# As Passed by the Senate

# 135th General Assembly

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Sub. S. B. No. 95

# **Senator Reynolds**

Cosponsors: Senators Huffman, S., Antonio, Blessing, Brenner, Chavez, Cirino, Craig, DeMora, Dolan, Gavarone, Hackett, Hicks-Hudson, Ingram, Johnson, Kunze, Landis, Manning, Reineke, Roegner, Romanchuk, Schaffer, Schuring, Sykes, Wilkin, Wilson

# A BILL

Го	amend sections 4729.285, 4729.45, and 4729.921	-
	and to enact sections 3959.22 and 4729.554 of	2
	the Revised Code related to remote dispensing	
	pharmacies and other changes to the pharmacy	4
	law.	ı

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

<b>Section 1.</b> That sections 4/29.285, 4/29.45, and 4/29.921	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

(2) As part of engaging in the administration of drugs by

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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	46
administered by the pharmacist.	47
(C) To be authorized to administer drugs pursuant to this	48
section, a pharmacist must do all of the following:	49
section, a pharmacise must do air of the fortowing.	10
(1) Successfully complete a course in the administration	50
of drugs that satisfies the requirements established <del>by the</del>	51
state board of pharmacy in rules adopted under division (H)(1)	52
(a) of this section;	53
(2) Receive and maintain certification to perform basic	54
life-support procedures by successfully completing a basic life-	55
support training course that is certified by the American red	56
cross or American heart association or approved by the state	57
board of pharmacy;	58
(3) Practice in accordance with a protocol that meets the	59
requirements of division (F) of this section.	60
requirements of division (F) of this section.	00
(D) Each time a pharmacist administers a drug pursuant to	61
this section, the pharmacist shall do all of the following:	62
(1) Obtain permission in accordance with the procedures	63
specified in rules adopted under division (H) of this section	64
and comply with the following requirements:	65
(a) Except as provided in division (D)(1)(c) of this	66
section, for each drug administered by a pharmacist to an	67
individual who is eighteen years of age or older, the pharmacist	68
shall obtain permission from the individual.	69
sharr obtain permission from the individual.	0.5
(b) For each drug administered by a pharmacist to an	70
individual who is under eighteen years of age, the pharmacist	71

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pharmacist shall evaluate the results of the tests to determine	99
whether they indicate that it is appropriate to administer the	100
drug. A pharmacist's authority to evaluate test results under	101
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:

(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	130
engage in the administration of drugs pursuant to this section.	131
engage in the daministration of drage paradame to this section.	101
(H)(1) The (H) With respect to the adoption of rules by	132
the state board of pharmacy shall adopt rules to implement this	133
section. The rules shall be adopted in accordance with Chapter	134
119. of the Revised Code and , all of the following apply:	135
(1) The board shall adopt rules that include all of the	136
following:	137
	1 2 0
(a) Requirements for courses in administration of drugs;	138
(b) Requirements for protocols to be followed by	139
pharmacists in administering drugs pursuant to this section;	140
(c) Procedures to be followed by a pharmacist in obtaining	141
permission to administer a drug to an individual.	142
(2) The board may adopt rules that specify other drugs, as	143
provided in division (B)(1)(g) of this section, that a	144
pharmacist may administer by injection in accordance with this	145
section.	146
(3) The board shall consult with the state medical board	147
before adopting rules regarding requirements for protocols under	148
divisions (H)(1)(b) and (2) of this section.	149
(4) All rules shall be adopted in accordance with Chapter	150
119. of the Revised Code.	151
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Sec. 4729.554. (A) As used in this section:	132
(1) "Remote dispensing pharmacy" means a pharmacy where	153

the dispensing of drugs, patient counseling, and other	154
pharmacist care is provided through a telepharmacy system. The	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
<pre>section;</pre>	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
<pre>look-alike.</pre>	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 bogins on the date that the heard 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
operate under contract with the remote dispensing pharmacy.	241
(2) In serving as a supervising pharmacy, the supervising	242
pharmacy shall control the telepharmacy system used by the	243
remote dispensing pharmacy and shall employ or contract with the	244
supervising pharmacist of the remote dispensing pharmacy.	245
(E) (1) To be eligible to serve as the supervising	246
pharmacist of a remote dispensing pharmacy, a pharmacist shall	247
meet all of the following conditions:	248
(a) Be licensed under this chapter as a pharmacist;	249
(b) Be physically located in this state when acting as the	250
<pre>supervising pharmacist;</pre>	251
(c) Be employed by or under contract with the supervising	252
pharmacy.	253
(2) In serving as a supervising pharmacist, the	254
supervising pharmacist shall do all of the following:	255
(a) Be in full and actual charge of the remote dispensing	256
pharmacy by using the the pharmacy's telepharmacy system and by	257
using a surveillance system that meets standards established in	258
rules adopted under this section;	259
(b) Through the telepharmacy system and surveillance	260
system, oversee the pharmacy interns and certified pharmacy	261
technicians who are staffing the remote dispensing pharmacy;	262
(c) Verify each prescription and drug dispensed pursuant	263
to the prescription before the drug leaves the remote dispensing	264
pharmacy and provide the verification through visual review and	265
the use of barcoding and any other technology required in rules	266
adonted under this section.	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

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

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

(9) The maximum distance a supervising pharmacist may be	352
physically located from the remote dispensing pharmacy;	353
(10) Standards for remote patient counseling by a	354
supervising pharmacist, including the counseling that is	355
required to be offered for each drug dispensed pursuant to a new	356
prescription for a patient by the remote dispensing pharmacy;	357
(11) Standards for and frequency of inspection of a remote	358
dispensing pharmacy by the supervising pharmacist;	359
(12) Requirements for the closure of a remote dispensing	360
pharmacy if the required telepharmacy system or surveillance	361
system, or any related security system used by or for the	362
<pre>pharmacy, is malfunctioning;</pre>	363
(13) Requirements related to perpetual controlled	364
<pre>substance inventories;</pre>	365
(14) Security requirements for remote dispensing	366
pharmacies that include methods for supervising pharmacists to	367
determine who has accessed the pharmacy;	368
(15) Standards by which a supervising pharmacist may be	369
approved by the board to oversee simultaneously more than one	370
remote dispensing pharmacy;	371
(16) Requirements for a remote dispensing pharmacy's	372
responsible person, as that term is defined in rules adopted by	373
the board;	374
(17) Any other standards or procedures the board considers	375
necessary to implement this section.	376
Sec. 4729.921. (A) An applicant for registration as a	377
pharmacy technician trainee shall file with the state board of	378
pharmacy an application in the form and manner prescribed in	379

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rules adopted under section 4729.94 of the Revised Code. The	380
application shall by 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
<pre>certificate of high school equivalence;</pre>	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

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