guilty of a misdemeanor of the third degree. 120  
Each day's violation constitutes a separate offense. If the 121  
offender previously has been convicted of or pleaded guilty to a 122  
violation of this chapter, that person is guilty of a misdemeanor 123  
of the second degree. 124

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of 125  
the Revised Code is guilty of a misdemeanor. 126

(D) Whoever violates division (A), (B), (D), or (E) of 127  
section 4729.51 of the Revised Code is guilty of a misdemeanor of 128  
the first degree. 129

(E)(1) Whoever violates section 4729.37, division (C)(2) of 130  
section 4729.51, division (J) of section 4729.54, or section 131  
4729.61 of the Revised Code is guilty of a felony of the fifth 132  
degree. If the offender previously has been convicted of or 133  
pleaded guilty to a violation of this chapter or a violation of 134  
Chapter 2925. or 3719. of the Revised Code, that person is guilty 135  
of a felony of the fourth degree. 136

(2) If an offender is convicted of or pleads guilty to a 137

violation of section 4729.37, division (C) of section 4729.51, 138  
division (J) of section 4729.54, or section 4729.61 of the Revised 139  
Code, if the violation involves the sale, offer to sell, or 140  
possession of a schedule I or II controlled substance, with the 141  
exception of marihuana, and if the court imposing sentence upon 142  
the offender finds that the offender as a result of the violation 143  
is a major drug offender, as defined in section 2929.01 of the 144  
Revised Code, and is guilty of a specification of the type 145  
described in section 2941.1410 of the Revised Code, the court, in 146  
lieu of the prison term authorized or required by division (E)(1) 147  
of this section and sections 2929.13 and 2929.14 of the Revised 148  
Code and in addition to any other sanction imposed for the offense 149  
under sections 2929.11 to 2929.18 of the Revised Code, shall 150  
impose upon the offender, in accordance with division (D)(3)(a) of 151  
section 2929.14 of the Revised Code, the mandatory prison term 152  
specified in that division and may impose an additional prison 153  
term under division (D)(3)(b) of that section. 154

(3) Notwithstanding any contrary provision of section 3719.21 155  
of the Revised Code, the clerk of court shall pay any fine imposed 156  
for a violation of section 4729.37, division (C) of section 157  
4729.51, division (J) of section 4729.54, or section 4729.61 of 158  
the Revised Code pursuant to division (A) of section 2929.18 of 159  
the Revised Code in accordance with and subject to the 160  
requirements of division (F) of section 2925.03 of the Revised 161  
Code. The agency that receives the fine shall use the fine as 162  
specified in division (F) of section 2925.03 of the Revised Code. 163

(F) Whoever violates section 4729.531 of the Revised Code or 164  
any rule adopted thereunder or section 4729.532 of the Revised 165  
Code is guilty of a misdemeanor of the first degree. 166

(G) Whoever violates division (C)(1) of section 4729.51 of 167  
the Revised Code is guilty of a felony of the fourth degree. If 168  
the offender has previously been convicted of or pleaded guilty to 169

a violation of this chapter, or of a violation of Chapter 2925. or 170  
3719. of the Revised Code, that person is guilty of a felony of 171  
the third degree. 172

(H) Whoever violates division (C)(3) of section 4729.51 of 173  
the Revised Code is guilty of a misdemeanor of the first degree. 174  
If the offender has previously been convicted of or pleaded guilty 175  
to a violation of this chapter, or of a violation of Chapter 2925. 176  
or 3719. of the Revised Code, that person is guilty of a felony of 177  
the fifth degree. 178

(I)(1) Whoever violates division (B) of section 4729.42 of 179  
the Revised Code is guilty of unauthorized pharmacy-related drug 180  
conduct. Except as otherwise provided in this section, 181  
unauthorized pharmacy-related drug conduct is a misdemeanor of the 182  
second degree. If the offender previously has been convicted of or 183  
pleaded guilty to a violation of division (B), (C), or (D) of that 184  
section, unauthorized pharmacy-related drug conduct is a 185  
misdemeanor of the first degree on a second offense and a felony 186  
of the fifth degree on a third or subsequent offense. 187

