



Ohio Legislative Service Commission

Bill Analysis

Elizabeth Molnar

H.B. 44

130th General Assembly
(As Introduced)

Reps. McClain, Sears, Grossman, J. Adams, Derickson, Stebelton, Terhar, Retherford, O'Brien

BILL SUMMARY

- Requires the Director of Health to develop one or more protocols that authorize certain licensed health professionals to administer, deliver, or distribute drugs during a public health emergency.
- Requires the Director to develop one or more protocols that authorize pharmacists and pharmacy interns to dispense limited quantities of dangerous drugs without a prescription or record of a prescription during a public health emergency.
- Provides that an individual who administers, delivers, distributes, or dispenses a drug or dangerous drug in accordance with one or more of those protocols is not liable for or subject to civil damages, criminal prosecution, or professional disciplinary action, unless the individual's acts or omissions constitute willful or wanton misconduct.

CONTENT AND OPERATION

Access to drugs during emergencies that affect the public health

Protocols for administering, delivering, or distributing drugs

The bill requires the Director of Health, in consultation with the appropriate state professional regulatory boards, to develop one or more protocols that authorize the following license holders to administer, deliver, or distribute drugs during an emergency that affects the public health, as declared by the Governor:

(1) A physician authorized by the State Medical Board to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(2) A physician assistant who holds a certificate to practice issued by the State Medical Board;

(3) A dentist or dental hygienist licensed by the State Dental Board;

(4) A registered nurse, including an advanced practice registered nurse, or licensed practical nurse licensed by the Board of Nursing;

(5) An optometrist licensed by the State Board of Optometry;

(6) A pharmacist or pharmacy intern licensed by the State Board of Pharmacy;

(7) A respiratory care professional licensed by the Ohio Respiratory Care Board;

(8) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic who holds a certificate to practice issued by the State Board of Emergency Medical Services;

(9) A veterinarian licensed by the State Veterinary Medical Licensing Board.¹

Protocols for dispensing drugs without a prescription

The bill also requires the Director, in consultation with the State Board of Pharmacy, to develop one or more protocols that authorize pharmacists and pharmacy interns, during an emergency that affects the public health, as declared by the Governor, to dispense limited quantities of dangerous drugs without (1) a written, oral, or electronic prescription from a licensed health professional authorized to prescribe drugs or (2) a record of a prescription.²

Implementation of protocols

The bill provides that on the Governor's declaration of an emergency that affects the public health, the Director may issue an order to implement one or more of the protocols developed pursuant to the bill. At a minimum, the Director's order must identify the one or more protocols to be implemented and the period of time during which the one or more protocols are to be effective.³ The bill provides that the activities

¹ R.C. 3701.048(B).

² R.C. 3701.048(C).

³ R.C. 3701.048(D).



authorized by the one or more protocols are applicable notwithstanding any statute or rule that otherwise prohibits or restricts the activities.⁴

Qualified immunity

Under the bill, an individual who administers, delivers, distributes, or dispenses a drug or dangerous drug in accordance with one or more of the protocols implemented under the bill is not liable for or subject to any of the following for the individual's acts or omissions in performing those activities, unless the acts or omissions constitute willful or wanton misconduct:

(1) Damages in any civil action;

(2) Prosecution in any criminal proceeding;

(3) Professional disciplinary action by the applicable governing body under the Revised Code.⁵

Definitions

As used in the bill, "drug," "dangerous drug," and "licensed health professional authorized to prescribe drugs" have the same meanings as those terms are defined in the laws governing the practice of pharmacy and distribution of drugs. "Dangerous drug" is the term used in those laws to describe a drug that, in general, cannot be dispensed without a prescription. "Licensed health professionals authorized to prescribe drugs" are physicians, including podiatrists; dentists; clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners who hold certificates to prescribe; physician assistants who hold certificates to prescribe; optometrists who hold therapeutic pharmaceutical agents certificates; and veterinarians.⁶

HISTORY

ACTION	DATE
Introduced	02-12-13

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⁴ R.C. 3701.048(B) and (C).

⁵ R.C. 3701.048(E).

⁶ R.C. 3701.048(A). See R.C. 4729.01 (not in the bill).

