

**As Reported by the Senate Health Committee**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Sub. S. B. No. 95**

**Senator Reynolds**

**Cosponsor: Senator Huffman, S.**

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**A BILL**

To amend sections 4729.285, 4729.45, and 4729.921 1  
and to enact sections 3959.22 and 4729.554 of 2  
the Revised Code related to remote dispensing 3  
pharmacies and other changes to the pharmacy 4  
law. 5

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

**Section 1.** That sections 4729.285, 4729.45, and 4729.921 6  
be amended and sections 3959.22 and 4729.554 of the Revised Code 7  
be enacted to read as follows: 8

**Sec. 3959.22.** No health plan issuer, pharmacy benefit 9  
manager, or any other administrator shall prohibit a pharmacy 10  
from mailing or delivering drugs to patients as an ancillary 11  
service. 12

**Sec. 4729.285.** A pharmacist may provide telehealth 13  
services in accordance with section 4743.09 of the Revised Code, 14  
except that in the case of dispensing a dangerous drug, a 15  
pharmacist shall not use telehealth mechanisms or other virtual 16  
means to perform any of the actions involved in dispensing the 17  
dangerous drug unless the action is authorized by section 18

4729.554 of the Revised Code or by the state board of pharmacy 19  
through rules it adopts under ~~this chapter or~~ section 4743.09 of 20  
the Revised Code. 21

**Sec. 4729.45.** (A) As used in this section, "physician" 22  
means an individual authorized under Chapter 4731. of the 23  
Revised Code to practice medicine and surgery or osteopathic 24  
medicine and surgery. 25

(B) (1) Subject to division (C) of this section, a 26  
pharmacist licensed under this chapter may administer by 27  
injection any of the following drugs as long as the drug that is 28  
to be administered has been prescribed by a physician and the 29  
individual to whom the drug was prescribed has an ongoing 30  
physician-patient relationship with the physician: 31

(a) An addiction treatment drug administered in a long- 32  
acting or extended-release form; 33

(b) An antipsychotic drug administered in a long-acting or 34  
extended-release form; 35

(c) A human immunodeficiency virus treatment drug 36  
administered in a long-acting or extended-release form; 37

(d) Hydroxyprogesterone caproate; 38

~~(d)~~ (e) Medroxyprogesterone acetate; 39

~~(e)~~ (f) Cobalamin; 40

(g) Any other drug that is specified in rules adopted 41  
under division (H) (2) of this section. 42

(2) As part of engaging in the administration of drugs by 43  
injection pursuant to this section, a pharmacist may administer 44  
epinephrine or diphenhydramine, or both, to an individual in an 45

emergency situation resulting from an adverse reaction to a drug administered by the pharmacist. 46  
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(C) To be authorized to administer drugs pursuant to this section, a pharmacist must do all of the following: 48  
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(1) Successfully complete a course in the administration of drugs that satisfies the requirements established ~~by the state board of pharmacy~~ in rules adopted under division (H) (1) (a) of this section; 50  
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(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course that is certified by the American red cross or American heart association or approved by the state board of pharmacy; 54  
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(3) Practice in accordance with a protocol that meets the requirements of division (F) of this section. 59  
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(D) Each time a pharmacist administers a drug pursuant to this section, the pharmacist shall do all of the following: 61  
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(1) Obtain permission in accordance with the procedures specified in rules adopted under division (H) of this section and comply with the following requirements: 63  
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(a) Except as provided in division (D) (1) (c) of this section, for each drug administered by a pharmacist to an individual who is eighteen years of age or older, the pharmacist shall obtain permission from the individual. 66  
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(b) For each drug administered by a pharmacist to an individual who is under eighteen years of age, the pharmacist shall obtain permission from the individual's parent or other person having care or charge of the individual. 70  
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(c) For each drug administered by a pharmacist to an individual who lacks the capacity to make informed health care decisions, the pharmacist shall obtain permission from the person authorized to make such decisions on the individual's behalf.

(2) In the case of an addiction treatment drug described in division (B) (1) (a) of this section, obtain in accordance with division (E) of this section test results indicating that it is appropriate to administer the drug to the individual if either of the following is to be administered:

(a) The initial dose of the drug;

(b) Any subsequent dose, if the administration occurs more than thirty days after the previous dose of the drug was administered.

(3) Observe the individual to whom the drug is administered to determine whether the individual has an adverse reaction to the drug;

(4) Notify the physician who prescribed the drug that the drug has been administered to the individual.

