

**CORRECTED VERSION
As Passed by the House**

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Am. Sub. H. B. No. 378

Representatives Smith, Sprague

**Cosponsors: Representatives Wachtmann, Brown, Sears, Adams, R.,
Anielski, Antonio, Baker, Bishoff, Blessing, Boose, Buchy, Budish, Burkley,
Butler, Conditt, Derickson, Dovilla, Driehaus, Duffey, Fedor, Gerberry, Green,
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McClain, Milkovich, O'Brien, Patterson, Pelanda, Reece, Rogers, Ruhl,
Sheehy, Stinziano, Terhar, Thompson, Winburn Speaker Batchelder**

A B I L L

To amend sections 4729.291, 4729.541, and 4729.99 and 1
to enact section 4731.056 of the Revised Code to 2
establish requirements regarding controlled 3
substances containing buprenorphine used for the 4
purpose of treating drug dependence or addiction. 5

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

Section 1. That sections 4729.291, 4729.541, and 4729.99 be 6
amended and section 4731.056 of the Revised Code be enacted to 7
read as follows: 8

Sec. 4729.291. (A) When a licensed health professional 9
authorized to prescribe drugs personally furnishes drugs to a 10
patient pursuant to division (B) of section 4729.29 of the Revised 11
Code, the prescriber shall ensure that the drugs are labeled and 12
packaged in accordance with state and federal drug laws and any 13

rules and regulations adopted pursuant to those laws. Records of 14
purchase and disposition of all drugs personally furnished to 15
patients shall be maintained by the prescriber in accordance with 16
state and federal drug statutes and any rules adopted pursuant to 17
those statutes. 18

(B) When personally furnishing to a patient RU-486 19
(mifepristone), a prescriber is subject to section 2919.123 of the 20
Revised Code. A prescription for RU-486 (mifepristone) shall be in 21
writing and in accordance with section 2919.123 of the Revised 22
Code. 23

(C)(1) Except as provided in division (D) of this section, a 24
no prescriber ~~may not~~ shall do either of the following: 25

(a) In any thirty-day period, personally furnish to or for 26
patients, taken as a whole, controlled substances in an amount 27
that exceeds a total of two thousand five hundred dosage units; 28

(b) In any seventy-two-hour period, personally furnish to or 29
for a patient an amount of a controlled substance that exceeds the 30
amount necessary for the patient's use in a seventy-two-hour 31
period. 32

(2) The state board of pharmacy may impose a fine of not more 33
than five thousand dollars on a prescriber who fails to comply 34
with the limits established under division (C)(1) of this section. 35
A separate fine may be imposed for each instance of failing to 36
comply with the limits. In imposing the fine, the board's actions 37
shall be taken in accordance with Chapter 119. of the Revised 38
Code. 39

(D)(1) None of the following shall be counted in determining 40
whether the amounts specified in division (C)(1) of this section 41
have been exceeded: 42

(a) Methadone provided to patients for the purpose of 43
treating drug dependence or addiction, if the prescriber meets the 44

conditions specified in 21 C.F.R. 1306.07; 45

(b) Buprenorphine provided to patients for the purpose of 46
treating drug dependence or addiction, ~~if the prescriber is exempt~~ 47
~~from separate registration with the United States drug enforcement~~ 48
~~administration as part of an opioid treatment program that is the~~ 49
subject of a current, valid certification from the substance abuse 50
and mental health services administration of the United States 51
department of health and human services pursuant to 21 42 C.F.R. 52
1301.28 8.11 and distributes both buprenorphine and methadone; 53

(c) Controlled substances provided to research subjects by a 54
facility conducting clinical research in studies approved by a 55
hospital-based institutional review board or an institutional 56
review board accredited by the association for the accreditation 57
of human research protection programs. 58

(2) Division (C)(1) of this section does not apply to a 59
prescriber who is a veterinarian. 60

