

**As Passed by the House**

**132nd General Assembly**

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**2017-2018**

**Sub. H. B. No. 231**

**Representatives Ginter, Sprague**

**Cosponsors: Representatives Blessing, Green, Riedel, Seitz, Anielski, Antonio, Ashford, Craig, Greenspan, Hambley, Hill, Johnson, Landis, Lanese, Manning, Miller, Schaffer, Slaby, Stein, Young**

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**A BILL**

To require the State Board of Pharmacy to operate a 1  
pilot program for dispensing schedule II 2  
controlled substances in lockable or tamper- 3  
evident containers. 4

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

**Section 1.** As used in this act: 5

(A) "Controlled substance" and "schedule II" have the same 6  
meanings as in section 3719.01 of the Revised Code. 7

(B) "Lockable container" means a container that meets both 8  
of the following requirements: 9

(1) Has special packaging; 10

(2) Has a locking mechanism that can be unlocked in any of 11  
the following ways: 12

(a) Physically by using a key or other object capable of 13  
unlocking a locked container; 14

(b) Physically by entering a numeric or alphanumeric 15

combination code that is selected by the patient or an individual acting on behalf of the patient;

(c) Electronically by entering a password or code that is selected by the patient or an individual acting on behalf of the patient.

(C) "Special packaging" has the same meaning as in the "Poison Prevention Packaging Act of 1970," 15 U.S.C. 1471.

(D) "Tamper-evident container" means a container that meets both of the following requirements:

(1) Has special packaging;

(2) Displays a visual sign when there is unauthorized entry into the container or has a numerical display of the time that the container was last opened.

(E) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

**Section 2.** (A) Subject to Section 3 of this act, the State Board of Pharmacy shall operate a two-year pilot program under which drugs containing a schedule II controlled substance are dispensed in lockable containers or tamper-evident containers. Under the pilot program, the Board shall reimburse participating pharmacies for the expenses they incur in participating in the program, including administrative expenses and other expenses associated with stocking lockable containers or tamper-evident containers and dispensing drugs containing a schedule II controlled substance in those containers.

(B) Any pharmacy may volunteer to participate in the pilot program by notifying the Board. From among the volunteers, the Board shall select the pharmacies to be included in the pilot

program. In selecting the pharmacies, the Board shall take into 44  
consideration the areas of the state that have the highest 45  
levels of dispensing drugs containing a schedule II controlled 46  
substance. If some of those areas are not adequately represented 47  
by initial volunteers, the Board shall make concerted efforts to 48  
recruit pharmacies from those areas to serve as participants in 49  
the pilot program. In addition, the Board shall attempt to 50  
include pharmacies of varying types. 51

(C) In each of the pilot program's participating 52  
pharmacies, all of the following apply: 53

(1) A pharmacist shall dispense a drug containing a 54  
schedule II controlled substance in a lockable container or 55  
tamper-evident container unless the patient or an individual 56  
acting on behalf of the patient requests that the drug not be 57  
dispensed in such a container. 58

(2) Before a pharmacist dispenses the drug, the pharmacist 59  
or the pharmacist's delegate shall deliver the educational 60  
statement described in division (D) of this section. 61

(3) The expenses that the pharmacy incurs for the 62  
containers shall not be included in any amount that is to be 63  
paid by a patient, an individual acting on behalf of the 64  
patient, or a third-party payer. 65

(D) As part of the pilot program, the Board shall develop 66  
an educational statement that informs patients and individuals 67  
acting on their behalf about the serious potential for abuse and 68  
diversion of drugs containing controlled substances, including 69  
the possibility of pilfering by adolescents and unauthorized 70  
users of those drugs. The statement shall provide a plain and 71  
accurate warning of the risks of abuse, diversion, addiction, 72

overdose, and death associated with controlled substances. 73

The statement developed by the Board shall be brief and 74  
otherwise efficient, so as not to create undue burdens on the 75  
pharmacies participating in the pilot program. The statement may 76  
be delivered in any manner a pharmacist chooses, including 77  
orally, electronically, or in a written format. 78

(E) A pharmacist, pharmacist's delegate, or pharmacy is 79  
not liable for damages in any civil action, subject to 80  
prosecution in any criminal proceeding, or subject to 81  
professional disciplinary action for actions taken in good faith 82  
in accordance with this section, including any of the following: 83

(1) Disclosing information to aid a patient or an 84  
individual acting on the patient's behalf in obtaining entry 85  
into a lockable container or tamper-evident container; 86

(2) Dispensing a drug in a lockable container or tamper- 87  
evident container that fails to restrict unauthorized access 88  
into the container. 89

(F) Not later than six months after the pilot program 90  
ends, the Board shall prepare a report describing its findings 91  
regarding the success of the program. In evaluating the pilot 92  
program's success, the Board shall contract with a third-party 93  
research organization to assess whether a measured decrease in 94  
diversion of schedule II controlled substances occurred 95  
regarding drugs dispensed through the program as compared with 96  
those dispensed outside of the program. On completion of the 97  
report, the Board shall submit the report to the General 98  
Assembly in accordance with section 101.68 of the Revised Code. 99

**Section 3.** The State Board of Pharmacy shall operate the 100  
pilot program described in Section 2 of this act only if the 101

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| General Assembly makes an appropriation for the pilot program.   | 102 |
| If the appropriation is made, both of the following apply:       | 103 |
| (A) The Board shall develop and implement the pilot              | 104 |
| program not later than six months after the appropriation        | 105 |
| becomes available to the Board.                                  | 106 |
| (B) The Board shall adopt any rules necessary to                 | 107 |
| administer the pilot program. The rules shall be adopted in      | 108 |
| accordance with Chapter 119. of the Revised Code.                | 109 |
| <b>Section 4.</b> Nothing in this act precludes a pharmacy that  | 110 |
| is not participating in the pilot program described in Section 2 | 111 |
| of this act from stocking lockable containers or tamper-evident  | 112 |
| containers and offering to have drugs containing a schedule II   | 113 |
| controlled substance dispensed in those containers.              | 114 |