



Lisa Musielewicz

*Bill Analysis*  
*Legislative Service Commission*

**Sub. S.B. 203\***  
127th General Assembly  
(As Reported by H. Health)

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

---

**BILL SUMMARY**

- Establishes criminal penalties for "unauthorized pharmacy-related drug conduct" and "permitting unauthorized pharmacy-related drug conduct."
- Exempts licensed health professionals, students, and certain others.
- Specifies criteria that must be met to be considered a "qualified pharmacy technician."

---

**CONTENT AND OPERATION**

**Prohibitions regarding pharmacy activities**

(R.C. 4729.42)

Under current law, pharmacists and pharmacy interns<sup>1</sup> may practice pharmacy, which includes compounding drugs and other actions related to

---

\* This analysis was prepared before the report of the House Health Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

<sup>1</sup> The State Board of Pharmacy is authorized by current law to establish a pharmacy internship program for persons actively pursuing an educational program in preparation for licensure as a pharmacist.

dispensing drugs pursuant to a prescription from a licensed health professional authorized to prescribe drugs.<sup>2</sup>

The bill prohibits the performance of certain activities that are part of the practice of pharmacy unless the person is a pharmacist, pharmacy intern, or "qualified pharmacy technician." A person who is not a pharmacist, pharmacy intern, or qualified pharmacy technician may not do any of the following in a pharmacy or while performing a function in a pharmacy:

- (1) Engage in the compounding of any drug;<sup>3</sup>
- (2) Package or label any drug;
- (3) Prepare or mix any intravenous drug to be injected into a human being.

**Qualified pharmacy technicians**

Current law does not recognize pharmacy technicians or provide for licensure. The bill does not provide for licensure of pharmacy technicians, either, but specifies that a "qualified pharmacy technician" is a person who is under the personal supervision of a pharmacist and to whom all of the following apply:

- (1) Is age 18 or older;
- (2) Possesses a high school diploma or certificate of high school equivalence or was employed prior to the bill's effective date as a pharmacy technician without a high school diploma or certificate of high school equivalence;
- (3) Has passed an examination approved by the State Board of Pharmacy to determine a person's competency to perform services as a pharmacy technician;
- (4) Has submitted to a criminal records check in accordance with the bill and has not been found to have pleaded guilty to or been convicted of a felony (see "**Criminal records check**," below).

---

<sup>2</sup> The following are licensed health professionals authorized to prescribe drugs: physicians, dentists, certain advanced practice nurses and physician assistants, certain optometrists, and veterinarians (R.C. 4729.01, not in the bill).

<sup>3</sup> Current law defines "compounding" as the preparation, mixing, assembling, packaging, and labeling of drugs pursuant to a prescription, as an incident to research or similar activities, or in anticipation of a prescription (R.C. 4729.01, not in the bill).

*Exemptions and "grandfathering" provisions*

The bill's prohibition against performing certain pharmacy activities without being a pharmacist, pharmacy intern, or qualified pharmacy technician does not apply to any of the following:

(1) A health care professional authorized to engage in activities listed above while acting in the course of the professional's practice;

(2) The activities performed by a student as an integral part of a pharmacy technician training program that is operated by a vocational school district or joint vocational school district, certified by the Department of Education, or approved by the Ohio Board of Regents;

(3) In the case of a person employed after the bill's effective date, activities for the first 210 days following the initial date of employment, if both of the following apply:

--The person is participating in or has completed a pharmacy technician training program that meets the State Board of Pharmacy's standards for those programs and is making substantial progress in preparation to take a pharmacy technician examination approved by the Board;

--The results of the person's criminal records check show that the person has not been convicted of or pleaded guilty to any felony.

(4) In the case of a person who completes a pharmacy technician training program that is operated by a vocational school district or joint vocational school district, activities for the first 210 days after completing the program if both of the following apply:

--The person is making substantial progress in preparation to take a pharmacy technician examination approved by the Board;

--The results of the person's criminal records check show that the person has not been convicted of or pleaded guilty to any felony.

A person employed as a pharmacy technician on the bill's effective date does not have to have a criminal records check if the person has been employed as a pharmacy technician for five years or longer.

The bill does not prohibit the activities of a person employed as a pharmacy technician on the bill's effective date until the earlier of either of the following:

--If the person has not passed an examination approved by the Board to determine a person's competency to perform pharmacy technician services, one year after the bill's effective date;

--If a criminal records check is required, the date the person and the employer receive the results of a criminal records check that show the person has been convicted of or pleaded guilty to a felony.

**Prohibition against permitting unauthorized conduct**

The bill provides that no pharmacist and no person who owns, manages, or conducts a pharmacy may allow any person in the employ or under the control of the pharmacist or person to violate the bill.

**Penalties**

(R.C. 4729.99)

A person who personally violates the bill is guilty of unauthorized pharmacy-related drug conduct, a misdemeanor of the second degree. If the offender has previously been convicted of violating the bill or allowing another to violate it, the offense is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense. A pharmacist or a person who owns, manages, or conducts a pharmacy that allows another to violate the bill is guilty of permitting unauthorized pharmacy-related drug conduct, a misdemeanor of the second degree. If the offender has previously been convicted of violating the bill or allowing another to violate it, the offense is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense.

**Fines**

(R.C. 3719.21 and 4729.99)

Current law authorizes the State Board of Pharmacy to adopt an internal control policy that addresses fine moneys it receives for violations of criminal drug offense laws. The bill provides that if the Board has adopted such a policy and the policy addresses fines imposed under the bill, those fines are to be paid to the Board. The Board must use the fines in accordance with the internal control policy to subsidize the Board's law enforcement efforts that pertain to drug offenses.

**Criminal records check**

(R.C. 4776.02 and 4776.04)

The bill requires a person seeking to satisfy the criteria for being a qualified pharmacy technician to submit a request to the Bureau of Criminal Identification and Investigation (BCII) for a criminal records check. The request must be accompanied by the appropriate form, a set of fingerprint impressions, and the fee established by BCII. The person must also request that BCII obtain from the Federal Bureau of Investigation (FBI) any information it has on the person. The results of the criminal records check and any information provided by the FBI are to be reported and made available to the person who requested the records check and the employer or potential employer specified in the request.

---

**HISTORY**

ACTION	DATE
Introduced	07-19-07
Reported, S. Health, Human Services & Aging	05-29-08
Passed Senate (32-0)	05-29-08
Reported, H. Health	---

s0203-rh-127.doc/kl