Sec. 4729.541. (A) Except as provided in divisions (B) and 61
(C) of this section, a business entity described in division 62
(B)(1)(j) or (k) of section 4729.51 of the Revised Code may 63
possess, have custody or control of, and distribute the dangerous 64
drugs in category I, category II, and category III, as defined in 65
section 4729.54 of the Revised Code, without holding a terminal 66
distributor of dangerous drugs license issued under that section. 67

(B) If a business entity described in division (B)(1)(j) or 68
(k) of section 4729.51 of the Revised Code is a pain management 69
clinic or is operating a pain management clinic, the entity shall 70
hold a license as a terminal distributor of dangerous drugs with a 71
pain management clinic classification issued under section 72
4729.552 of the Revised Code. 73

(C) Beginning April 1, 2015, a business entity described in 74

division (B)(1)(j) or (k) of section 4729.51 of the Revised Code 75
shall hold a license as a terminal distributor of dangerous drugs 76
in order to possess, have custody or control of, and distribute 77
~~dangerous~~ either of the following: 78

(1) Dangerous drugs that are compounded or used for the 79
purpose of compounding; 80

(2) Controlled substances containing buprenorphine that are 81
used for the purpose of treating drug dependence or addiction. 82

Sec. 4729.99. (A) Whoever violates section 4729.16, division 83
(A) or (B) of section 4729.38, or section 4729.57 of the Revised 84
Code is guilty of a minor misdemeanor. Each day's violation 85
constitutes a separate offense. 86

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of 87
the Revised Code is guilty of a misdemeanor of the third degree. 88
Each day's violation constitutes a separate offense. If the 89
offender previously has been convicted of or pleaded guilty to a 90
violation of this chapter, that person is guilty of a misdemeanor 91
of the second degree. 92

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of 93
the Revised Code is guilty of a misdemeanor. 94

(D) Whoever violates division (A), (B), (D), or (E) of 95
section 4729.51 of the Revised Code is guilty of a misdemeanor of 96
the first degree. 97

(E)(1) Whoever violates section 4729.37, division (C)(2) of 98
section 4729.51, division (J) of section 4729.54, or section 99
4729.61 of the Revised Code is guilty of a felony of the fifth 100
degree. If the offender previously has been convicted of or 101
pleaded guilty to a violation of this chapter or a violation of 102
Chapter 2925. or 3719. of the Revised Code, that person is guilty 103
of a felony of the fourth degree. 104

(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 (B)(3) of section 2929.14 of the Revised Code, the mandatory prison term specified in that division.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of court shall pay any fine imposed for 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 pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

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

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

a violation of this chapter, or of a violation of Chapter 2925. or 137
3719. of the Revised Code, that person is guilty of a felony of 138
the third degree. 139

(H) Whoever violates division (C)(3) of section 4729.51 of 140
the Revised Code is guilty of a misdemeanor of the first degree. 141
If the offender has previously been convicted of or pleaded guilty 142
to a violation of this chapter, or of a violation of Chapter 2925. 143
or 3719. of the Revised Code, that person is guilty of a felony of 144
the fifth degree. 145

(I)(1) Whoever violates division (B) of section 4729.42 of 146
the Revised Code is guilty of unauthorized pharmacy-related drug 147
conduct. Except as otherwise provided in this section, 148
unauthorized pharmacy-related drug conduct is a misdemeanor of the 149
second degree. If the offender previously has been convicted of or 150
pleaded guilty to a violation of division (B), (C), (D), or (E) of 151
that section, unauthorized pharmacy-related drug conduct is a 152
misdemeanor of the first degree on a second offense and a felony 153
of the fifth degree on a third or subsequent offense. 154

(2) Whoever violates division (C) or (D) of section 4729.42 155
of the Revised Code is guilty of permitting unauthorized 156
pharmacy-related drug conduct. Except as otherwise provided in 157
this section, permitting unauthorized pharmacy-related drug 158
conduct is a misdemeanor of the second degree. If the offender 159
previously has been convicted of or pleaded guilty to a violation 160
of division (B), (C), (D), or (E) of that section, permitting 161
unauthorized pharmacy-related drug conduct is a misdemeanor of the 162
first degree on a second offense and a felony of the fifth degree 163
on a third or subsequent offense. 164

