



Ohio Legislative Service Commission

Final Analysis

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Am. Sub. H.B. 341 130th General Assembly (As Passed by the General Assembly)

Reps. Smith, Wachtmann, Antonio, Barnes, Boyd, Brown, Johnson, Sears, R. Adams, Amstutz, Anielski, Ashford, Baker, Beck, Bishoff, Blair, Blessing, Boose, Boyce, Buchy, Burkley, Butler, Carney, Celebrezze, Conditt, Curtin, Damschroder, Derickson, DeVitis, Dovilla, Driehaus, Duffey, Fedor, Foley, Gerberry, Green, Grossman, Hackett, C. Hagan, Hall, Hayes, Henne, Hill, Hottinger, Huffman, Landis, Letson, Lundy, Mallory, McClain, McGregor, Patmon, Patterson, Pelanda, Perales, Phillips, Pillich, Ramos, Rogers, Rosenberger, Ruhl, Scherer, Schuring, Slaby, Slesnick, Sprague, Stebelton, Stinziano, Strahorn, Sykes, Terhar, Thompson, Williams, Winburn, Young, Batchelder

Sens. Balderson, Burke, Hughes, Manning

Effective date: September 16, 2014, certain provisions effective January 1, 2015, and April 1, 2015

ACT SUMMARY

- Beginning April 1, 2015, establishes several conditions related to the State Board of Pharmacy's Ohio Automated Rx Reporting System (OARRS) that apply to a prescriber when prescribing or personally furnishing certain drugs, including the following:
 - That the prescriber, before initially prescribing or personally furnishing an opioid analgesic or a benzodiazepine, request patient information from OARRS that covers at least the previous 12 months;
 - That the prescriber make periodic requests for patient information from OARRS if the course of treatment continues for more than 90 days.
- Establishes several exceptions from the required review of an OARRS report.

* This version reflects a Revised Code number change from R.C. 4121.443 to R.C. 4121.447.

- Beginning January 1, 2015, requires that certain prescribers, as well as pharmacists, when renewing their professional licenses, certify to their licensing boards that they have access to OARRS, and subjects them to possible disciplinary action for false certifications.
- Authorizes the State Board of Pharmacy to restrict a person from obtaining further information from OARRS if the person creates, by clear and convincing evidence, a threat to the security of information contained in OARRS.
- Requires, rather than permits as under prior law, the State Board of Pharmacy to provide information from OARRS to prescribers, pharmacists, and the Administrator of Workers' Compensation if certain criteria are met.
- Requires a managed care organization to enter into a contract with the Department of Medicaid before information from OARRS can be provided to the organization.
- Requires the State Board of Pharmacy to provide information from OARRS to a Workers' Compensation managed care organization if certain criteria are met.

CONTENT AND OPERATION

Review of patient information in OARRS

Beginning April 1, 2015, the act establishes several conditions related to a prescriber's use of information available from the Ohio Automated Rx Reporting System (OARRS), a drug database established and maintained by the State Board of Pharmacy. The conditions apply to a prescriber when prescribing or personally furnishing a drug that is either an opioid analgesic or a benzodiazepine as part of a patient's course of treatment for a particular condition.¹ An opioid is a medication that relieves pain. It reduces the intensity of pain signals reaching the brain and affects the brain areas controlling emotions.² A benzodiazepine is a depressant prescribed to relieve anxiety and sleep problems. Valium and Xanax are among the most widely prescribed benzodiazepines.³

The act requires a prescriber, before initially prescribing or personally furnishing the opioid analgesic or benzodiazepine, to request, or have a delegate request, patient

¹ R.C. 4715.302(B), 4723.487(B), 4725.092(B), 4730.53(B), and 4731.055(B) and Section 4.

² National Institute of Drug Abuse, *Prescription Drug Abuse, What are Opioids?* www.drugabuse.gov/publications/research-reports/prescription-drugs/opioids/what-are-opioids.