(E) A pharmacist may obtain the test results described in division (D) (2) of this section in either of the following ways:

(1) From the physician who prescribed the drug;

(2) By ordering blood and urine tests for the individual to whom the drug is to be administered.

If a pharmacist orders blood and urine tests, the pharmacist shall evaluate the results of the tests to determine whether they indicate that it is appropriate to administer the drug. A pharmacist's authority to evaluate test results under

this division does not authorize the pharmacist to make a 102  
diagnosis. 103

(F) All of the following apply with respect to the 104  
protocol required by division (C) (3) of this section: 105

(1) The protocol must be established by a physician who 106  
has a scope of practice that includes treatment of the condition 107  
for which the individual has been prescribed the drug to be 108  
administered. 109

(2) The protocol must satisfy the requirements established 110  
in rules adopted under division (H) (1) (b) of this section. 111

(3) The protocol must do all of the following: 112

(a) Specify a definitive set of treatment guidelines; 113

(b) Specify the locations at which a pharmacist may engage 114  
in the administration of drugs pursuant to this section; 115

(c) Include provisions for implementing the requirements 116  
of division (D) of this section, including for purposes of 117  
division (D) (3) of this section provisions specifying the length 118  
of time and location at which a pharmacist must observe an 119  
individual who receives a drug to determine whether the 120  
individual has an adverse reaction to the drug; 121

(d) Specify procedures to be followed by a pharmacist when 122  
administering epinephrine, or diphenhydramine, or both, to an 123  
individual who has an adverse reaction to a drug administered by 124  
the pharmacist. 125

(G) A pharmacist shall not do either of the following: 126

(1) Engage in the administration of drugs pursuant to this 127  
section unless the requirements of division (C) of this section 128

have been met;	129
(2) Delegate to any person the pharmacist's authority to engage in the administration of drugs pursuant to this section.	130 131
<del>(H) (1) The (H) With respect to the adoption of rules by the state board of pharmacy shall adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and</del> , all of the following apply:	132 133 134 135
(1) The board shall adopt rules that include all of the following:	136 137
(a) Requirements for courses in administration of drugs;	138
(b) Requirements for protocols to be followed by pharmacists in administering drugs pursuant to this section;	139 140
(c) Procedures to be followed by a pharmacist in obtaining permission to administer a drug to an individual.	141 142
(2) <u>The board may adopt rules that specify other drugs, as provided in division (B) (1) (g) of this section, that a pharmacist may administer by injection in accordance with this section.</u>	143 144 145 146
(3) <u>The board shall consult with the state medical board before adopting rules regarding requirements for protocols under divisions (H) (1) (b) and (2) of this section.</u>	147 148 149
(4) <u>All rules shall be adopted in accordance with Chapter 119. of the Revised Code.</u>	150 151
<b><u>Sec. 4729.554. (A) As used in this section:</u></b>	152
(1) <u>"Remote dispensing pharmacy" means a pharmacy where the dispensing of drugs, patient counseling, and other pharmacist care is provided through a telepharmacy system. The</u>	153 154 155

dispensing of drugs at a remote dispensing pharmacy may include 156  
the dispensing of drug therapy related devices. 157

(2) "Telepharmacy system" means a system that monitors the 158  
dispensing of drugs and provides for related drug utilization 159  
review and patient counseling services by an electronic method. 160

(B) The state board of pharmacy shall regulate remote 161  
dispensing pharmacies in accordance with this section. A remote 162  
dispensing pharmacy may operate only by using a telepharmacy 163  
system that meets standards established in rules adopted under 164  
this section and by complying with all other requirements of 165  
this section and the rules adopted under it for operating a 166  
remote dispensing pharmacy. 167

(C) (1) To be eligible to operate as a remote dispensing 168  
pharmacy, a pharmacy shall meet all of the following conditions: 169

(a) Be licensed under this chapter as a terminal 170  
distributor of dangerous drugs; 171

(b) Be located in this state, in a building that is zoned 172  
for commercial use, and in an area that meets the conditions of 173  
division (C) (2) of this section; 174

(c) Have a supervising pharmacy that meets the 175  
requirements of division (D) of this section and a supervising 176  
pharmacist that meets the requirements of division (E) of this 177  
section; 178

(d) Be staffed by two or more pharmacy interns or 179  
certified pharmacy technicians who meet qualifications and 180  
training requirements established in rules adopted under this 181  
section. 182

