

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 657

Representative Ingram

A BILL

To amend section 4729.553 and to enact section 1
5119.369 of the Revised Code to require 2
community addiction services providers and 3
office-based opioid treatment providers to 4
conduct tobacco use assessments and develop 5
treatment plans. 6

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

Section 1. That section 4729.553 be amended and section 7
5119.369 of the Revised Code be enacted to read as follows: 8

Sec. 4729.553. (A) As used in this section: 9

(1) "Advanced practice registered nurse" has the same 10
meaning as in section 4723.01 of the Revised Code. 11

(2) "Controlled substance" has the same meaning as in 12
section 3719.01 of the Revised Code. 13

(3) "Hospital" means a hospital registered with the 14
department of health under section 3701.07 of the Revised Code. 15

(4) "Office-based opioid treatment" means the treatment of 16
opioid dependence or addiction using a controlled substance. 17

(5) "Physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(6) "Physician assistant" means an individual who is licensed under Chapter 4730. of the Revised Code.

(B) (1) Except as provided in divisions (B) (2) and (3) of this section, no person shall knowingly operate a facility, clinic, or other location where a prescriber provides office-based opioid treatment to more than thirty patients or that meets any other identifying criteria established in rules adopted under this section without holding a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification.

(2) Division (B) (1) of this section does not apply to any of the following:

(a) A hospital;

(b) A facility for the treatment of opioid dependence or addiction that is operated by a hospital;

(c) A physician practice owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(d) A facility that conducts only clinical research and uses controlled substances in studies approved by a hospital-based institutional review board or an institutional review board that is accredited by the association for the accreditation of human research protection programs, inc.;

(e) A facility that holds a category III terminal distributor of dangerous drugs license in accordance with

section 4729.54 of the Revised Code for the purpose of treating 46
drug dependence or addiction as part of an opioid treatment 47
program and is the subject of a current, valid certification 48
from the substance abuse and mental health services 49
administration of the United States department of health and 50
human services pursuant to 42 C.F.R. 8.11; 51

(f) A program or facility that holds a license or 52
certification issued by the department of mental health and 53
addiction services under Chapter 5119. of the Revised Code if 54
the license or certification is approved by the state board of 55
pharmacy; 56

(g) A federally qualified health center or federally 57
qualified health center look-alike, as defined in section 58
3701.047 of the Revised Code; 59

(h) A state or local correctional facility, as defined in 60
section 5163.45 of the Revised Code; 61

(i) A facility in which patients are treated on-site for 62
opioid dependence or addiction exclusively through direct 63
administration by a physician, physician assistant, or advanced 64
practice registered nurse of drugs that are used for treatment 65
of opioid dependence or addiction and are neither dispensed nor 66
personally furnished to patients for off-site self- 67
administration; 68

(j) Any other facility specified in rules adopted under 69
this section. 70

(3) A patient who receives treatment on-site for opioid 71
dependence or addiction through direct administration of a drug 72
by a physician, physician assistant, or advanced practice 73
registered nurse shall not be included in determining whether 74

more than thirty patients are being provided office-based opioid 75
treatment in a particular facility, clinic, or other location 76
that is subject to division (B) (1) of this section. 77

(C) To be eligible to receive a license as a category III 78
terminal distributor of dangerous drugs with an office-based 79
opioid treatment classification, an applicant shall submit 80
evidence satisfactory to the state board of pharmacy that the 81
applicant's office-based opioid treatment will be operated in 82
accordance with the requirements specified in division (D) of 83
this section and that the applicant meets any other applicable 84
requirements of this chapter. 85

If the board determines that an applicant meets all of the 86
requirements, the board shall issue to the applicant a license 87
as a category III terminal distributor of dangerous drugs with 88
an office-based opioid treatment classification. 89

(D) The holder of a category III terminal distributor 90
license with an office-based opioid treatment classification 91
shall do all of the following: 92

(1) Be in control of a facility that is owned and operated 93
solely by one or more physicians, unless the state board of 94
pharmacy waives this requirement for the holder; 95

(2) Comply with the requirements for conducting office- 96
based opioid treatment, as established by the state medical 97
board in rules adopted under section 4731.056 of the Revised 98
Code; 99

(3) Assess each patient for the use of tobacco products 100
and take action as appropriate, in accordance with division (G) 101
of this section; 102