(2) Whoever violates division (C) or (D) of section 4729.42 188  
of the Revised Code is guilty of permitting unauthorized 189  
pharmacy-related drug conduct. Except as otherwise provided in 190  
this section, permitting unauthorized pharmacy-related drug 191  
conduct is a misdemeanor of the second degree. If the offender 192  
previously has been convicted of or pleaded guilty to a violation 193  
of division (B), (C), or (D) of that section, permitting 194  
unauthorized pharmacy-related drug conduct is a misdemeanor of the 195  
first degree on a second offense and a felony of the fifth degree 196  
on a third or subsequent offense. 197

(3) Notwithstanding any contrary provision of section 3719.21 198  
of the Revised Code or any other provision of law that governs the 199  
distribution of fines, the clerk of the court shall pay any fine 200  
imposed pursuant to division (I)(1) or (2) of this section to the 201

state board of pharmacy if the board has adopted a written 202  
internal control policy under division (F)(2) of section 2925.03 203  
of the Revised Code that addresses fine moneys that it receives 204  
under Chapter 2925. of the Revised Code and if the policy also 205  
addresses fine moneys paid under this division. The state board of 206  
pharmacy shall use the fines so paid in accordance with the 207  
written internal control policy to subsidize the board's law 208  
enforcement efforts that pertain to drug offenses. 209

**Sec. 4776.02.** (A) An applicant for an initial license or 210  
restored license from a licensing agency, or a person seeking to 211  
satisfy the criteria for being a qualified pharmacy technician 212  
that are specified in section 4729.42 of the Revised Code, shall 213  
submit a request to the bureau of criminal identification and 214  
investigation for a criminal records check of the applicant or 215  
person. The request shall be accompanied by a completed copy of 216  
the form prescribed under division (C)(1) of section 109.572 of 217  
the Revised Code, a set of fingerprint impressions obtained as 218  
described in division (C)(2) of that section, and the fee 219  
prescribed under division (C)(3) of that section. The applicant or 220  
person shall ask the superintendent of the bureau of criminal 221  
identification and investigation in the request to obtain from the 222  
federal bureau of investigation any information it has pertaining 223  
to the applicant or person. 224

An applicant or person requesting a criminal records check 225  
shall provide the bureau of criminal identification and 226  
investigation with the applicant's or person's name and address 227  
and, regarding an applicant, with the licensing agency's name and 228  
address. 229

(B) Upon receipt of the completed form, the set of 230  
fingerprint impressions, and the fee provided for in division (A) 231  
of this section, the superintendent shall conduct a criminal 232



records check of the applicant or person under division (B) of 233  
section 109.572 of the Revised Code. Upon completion of the 234  
criminal records check, the superintendent shall report the 235  
results of the criminal records check and any information the 236  
federal bureau of investigation provides to whichever of the 237  
following is applicable: 238

(1) If the request was submitted by an applicant for an 239  
initial license or restored license, to the licensing agency 240  
identified in the request for a criminal records check; 241

(2) If the request was submitted by a person seeking to 242  
satisfy the criteria for being a qualified pharmacy technician 243  
that are specified in section 4729.42 of the Revised Code, to the 244  
person who submitted the request and to the employer or potential 245  
employer specified in the request. 246

**Sec. 4776.04.** The results of any criminal records check 247  
conducted pursuant to a request made under this chapter and any 248  
report containing those results, including any information the 249  
federal bureau of investigation provides, are not public records 250  
for purposes of section 149.43 of the Revised Code and shall not 251  
be made available to any person or for any purpose other than as 252  
follows: 253

(A) If the request for the criminal records check was 254  
submitted by an applicant for an initial license or restored 255  
license, as follows: 256

(1) The superintendent of the bureau of criminal 257  
identification and investigation shall make the results available 258  
to the licensing agency for use in determining, under the agency's 259  
authorizing chapter of the Revised Code, whether the applicant who 260  
is the subject of the criminal records check should be granted a 261  
license under that chapter. 262

~~(B)(2)~~ The licensing agency shall make the results available 263  
to the applicant who is the subject of the criminal records check 264  
or to the applicant's representative. 265

(B) If the request for the criminal records check was 266  
submitted by a person seeking to satisfy the criteria for being a 267  
qualified pharmacy technician that are specified in section 268  
4729.42 of the Revised Code, the superintendent of the bureau of 269  
criminal identification and investigation shall make the results 270  
available to both of the following: 271

(1) The person who submitted the request and is the subject 272  
of the criminal records check; 273

(2) The employer or potential employer specified in the 274  
request. 275

**Section 2.** That existing sections 3719.21, 4729.99, 4776.02, 276  
and 4776.04 of the Revised Code are hereby repealed. 277