(2) (a) Except as provided in division (C) (2) (b) of this 183

section, a remote dispensing pharmacy shall not be located 184  
within a ten-mile radius of a pharmacy that serves the public as 185  
an outpatient pharmacy. 186

(b) A remote dispensing pharmacy may be located within the 187  
ten-mile radius that constitutes an excluded area for location, 188  
as described in division (C) (2) (a) of this section, if either of 189  
the following is the case: 190

(i) The remote dispensing pharmacy is part of a federally 191  
qualified health center or federally qualified health center 192  
look-alike, as defined in section 3701.047 of the Revised Code, 193  
and the remote dispensing pharmacy is located on the same 194  
property as, or on a campus contiguous to, the health center or 195  
look-alike. 196

(ii) The board, based on a demonstration of need that 197  
meets the standards established in rules adopted under this 198  
section, approves a request submitted to the board to allow the 199  
remote dispensing pharmacy to be located within the ten-mile 200  
radius. 201

(c) As part of the process the board uses to consider 202  
requests received under division (C) (2) (b) (ii) of this section, 203  
the board shall establish a method by which persons may register 204  
to receive notice from the board of requests received under that 205  
division. The board also shall establish a system for accepting 206  
comments from the public regarding the requests. 207

When the board receives a request under division (C) (2) (b) 208  
(ii) of this section, it shall electronically notify any person 209  
who has registered to be notified. During the sixty-day period 210  
that begins on the date that the board sends the electronic 211  
notices, a pharmacy may submit a request to the board for 212

approval as a location for operation of a remote dispensing 213  
pharmacy. 214

On the same date that the electronic notices are sent, the 215  
board shall post notice on its internet web site that comments 216  
from the public will be accepted regarding the request received 217  
under division (C) (2) (b) (ii) of this section. The board shall 218  
accept the comments only during the sixty-day period that begins 219  
on the date the electronic notices are sent. 220

At the board's next regularly scheduled meeting that 221  
occurs on or after the date that is ninety days after the 222  
electronic notices are sent, the board shall review all of the 223  
requests received and make its determination of whether any 224  
should be approved. As part of the board's determination, the 225  
board shall consider the following: 226

(i) Any comments received from the public; 227

(ii) The geographic proximity of a supervising pharmacy to 228  
a proposed remote dispensing pharmacy; 229

(iii) Any other standards specified in rules adopted under 230  
division (H) of this section. 231

(D) (1) To be eligible to serve as the supervising pharmacy 232  
of a remote dispensing pharmacy, a pharmacy shall meet all of 233  
the following conditions: 234

(a) Be licensed under this chapter as a terminal 235  
distributor of dangerous drugs; 236

(b) Be physically located in this state; 237

(c) Be under common ownership and control with the remote 238  
dispensing pharmacy or, pursuant to a contract that meets 239  
requirements specified in rules adopted under this section, 240

<u>operate under contract with the remote dispensing pharmacy.</u>	241
<u>(2) In serving as a supervising pharmacy, the supervising</u>	242
<u>pharmacy shall control the telepharmacy system used by the</u>	243
<u>remote dispensing pharmacy and shall employ or contract with the</u>	244
<u>supervising pharmacist of the remote dispensing pharmacy.</u>	245
<u>(E) (1) To be eligible to serve as the supervising</u>	246
<u>pharmacist of a remote dispensing pharmacy, a pharmacist shall</u>	247
<u>meet all of the following conditions:</u>	248
<u>(a) Be licensed under this chapter as a pharmacist;</u>	249
<u>(b) Be physically located in this state when acting as the</u>	250
<u>supervising pharmacist;</u>	251
<u>(c) Be employed by or under contract with the supervising</u>	252
<u>pharmacy.</u>	253
<u>(2) In serving as a supervising pharmacist, the</u>	254
<u>supervising pharmacist shall do all of the following:</u>	255
<u>(a) Be in full and actual charge of the remote dispensing</u>	256
<u>pharmacy by using the the pharmacy's telepharmacy system and by</u>	257
<u>using a surveillance system that meets standards established in</u>	258
<u>rules adopted under this section;</u>	259
<u>(b) Through the telepharmacy system and surveillance</u>	260
<u>system, oversee the pharmacy interns and certified pharmacy</u>	261
<u>technicians who are staffing the remote dispensing pharmacy;</u>	262
<u>(c) Verify each prescription and drug dispensed pursuant</u>	263
<u>to the prescription before the drug leaves the remote dispensing</u>	264
<u>pharmacy and provide the verification through visual review and</u>	265
<u>the use of barcoding and any other technology required in rules</u>	266
<u>adopted under this section;</u>	267