(4) Require any person with ownership of the facility to 103

submit to a criminal records check in accordance with section 104
4776.02 of the Revised Code and send the results of the criminal 105
records check directly to the state board of pharmacy for review 106
and decision under section 4729.071 of the Revised Code; 107

~~(4)~~ (5) Require each person employed by or seeking 108
employment with the facility to submit to a criminal records 109
check in accordance with section 4776.02 of the Revised Code; 110

~~(5)~~ (6) Ensure that a person is not employed by the 111
facility if the person, within the ten years immediately 112
preceding the date the person applied for employment, was 113
convicted of or pleaded guilty to either of the following, 114
unless the state board of pharmacy permits the person to be 115
employed by waiving this requirement for the facility: 116

(a) A theft offense, described in division (K) (3) of 117
section 2913.01 of the Revised Code, that would constitute a 118
felony under the laws of this state, any other state, or the 119
United States; 120

(b) A felony drug offense, as defined in section 2925.01 121
of the Revised Code. 122

~~(6)~~ (7) Maintain a list of each person with ownership of 123
the facility and notify the state board of pharmacy of any 124
change to that list. 125

(E) No person subject to licensure as a category III 126
terminal distributor of dangerous drugs with an office-based 127
opioid treatment classification shall knowingly fail to remain 128
in compliance with the requirements of division (D) of this 129
section and any other applicable requirements of this chapter. 130

(F) The state board of pharmacy may impose a fine of not 131
more than five thousand dollars on a person who violates 132

division (B) or (E) of this section. A separate fine may be 133
imposed for each day the violation continues. In imposing the 134
fine, the board's actions shall be taken in accordance with 135
Chapter 119. of the Revised Code. 136

~~(G)~~ (G) (1) Each holder of a category III terminal 137
distributor license with an office-based opioid treatment 138
classification shall, at the time of a patient's initial intake, 139
assess each patient for the use of tobacco products, as defined 140
in section 5119.369 of the Revised Code. The assessment shall 141
include questions recommended in the most recent version of the 142
diagnostic and statistical manual of mental disorders regarding 143
tobacco use disorders, or similar evidence-based guidance, for 144
determining whether an individual has a tobacco use disorder. 145

(2) If it is determined through the assessment that a 146
patient has a tobacco use disorder, the provider shall do all of 147
the following: 148

(a) Provide the patient with information related to how 149
the continued use of tobacco products could affect long-term 150
success in recovering from substance use disorder; 151

(b) Recommend treatment for tobacco use disorder in the 152
patient's treatment plan; 153

(c) Offer treatment for tobacco use disorder if such 154
treatment is offered by the provider, or refer the patient to 155
treatment for tobacco use disorder. 156

(H) The state board of pharmacy shall adopt rules as it 157
considers necessary to implement and administer this section. 158
The rules shall be adopted in accordance with Chapter 119. of 159
the Revised Code. 160

Sec. 5119.369. (A) As used in this section, "tobacco 161

product" means any product that is made or derived from tobacco 162
or that contains any form of nicotine, if it is intended for 163
human consumption or is likely to be consumed, whether smoked, 164
heated, chewed, absorbed, dissolved, inhaled, or ingested by any 165
other means, including a cigarette, an electronic smoking 166
device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. 167

(B) In addition to complying with all intake procedures 168
specified in rules adopted under section 5119.365 of the Revised 169
Code, each community addiction services provider shall, at the 170
time of a patient's initial intake, assess each patient for the 171
use of tobacco products. The assessment shall include questions 172
recommended in the most recent version of the diagnostic and 173
statistical manual of mental disorders regarding tobacco use 174
disorders, or similar evidence-based guidance, for determining 175
whether an individual has a tobacco use disorder. 176

(C) If it is determined through the assessment that a 177
patient has a tobacco use disorder, the community addiction 178
services provider shall do all of the following: 179

(1) Provide the patient with information related to how 180
the continued use of tobacco products could affect long-term 181
success in recovering from substance use disorder; 182

(2) Recommend treatment for tobacco use disorder in the 183
patient's treatment plan; 184

(3) Offer treatment for tobacco use disorder if such 185
treatment is within the scope of the services and supports for 186
which the provider is certified, or refer the patient to 187
treatment for tobacco use disorder. 188

Section 2. That existing section 4729.553 of the Revised 189
Code is hereby repealed. 190