

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**S. B. No. 119**

**Senator Grendell**

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**A B I L L**

To amend section 4729.99 and to enact section 4729.20 1  
of the Revised Code to require pharmacists, 2  
pharmacy interns, and qualified pharmacy 3  
technicians to report suspected dispensing errors 4  
to the State Board of Pharmacy, to require the 5  
Board to investigate all such reports and to 6  
pursue disciplinary action when warranted, and to 7  
specify criminal penalties for failure to comply 8  
with the reporting requirements. 9

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

**Section 1.** That section 4729.99 be amended and section 10  
4729.20 of the Revised Code be enacted to read as follows: 11

**Sec. 4729.20.** As used in this section, "qualified pharmacy 12  
technician" has the same meaning as in section 4729.42 of the 13  
Revised Code. 14

(A) If a pharmacist, pharmacy intern, or qualified pharmacy 15  
technician employed by, or working at, a pharmacy possesses 16  
information reasonably suggesting that an error was made in 17  
dispensing a dangerous drug to a patient from that pharmacy, the 18  
pharmacist, intern, or technician shall report the information to 19  
the state board of pharmacy. The report shall be in writing on a 20

form prescribed by the board in rules adopted pursuant to section 21  
4729.26 of the Revised Code and be submitted to the board not 22  
later than fourteen days after the individual becomes aware of the 23  
alleged dispensing error. 24

(B) An individual who files a report under this section shall 25  
retain all documents, labels, vials, supplies, substances, and 26  
internal investigative materials, if any, relating to the report. 27  
Any of these items shall be made available to the board on the 28  
board's request. 29

(C) No pharmacist, pharmacy intern, or qualified pharmacy 30  
technician shall fail to comply with division (A) or (B) of this 31  
section. 32

(D) The board shall investigate all reports filed under 33  
division (A) of this section. If the board finds that grounds to 34  
pursue disciplinary action against a pharmacist or pharmacy intern 35  
exist, the board shall pursue such action in accordance with 36  
section 4729.16 of the Revised Code. 37

(E) A report filed pursuant to division (A) of this section 38  
is not a public record under section 149.43 of the Revised Code 39  
and shall not be made available by the board to any person other 40  
than the individual who filed the report, the individual's 41  
representative, the attorney general, the prosecuting attorney of 42  
the county in which the alleged error occurred, or any other 43  
local, state, or federal law enforcement agency. 44

**Sec. 4729.99.** (A) Whoever violates section 4729.16, division 45  
(A) or (B) of section 4729.38, or section 4729.57 of the Revised 46  
Code is guilty of a minor misdemeanor. Each day's violation 47  
constitutes a separate offense. 48

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of 49  
the Revised Code is guilty of a misdemeanor of the third degree. 50

Each day's violation constitutes a separate offense. If the offender previously has been convicted of or pleaded guilty to a violation of this chapter, that person is guilty of a misdemeanor of the second degree.

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

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

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

(2) If an offender is convicted of or pleads guilty to a violation of section 4729.37, division (C) of section 4729.51, division (J) of section 4729.54, or section 4729.61 of the Revised Code, if the violation involves the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and if the court imposing sentence upon the offender finds that the offender as a result of the violation is a major drug offender, as defined in section 2929.01 of the Revised Code, and is guilty of a specification of the type described in section 2941.1410 of the Revised Code, the court, in lieu of the prison term authorized or required by division (E)(1) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under sections 2929.11 to 2929.18 of the Revised Code, shall impose upon the offender, in accordance with division (D)(3)(a) of section 2929.14 of the Revised Code, the mandatory prison term

specified in that division and may impose an additional prison 83  
term under division (D)(3)(b) of that section. 84

(3) Notwithstanding any contrary provision of section 3719.21 85  
of the Revised Code, the clerk of court shall pay any fine imposed 86  
for a violation of section 4729.37, division (C) of section 87  
4729.51, division (J) of section 4729.54, or section 4729.61 of 88  
the Revised Code pursuant to division (A) of section 2929.18 of 89  
the Revised Code in accordance with and subject to the 90  
requirements of division (F) of section 2925.03 of the Revised 91  
Code. The agency that receives the fine shall use the fine as 92  
specified in division (F) of section 2925.03 of the Revised Code. 93