³ See National Institute of Drug Abuse, *Prescription Drug Abuse, Glossary* <http://www.drugabuse.gov/publications/research-reports/prescription-drugs/glossary>.



information from OARRS that covers at least the previous 12 months.⁴ If the patient's course of treatment for the condition continues for more than 90 days, the act requires the prescriber to make periodic requests for patient information from OARRS until the course of treatment ends. Such requests must be made at intervals not exceeding 90 days.⁵

The act also requires the prescriber to assess the information in the OARRS report on receipt of the report and to document in the patient's record that the report was received and assessed.⁶

Prescribers subject to the act

The act applies to the following prescribers: dentists, advanced practice registered nurses holding certificates to prescribe, optometrists holding therapeutic pharmaceutical agents certificates, physician assistants holding certificates to prescribe, and physicians authorized to practice medicine, osteopathic medicine, or podiatry.⁷

Prescriptions issued in other states

The act requires a prescriber who practices primarily in an Ohio county that adjoins another state to request information available in OARRS pertaining to prescriptions issued or drugs furnished to the patient in the state adjoining that county.⁸

Exceptions to OARRS review

The act provides for several exceptions from the required review of an OARRS report. These include all of the following:

(1) The OARRS report is not available (all prescribers);

(2) The drug is prescribed or personally furnished to a hospice patient or to any other patient who has been diagnosed as terminally ill (advanced practice registered nurses, physician assistants, and physicians but not dentists or optometrists);

(3) The drug is prescribed or personally furnished in an amount indicated for a period not to exceed seven days (all prescribers);

⁴ R.C. 4715.302(B)(1), 4723.487(B)(1), 4725.092(B)(1), 4730.53(B)(1), and 4731.055(B)(1).

⁵ R.C. 4715.302(B)(2), 4723.487(B)(2), 4725.092(B)(2), 4730.53(B)(2), and 4731.055(B)(2).

⁶ R.C. 4715.302(B)(3), 4723.487(B)(3), 4725.092(B)(3), 4730.53(B)(3), and 4731.055(B)(3).

⁷ R.C. 4715.302, 4723.487, 4725.092, 4730.53, and 4731.055.

⁸ R.C. 4715.302(B)(1), 4723.487(B)(1), 4725.092(B)(1), 4730.53(B)(1), and 4731.055(B)(1).



(4) The drug is prescribed or personally furnished for the treatment of cancer or another condition associated with cancer (advanced practice registered nurses, physician assistants, and physicians but not dentists and optometrists);

(5) The drug is prescribed or personally furnished for administration in a hospital, nursing home, or residential care facility (advanced practice registered nurses, physician assistants, and physicians but not dentists and optometrists);

(6) The drug is prescribed or personally furnished to treat acute pain resulting from a surgical or other invasive procedure or a delivery (physicians only).⁹

Disciplinary action

Beginning April 1, 2015, the act authorizes the following boards to discipline prescribers for failure to request patient information in OARRS as required by the act: the State Dental Board, the Board of Nursing, the State Board of Optometry, and the State Medical Board.¹⁰

Required access to OARRS

The act requires that each prescriber who prescribes or personally furnishes opioid analgesics or benzodiazepines as part of the prescriber's regular practice, as well as pharmacists, obtain access to OARRS not later than January 1, 2015. Failure to obtain access to OARRS by January 1, 2015, constitutes grounds for license or certificate suspension.¹¹

The act's requirement does not apply if the State Board of Pharmacy has restricted the professional from obtaining information from OARRS.¹²

License renewals

Beginning January 1, 2015, the act requires that each prescriber who prescribes or personally furnishes opioid analgesics or benzodiazepines, as well as pharmacists, when renewing a license or certificate, certify to the board responsible for licensure or certification that the professional has been granted access to OARRS.

⁹ R.C. 4715.302(C), 4723.487(C), 4725.092(C), 4730.53(C), and 4731.055(C).

¹⁰ R.C. 4715.30, 4723.28, 4725.19, 4730.25, and 4731.22; Section 4. The State Medical Board is responsible for the licensure of both physician assistants and physicians.

¹¹ R.C. 4715.14, 4723.486, 4725.16, 4729.12, 4730.48, and 4731.281; Section 3.

¹² R.C. 4729.80(A)(5); Section 5.



The act's requirement regarding license renewals does not apply if the State Board of Pharmacy has notified the relevant board that the professional has been restricted from obtaining further information from OARRS (see "**State Board of Pharmacy notification**," below).¹³

The act authorizes a licensing board to take a disciplinary action against a licensee if the licensee certifies to the board that the licensee has been granted access to OARRS and the board later determines that the licensee in fact does *not* have that access.¹⁴

Mandatory provision of information from OARRS

Prescribers, pharmacists, and the Administrator of Workers' Compensation

The act requires, rather than permits as under prior law, the State Board of Pharmacy, on receipt of a request from a prescriber or the prescriber's delegate approved by the Board, to provide to the prescriber a report of information from OARRS relating to a patient who is either (1) a current patient of the prescriber or (2) a potential patient of the prescriber based on a referral of the patient to the prescriber.¹⁵ It does not appear that this mandatory provision of information is limited to the prescriber of an opioid analgesic or a benzodiazepine.

