



Sub. S.B. 203

127th General Assembly
(As Passed by the General Assembly)

Sens. Grendell, Padgett, Cates, Faber, Fedor, Goodman, Harris, Mason, D. Miller, R. Miller, Morano, Mumper, Niehaus, Sawyer, Schaffer, Stivers, Wagoner, Wilson, Bocchieri, Spada, Austria

Reps. R. Hagan, Bacon, Batchelder, Beatty, Blessing, Bolon, Book, Boyd, Brown, Bupp, Budish, Celeste, Chandler, Ciafardini, Collier, Combs, Core, Daniels, DeBose, DeGeeter, Dolan, Domenick, Dyer, Evans, Fende, Flowers, Foley, Garrison, Gerberry, Goodwin, Goyal, Grady, J. Hagan, Harwood, Heard, Heydinger, Hite, Hottinger, Huffman, Hughes, Jones, Koziura, Letson, Luckie, Mandel, J. McGregor, Nero, Newcomb, Oelslager, Okey, Peterson, Reinhard, Sayre, Schlichter, Schneider, Sears, Skindell, Slesnick, Stebelton, D. Stewart, J. Stewart, Strahorn, Szollosi, Uecker, Ujvagi, Wachtmann, White, B. Williams, Yuko, Zehringer

Effective date: *

ACT SUMMARY

- Establishes criminal penalties for "unauthorized pharmacy-related drug conduct" and "permitting unauthorized pharmacy-related drug conduct."
- Exempts licensed health professionals, students, and certain others.
- Specifies criteria that must be met to be considered a "qualified pharmacy technician."

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

CONTENT AND OPERATION

Prohibitions regarding pharmacy activities

(R.C. 4729.42)

Under continuing law, pharmacists and pharmacy interns¹ may practice pharmacy, which includes compounding drugs and other actions related to dispensing drugs pursuant to a prescription from a licensed health professional authorized to prescribe drugs.²

The act prohibits the performance of certain activities that are part of the practice of pharmacy unless the person is a pharmacist, pharmacy intern, or "qualified pharmacy technician." A person who is not a pharmacist, pharmacy intern, or qualified pharmacy technician may not do any of the following in a pharmacy or while performing a function in a pharmacy:

- (1) Engage in the compounding of any drug;³
- (2) Package or label any drug;
- (3) Prepare or mix any intravenous drug to be injected into a human being.

Qualified pharmacy technicians

Prior law did not recognize pharmacy technicians or provide for licensure. The act does not provide for licensure of pharmacy technicians, either, but specifies that a "qualified pharmacy technician" is a person who is under the personal supervision of a pharmacist and to whom all of the following apply:

- (1) Is age 18 or older;

¹ The State Board of Pharmacy is authorized under continuing law to establish a pharmacy internship program for persons actively pursuing an educational program in preparation for licensure as a pharmacist.

² The following are licensed health professionals authorized to prescribe drugs: physicians, dentists, certain advanced practice nurses and physician assistants, certain optometrists, and veterinarians (R.C. 4729.01, not in the act).

³ Continuing law defines "compounding" as the preparation, mixing, assembling, packaging, and labeling of drugs pursuant to a prescription, as an incident to research or similar activities, or in anticipation of a prescription (R.C. 4729.01, not in the act).

(2) Possesses a high school diploma or certificate of high school equivalence or was employed prior to the act's effective date as a pharmacy technician without a high school diploma or certificate of high school equivalence;

(3) Has passed an examination approved by the State Board of Pharmacy to determine competency to perform services as a pharmacy technician;

(4) Has submitted to a criminal records check in accordance with the act and has not been found to have pleaded guilty to or been convicted of a felony (see "**Criminal records check**," below).

Exemptions and "grandfathering" provisions

The act's prohibition against performing certain pharmacy activities without being a pharmacist, pharmacy intern, or qualified pharmacy technician does not apply to any of the following:

(1) A health care professional authorized to engage in the activities while acting in the course of the professional's practice;

(2) The activities performed by a student as an integral part of a pharmacy technician training program that is operated by a vocational school district or joint vocational school district, certified by the Department of Education, or approved by the Ohio Board of Regents;

(3) In the case of a person employed after the act's effective date, activities for the first 210 days following the initial date of employment, if both of the following apply:

--The person is participating in or has completed a pharmacy technician training program that meets the State Board of Pharmacy's standards for those programs and is making substantial progress in preparation to take a pharmacy technician examination approved by the Board;

--The results of the person's criminal records check show that the person has not been convicted of or pleaded guilty to any felony.

(4) In the case of a person who completes a pharmacy technician training program that is operated by a vocational school district or joint vocational school district, activities for the first 210 days after completing the program, if both of the following apply:

--The person is making substantial progress in preparation to take a pharmacy technician examination approved by the Board;

--The results of the person's criminal records check show that the person has not been convicted of or pleaded guilty to any felony.

A person employed as a pharmacy technician on the act's effective date is not required to have a criminal records check if the person has been employed as a pharmacy technician for five years or longer.

The act does not prohibit the activities of a person employed as a pharmacy technician on the act's effective date until the earlier of either of the following:

--If the person has not passed an examination approved by the Board to determine competency to perform services as a pharmacy technician, one year after the act's effective date;

--If a criminal records check is required, the date the person and the employer receive the results of a criminal records check that show the person has been convicted of or pleaded guilty to a felony.

Prohibition against permitting unauthorized conduct

The act provides that no pharmacist and no person who owns, manages, or conducts a pharmacy may allow any person in the employ or under the control of the pharmacist or person to violate the act.

Penalties

(R.C. 4729.99)

A person who personally violates the act is guilty of unauthorized pharmacy-related drug conduct, a misdemeanor of the second degree. If the offender has previously been convicted of violating the act or allowing another to violate it, the offense is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense. A pharmacist or a person who owns, manages, or conducts a pharmacy that allows another to violate the act is guilty of permitting unauthorized pharmacy-related drug conduct, a misdemeanor of the second degree. If the offender has previously been convicted of violating the act or allowing another to violate it, the offense is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense.

Fines

(R.C. 3719.21 and 4729.99)

Continuing law authorizes the State Board of Pharmacy to adopt an internal control policy that addresses fine moneys it receives for violations of criminal drug offense laws. The act provides that if the Board has adopted such a policy and the policy addresses fines imposed under the act, those fines are to be paid to the Board. The Board must use the fines in accordance with the internal control policy to subsidize the Board's law enforcement efforts that pertain to drug offenses.

Criminal records check

(R.C. 4776.02 and 4776.04)

The act requires a person seeking to satisfy the criteria for being a qualified pharmacy technician to submit a request to the Bureau of Criminal Identification and Investigation (BCII) for a criminal records check. The request must be accompanied by the appropriate form, a set of fingerprint impressions, and the fee established by BCII. The person must also request that BCII obtain from the Federal Bureau of Investigation (FBI) any information it has on the person. The results of the criminal records check and any information provided by the FBI are to be made available only to the person who requested the records check and the employer or potential employer specified in the request.

HISTORY

ACTION	DATE
Introduced	07-19-07
Reported, S. Health, Human Services & Aging	05-29-08
Passed Senate (32-0)	05-29-08
Reported, H. Health	12-16-08
Passed House (96-1)	12-16-08
Senate concurred in House amendments (31-0)	12-17-08

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