(F) Whoever violates section 4729.531 of the Revised Code or 94  
any rule adopted thereunder or section 4729.532 of the Revised 95  
Code is guilty of a misdemeanor of the first degree. 96

(G) Whoever violates division (C)(1) of section 4729.51 of 97  
the Revised Code is guilty of a felony of the fourth degree. If 98  
the offender has previously been convicted of or pleaded guilty to 99  
a violation of this chapter, or of a violation of Chapter 2925. or 100  
3719. of the Revised Code, that person is guilty of a felony of 101  
the third degree. 102

(H) Whoever violates division (C)(3) of section 4729.51 of 103  
the Revised Code is guilty of a misdemeanor of the first degree. 104  
If the offender has previously been convicted of or pleaded guilty 105  
to a violation of this chapter, or of a violation of Chapter 2925. 106  
or 3719. of the Revised Code, that person is guilty of a felony of 107  
the fifth degree. 108

(I)(1) Whoever violates division (B) of section 4729.42 of 109  
the Revised Code is guilty of unauthorized pharmacy-related drug 110  
conduct. Except as otherwise provided in this section, 111  
unauthorized pharmacy-related drug conduct is a misdemeanor of the 112  
second degree. If the offender previously has been convicted of or 113

pleaded guilty to a violation of division (B), (C), (D), or (E) of 114  
that section, unauthorized pharmacy-related drug conduct is a 115  
misdemeanor of the first degree on a second offense and a felony 116  
of the fifth degree on a third or subsequent offense. 117

(2) Whoever violates division (C) or (D) of section 4729.42 118  
of the Revised Code is guilty of permitting unauthorized 119  
pharmacy-related drug conduct. Except as otherwise provided in 120  
this section, permitting unauthorized pharmacy-related drug 121  
conduct is a misdemeanor of the second degree. If the offender 122  
previously has been convicted of or pleaded guilty to a violation 123  
of division (B), (C), (D), or (E) of that section, permitting 124  
unauthorized pharmacy-related drug conduct is a misdemeanor of the 125  
first degree on a second offense and a felony of the fifth degree 126  
on a third or subsequent offense. 127

(3) Whoever violates division (E) of section 4749.02 of the 128  
Revised Code is guilty of the offense of falsification under 129  
section 2921.13 of the Revised Code. In addition to any other 130  
sanction imposed for the violation, the offender is forever 131  
disqualified from engaging in any activity specified in division 132  
(B)(1), (2), or (3) of section 4749.02 of the Revised Code and 133  
from performing any function as a health care professional or 134  
health care worker. As used in this division, "health care 135  
professional" and "health care worker" have the same meanings as 136  
in section 2305.234 of the Revised Code. 137

(4) Notwithstanding any contrary provision of section 3719.21 138  
of the Revised Code or any other provision of law that governs the 139  
distribution of fines, the clerk of the court shall pay any fine 140  
imposed pursuant to division (I)(1), (2), or (3) of this section 141  
to the state board of pharmacy if the board has adopted a written 142  
internal control policy under division (F)(2) of section 2925.03 143  
of the Revised Code that addresses fine moneys that it receives 144  
under Chapter 2925. of the Revised Code and if the policy also 145

addresses fine moneys paid under this division. The state board of 146  
pharmacy shall use the fines so paid in accordance with the 147  
written internal control policy to subsidize the board's law 148  
enforcement efforts that pertain to drug offenses. 149

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(J) Whoever violates division (A) or (B) of section 4729.20 151  
of the Revised Code is guilty of a misdemeanor of the fourth 152  
degree, except that if the offender has been convicted of or 153  
pleaded guilty to a violation of either of these divisions three 154  
or more times in a single six-month period, the offender is guilty 155  
of a misdemeanor of the first degree. 156

**Section 2.** That existing section 4729.99 of the Revised Code 157  
is hereby repealed. 158