Similarly, the act requires, rather than permits as under prior law, the Board, on receipt of a request from a pharmacist or the pharmacist's delegate approved by the Board, to provide to the pharmacist information from OARRS relating to a current patient of the pharmacist.¹⁶

The act requires, rather than permits as under prior law, the Board to provide to the Administrator of Workers' Compensation information from OARRS that the Administrator requests relating to a workers' compensation claimant, including information in OARRS related to prescriptions for the claimant that were not covered or reimbursed under the Workers' Compensation Law.¹⁷

¹³ R.C. 4715.14(A), 4723.486(C)(1) and (2), 4725.16(A), 4729.12, 4730.48(A), and 4731.281(B) and Sections 3 and 5.

¹⁴ R.C. 4715.14(A)(3), 4715.30, 4723.486(C)(3), 4723.28, 4725.16(A)(3), 4725.19, 4730.25(B)(25), 4730.48(A)(4)(c), 4731.281(B)(6)(c), and 4731.22.

¹⁵ R.C. 4729.80(A)(5).

¹⁶ R.C. 4729.80(A)(6).

¹⁷ R.C. 4729.80(A)(11).



Managed care organizations

Continuing law requires the State Board of Pharmacy, on receipt of a request from the medical director of a managed care organization (MCO) that has entered into a data security agreement with the Board to provide to the medical director information from OARRS relating to a Medicaid recipient enrolled in the MCO. The act adds the requirement that the medical director must have entered into a contract with the Department of Medicaid.¹⁸

The act also requires that the State Board of Pharmacy provide to the medical director of an MCO that has entered into a contract with the Administrator of Workers' Compensation information from OARRS relating to a workers' compensation or other claimant assigned to the MCO. The report must include information in OARRS related to prescriptions for the claimant that were not covered or reimbursed under the Workers' Compensation Law. If the Board requests, the Administrator must confirm whether the claimant has been assigned to the MCO. The act also directs that a contract between the Administrator and an MCO include a requirement that the MCO enter into a data security agreement with the State Board of Pharmacy governing the MCO's use of OARRS.¹⁹

Restricting access to OARRS

The act authorizes the State Board of Pharmacy to restrict a person from obtaining further information from OARRS if the person creates, by clear and convincing evidence, a threat to the security of information contained in OARRS.²⁰

Notice and hearing

The act also specifies that the Board may restrict a person from obtaining information from OARRS after providing notice and affording an opportunity for hearing in accordance with the Administrative Procedure Act (R.C. Chapter 119.).²¹

Summary restriction

The act does permit the Board, if it determines that the allegations regarding a person's actions warrant restricting the person from obtaining further information from OARRS without a prior hearing, to summarily impose the restriction. The act specifies

¹⁸ R.C. 4729.80(A)(8).

¹⁹ R.C. 4121.443 and 4729.80(A)(10).

²⁰ R.C. 4729.86(C)(1)(d).

²¹ R.C. 4729.86(C)(1).



that a telephone conference call may be used by the Board for reviewing the allegations and taking a vote on the summary restriction. The act also provides that a summary restriction remains in effect, unless removed by the Board, until the Board's final adjudication order becomes effective.²²

State Board of Pharmacy notification

The act requires the State Board of Pharmacy to notify the government entity responsible for licensing a prescriber if the Board restricts the prescriber from obtaining further information from OARRS.²³

OARRS and opioid dependent infants

The act requires that the State Board of Pharmacy provide to a prescriber, or delegate of a prescriber, treating a newborn or infant patient diagnosed as opioid dependent an OARRS report relating to the patient's mother.²⁴

COMMENT

The amendments and sections enacted in this act were also included in H.B. 483 of the 130th General Assembly. Parts of the amendments made to R.C. 4729.80 in this act, and amendments parallel to the amendments made to R.C. 4729.86 in this act were also included in H.B. 493 of the 130th General Assembly. The substance of R.C. 4121.447 enacted in this act was also included in H.B. 493.

HISTORY

ACTION	DATE
Introduced	11-07-13
Reported, H. Health & Aging	02-25-14
Passed House (96-0)	03-12-14
Reported, S. Insurance & Financial Institutions	05-28-14
Passed Senate (32-0)	05-28-14
House concurred in Senate amendments (95-0)	06-03-14

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²² R.C. 4729.86(C)(2).

²³ R.C. 4729.861.

²⁴ R.C. 4729.80(A)(12).