(3) Whoever violates division (E) of section 4729.42 of the 165
Revised Code is guilty of the offense of falsification under 166
section 2921.13 of the Revised Code. In addition to any other 167
sanction imposed for the violation, the offender is forever 168

disqualified from engaging in any activity specified in division 169
(B)(1), (2), or (3) of section 4729.42 of the Revised Code and 170
from performing any function as a health care professional or 171
health care worker. As used in this division, "health care 172
professional" and "health care worker" have the same meanings as 173
in section 2305.234 of the Revised Code. 174

(4) Notwithstanding any contrary provision of section 3719.21 175
of the Revised Code or any other provision of law that governs the 176
distribution of fines, the clerk of the court shall pay any fine 177
imposed pursuant to division (I)(1), (2), or (3) of this section 178
to the state board of pharmacy if the board has adopted a written 179
internal control policy under division (F)(2) of section 2925.03 180
of the Revised Code that addresses fine moneys that it receives 181
under Chapter 2925. of the Revised Code and if the policy also 182
addresses fine moneys paid under this division. The state board of 183
pharmacy shall use the fines so paid in accordance with the 184
written internal control policy to subsidize the board's law 185
enforcement efforts that pertain to drug offenses. 186

(J)(1) Whoever violates division (A)(1) of section 4729.86 of 187
the Revised Code is guilty of a misdemeanor of the third degree. 188
If the offender has previously been convicted of or pleaded guilty 189
to a violation of division (A)(1), (2), or (3) of section 4729.86 190
of the Revised Code, that person is guilty of a misdemeanor of the 191
first degree. 192

(2) Whoever violates division (A)(2) of section 4729.86 of 193
the Revised Code is guilty of a misdemeanor of the first degree. 194
If the offender has previously been convicted of or pleaded guilty 195
to a violation of division (A)(1), (2), or (3) of section 4729.86 196
of the Revised Code, that person is guilty of a felony of the 197
fifth degree. 198

(3) Whoever violates division (A)(3) of section 4729.86 of 199
the Revised Code is guilty of a felony of the fifth degree. If the 200

offender has previously been convicted of or pleaded guilty to a 201
violation of division (A)(1), (2), or (3) of section 4729.86 of 202
the Revised Code, that person is guilty of a felony of the fourth 203
degree. 204

(K) A person who violates division (C) of section 4729.552 of 205
the Revised Code is guilty of a misdemeanor of the first degree. 206
If the person previously has been convicted of or pleaded guilty 207
to a violation of division (C) of section 4729.552 of the Revised 208
Code, that person is guilty of a felony of the fifth degree. 209

(L) A person who violates division (C) of section 4729.291 of 210
the Revised Code is guilty of a misdemeanor of the first degree. 211
If the person previously has been convicted of or pleaded guilty 212
to a violation of division (C) of section 4729.291 of the Revised 213
Code, that person is guilty of a felony of the fifth degree. 214

Sec. 4731.056. (A) As used in this section: 215

(1) "Controlled substance," "schedule III," "schedule IV," 216
and "schedule V" have the same meanings as in section 3719.01 of 217
the Revised Code. 218

(2) "Physician" means an individual authorized by this 219
chapter to practice medicine and surgery or osteopathic medicine 220
and surgery. 221

(B) The state medical board shall adopt rules in accordance 222
with Chapter 119. of the Revised Code that establish standards and 223
procedures to be followed by physicians in the use of controlled 224
substances in schedule III, IV, or V to treat opioid dependence or 225
addiction. The board may limit the application of the rules to 226
treatment provided through an office-based practice or other 227
practice type or location specified by the board. 228

Section 2. That existing sections 4729.291, 4729.541, and 229
4729.99 of the Revised Code are hereby repealed. 230