(d) Offer to provide the service of counseling for each 268  
drug dispensed pursuant to a new prescription for a patient at 269  
the remote dispensing pharmacy. 270

(3) Unless otherwise approved by the board in accordance 271  
with standards established in rules adopted under this section, 272  
a supervising pharmacist shall not simultaneously oversee the 273  
activities of more than one remote dispensing pharmacy. 274

(F) All of the following apply to the operation of a 275  
remote dispensing pharmacy: 276

(1) Unless otherwise approved by the board, a remote 277  
dispensing pharmacy shall not dispense drugs pursuant to more 278  
than an average of one hundred fifty prescriptions per day 279  
during a ninety-day period. 280

(2) A remote dispensing pharmacy shall implement a quality 281  
assurance plan to ensure that there is a planned and systematic 282  
process for monitoring and evaluating the quality and 283  
appropriateness of the pharmacy services being provided and for 284  
identifying and resolving problems. 285

(3) A remote dispensing pharmacy that holds a category III 286  
terminal distributor of dangerous drugs license shall maintain a 287  
perpetual controlled substance inventory, as specified in rules 288  
adopted under this section. 289

(G) Notwithstanding section 4729.91 of the Revised Code or 290  
any other section of this chapter to the contrary, both of the 291  
following apply to a pharmacy intern or certified pharmacy 292  
technician staffing a remote dispensing pharmacy: 293

(1) The intern or technician may assist in the process of 294  
dispensing drugs at the pharmacy. 295

<u>(2) The intern or technician shall not do any of the</u>	296
<u>following:</u>	297
<u>(a) Counsel an individual regarding drugs that are</u>	298
<u>dispensed, recommend drugs and drug therapy related devices or</u>	299
<u>otherwise provide advice regarding drug therapy, or assist with</u>	300
<u>selecting drugs and drug therapy related devices for treatment</u>	301
<u>of common diseases and injuries or assist with providing</u>	302
<u>instruction on their use;</u>	303
<u>(b) Perform compounding of sterile or nonsterile drugs,</u>	304
<u>except for the reconstitution of prepackaged dangerous drugs;</u>	305
<u>(c) Engage in the repackaging of dangerous drugs;</u>	306
<u>(d) Administer immunizations or perform diagnostic</u>	307
<u>testing, unless a pharmacist is onsite to provide direct</u>	308
<u>supervision;</u>	309
<u>(e) Perform any other activity prohibited by rules adopted</u>	310
<u>under this section.</u>	311
<u>(H) The board shall adopt rules for purposes of its</u>	312
<u>regulation of remote dispensing pharmacies. The rules shall be</u>	313
<u>adopted in accordance with Chapter 119. of the Revised Code and</u>	314
<u>include all of the following:</u>	315
<u>(1) Standards for a system of continuous video</u>	316
<u>surveillance and recording of remote dispensing pharmacies,</u>	317
<u>including standards for both of the following:</u>	318
<u>(a) An adequate number of views of the entire remote</u>	319
<u>dispensing pharmacy to ensure that the supervising pharmacist</u>	320
<u>can maintain oversight;</u>	321
<u>(b) Retention of each recording made by the system for at</u>	322
<u>least sixty days after the date of the recording.</u>	323

<u>(2) Standards for telepharmacy systems and surveillance</u>	324
<u>systems used by remote dispensing pharmacies, supervising</u>	325
<u>pharmacies, and supervising pharmacists, including standards to</u>	326
<u>ensure that the systems are capable of all of the following:</u>	327
<u>(a) Facilitating a safe and secured method for appropriate</u>	328
<u>pharmacist supervision;</u>	329
<u>(b) Allowing an appropriate exchange of visual, verbal,</u>	330
<u>and written communications for patient counseling and other</u>	331
<u>pharmacy services;</u>	332
<u>(c) Being secure and compliant with the "Health Insurance</u>	333
<u>Portability and Accountability Act of 1996," 42 U.S.C. 1320d et</u>	334
<u>seq.</u>	335
<u>(3) Requirements for any contract between a supervising</u>	336
<u>pharmacy and a remote dispensing pharmacy;</u>	337
<u>(4) Standards that must be met to make a demonstration of</u>	338
<u>need for purposes of division (C) (2) (b) (ii) of this section;</u>	339
<u>(5) Requirements for the implementation of a quality</u>	340
<u>assurance plan by a remote dispensing pharmacy;</u>	341
<u>(6) The qualifications and training necessary for pharmacy</u>	342
<u>interns and certified pharmacy technicians who staff remote</u>	343
<u>dispensing pharmacies, including the number of experiential</u>	344
<u>hours required;</u>	345
<u>(7) Any additional activities that pharmacy interns and</u>	346
<u>certified pharmacy technicians staffing remote dispensing</u>	347
<u>pharmacies are prohibited from performing;</u>	348
<u>(8) The number of pharmacy interns and certified pharmacy</u>	349
<u>technicians that a supervising pharmacist may supervise at any</u>	350
<u>given time;</u>	351

- (9) The maximum distance a supervising pharmacist may be physically located from the remote dispensing pharmacy; 352  
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- (10) Standards for remote patient counseling by a supervising pharmacist, including the counseling that is required to be offered for each drug dispensed pursuant to a new prescription for a patient by the remote dispensing pharmacy; 354  
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- (11) Standards for and frequency of inspection of a remote dispensing pharmacy by the supervising pharmacist; 358  
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- (12) Requirements for the closure of a remote dispensing pharmacy if the required telepharmacy system or surveillance system, or any related security system used by or for the pharmacy, is malfunctioning; 360  
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- (13) Requirements related to perpetual controlled substance inventories; 364  
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- (14) Security requirements for remote dispensing pharmacies that include methods for supervising pharmacists to determine who has accessed the pharmacy; 366  
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- (15) Standards by which a supervising pharmacist may be approved by the board to oversee simultaneously more than one remote dispensing pharmacy; 369  
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- (16) Requirements for a remote dispensing pharmacy's responsible person, as that term is defined in rules adopted by the board; 372  
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- (17) Any other standards or procedures the board considers necessary to implement this section. 375  
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**Sec. 4729.921.** (A) An applicant for registration as a pharmacy technician trainee shall file with the state board of pharmacy an application in the form and manner prescribed in 377  
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rules adopted under section 4729.94 of the Revised Code. The 380  
application shall be accompanied by an application fee of 381  
twenty-five dollars, which shall not be returned if the 382  
applicant fails to qualify for registration. 383

If the board is satisfied that an applicant meets the 384  
requirements of section 4729.92 of the Revised Code and any 385  
additional requirements established by the board and determines 386  
that the results of a criminal records check do not make the 387  
applicant ineligible, the board shall register the applicant as 388  
a pharmacy technician trainee. 389

(B) (1) The board shall register as a pharmacy technician 390  
trainee in accordance with Chapter 4796. of the Revised Code an 391  
applicant who either holds a license or is registered in another 392  
state or has satisfactory work experience, a government 393  
certification, or a private certification as described in that 394  
chapter as a pharmacy technician trainee in a state that does 395  
not issue that license or registration. 396

(2) The board may register as a pharmacy technician 397  
trainee an applicant who is seventeen years of age ~~and if either~~ 398  
of the following apply: 399

(a) The applicant possesses a high school diploma or 400  
certificate of high school equivalence; 401

(b) The applicant does not possess a high school diploma 402  
or certificate of high school equivalence if the applicant but 403  
is enrolled in a career-technical school program that is 404  
approved by the board and conducted by a city, exempted village, 405  
local, or joint vocational school district. 406

(C) The board shall not refuse to register an applicant as 407  
a pharmacy technician trainee because of a conviction for an 408

offense unless the refusal is in accordance with section 9.79 of 409  
the Revised Code. 410

(D) Registration is valid for one year from the date of 411  
registration, except that the board may extend the time period 412  
for which registration is valid. Registration is not renewable, 413  
but an individual may reapply for registration if the 414  
individual's previous registration has lapsed for more than five 415  
years or the board grants its approval. 416

**Section 2.** That existing sections 4729.285, 4729.45, and 417  
4729.921 of the Revised Code are hereby repealed. 418

**Section 3.** The State Board of Pharmacy shall adopt the 419  
rules required by section 4729.554 of the Revised Code not later 420  
than eighteen months after the effective date of this section. 421  
If the Board fails to adopt the rules within that time period, 422  
the Attorney General or a county prosecuting attorney may apply 423  
to a court of common pleas for a court order requiring the 424  
adoption of the rules. 425