

AN ACT

4730.433 To amend sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4729.01, 4729.51, 4729.60, and 5101.76 and to enact sections 2925.64, 3728.01, 3728.03, 3728.04, 3728.05, 3728.09, 3728.10, 3728.11, 4723.483, 4729.88, ~~4730.432~~, and 4731.96 of the Revised Code regarding procuring, storing, and accessing epinephrine autoinjectors for which there are no patient-specific prescriptions and civil immunity of health professionals.

Be it enacted by the General Assembly of the State of Ohio:

4730.433 **SECTION 1.** That sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4729.01, 4729.51, 4729.60, and 5101.76 be amended and sections 2925.64, 3728.01, 3728.03, 3728.04, 3728.05, 3728.09, 3728.10, 3728.11, 4723.483, 4729.88, ~~4730.432~~, and 4731.96 of the Revised Code be enacted to read as follows:

Sec. 2925.64. (A) As used in this section:

(1) "Administer epinephrine" means to inject an individual with epinephrine using an autoinjector in a manufactured dosage form.

(2) "Prescriber" and "qualified entity" have the same meanings as in section 3728.01 of the Revised Code.

(B) An individual or qualified entity is not subject to criminal prosecution for a violation of section 4731.41 of the Revised Code or criminal prosecution under this chapter if the individual or entity, acting in good faith and in accordance with Chapter 3728. of the Revised Code, administers epinephrine or provides an epinephrine autoinjector to an individual who appears to be experiencing or at risk of experiencing anaphalaxis or to the parent, guardian, or custodian of such an individual.

Sec. 3313.7110. (A) The board of education of each city, local, exempted village, or joint vocational school district may procure epinephrine autoinjectors for each school operated by the district to have on the school premises for use in emergency situations identified under division (C) (5) of this section by doing one of the following:

4730.433 (1) Having a licensed health professional authorized to prescribe drugs, acting in accordance with section 4723.483, ~~4730.432~~, or 4731.96 of the Revised Code, personally furnish the epinephrine autoinjectors to the school or school district or issue a prescription for them in the name of the school or district;

(2) Having the district's superintendent obtain a prescriber-issued protocol that includes definitive orders for epinephrine autoinjectors and the dosages of epinephrine to be administered through them. A

A district board that elects to procure epinephrine autoinjectors under this section is encouraged to maintain, at all times, at least two epinephrine injectors at each school operated by the

(1) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;

(2) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(3) A physician assistant who is licensed under Chapter 4730. of the Revised Code, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority.

(C) "Qualified entity" means any public or private entity that is associated with a location where allergens capable of causing anaphylaxis may be present, including child day-care centers, colleges and universities, places of employment, restaurants, amusement parks, recreation camps, sports playing fields and arenas, and other similar locations, except that "qualified entity" does not include either of the following:

(1) A chartered or nonchartered nonpublic school; community school; science, technology, engineering, and mathematics school; or a school operated by the board of education of a city, local, exempted village, or joint vocational school district;

(2) A camp described in section 5101.76 of the Revised Code.

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Sec. 3728.03. (A) A qualified entity may acquire and maintain a supply of epinephrine autoinjectors that, in accordance with section 4723.483, ~~4730.432~~ or 4731.96 of the Revised Code, are personally furnished by a prescriber or obtained pursuant to a prescription issued by a prescriber.

(B) Epinephrine autoinjectors acquired pursuant to this section shall be stored in a location readily accessible in an emergency and maintained in accordance with the manufacturer's instructions and any additional requirements that may be established by the department of health under section 3728.11 of the Revised Code.

(C) A qualified entity that acquires epinephrine autoinjectors pursuant to this section shall designate one or more individuals who are employees or agents of the entity and have successfully completed anaphylaxis training in accordance with section 3728.04 of the Revised Code to be responsible for oversight of the epinephrine autoinjectors, including storage, maintenance, and control. The qualified entity may authorize those individuals and other individuals who have successfully completed the anaphylaxis training to administer epinephrine.

Sec. 3728.04. (A) The anaphylaxis training required by section 3728.03 of the Revised Code may be any of the following:

(1) Training conducted by a nationally recognized organization that has experience in providing training in emergency health care to individuals who are not health care professionals;

(2) Training by individuals or organizations approved by the department of health under section 3728.11 of the Revised Code;

(3) Classes approved by the department under section 3728.11 of the Revised Code.

(B) Training may be completed in person or through an online system. The training must cover all of the following and may include any other material the organization or individual conducting it or the department considers appropriate:

(1) Ways of recognizing the signs and symptoms of severe allergic reactions, including anaphylaxis;

(2) Standards and procedures for administration of epinephrine and storage of epinephrine

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;

(4) Any article intended for use as a component of any article specified in division (E)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.

(F) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Prescription" means ~~both~~ all of the following:

(1) A written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs;

(2) For purposes of sections 2925.61, 4723.488, 4729.44, 4730.431, and 4731.94 of the Revised Code, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

(3) For purposes of sections 4723.4810, 4729.282, 4730.432, and 4731.93 of the Revised Code, a written, electronic, or oral order for a drug to treat chlamydia, gonorrhea, or trichomoniasis issued to and in the name of a patient who is not the intended user of the drug but is the sexual partner of the intended user;

4730.433 ~~(4) For purposes of sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 4730.432, 4731.96, and 5101.76 of the Revised Code, a written, electronic, or oral order for~~
4730.433 ~~an epinephrine autoinjector issued to and in the name of a school, school district, or camp;~~

(5) For purposes of Chapter 3728. and sections 4723.483, 4729.88, 4730.432, and 4731.96 of the Revised Code, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a qualified entity, as defined in section 3728.01 of the Revised Code.

(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

(1) A dentist licensed under Chapter 4715. of the Revised Code;

(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who

place or establishment for which the license was issued, the category of licensure, and, if the license is a limited category I, II, or III license, the dangerous drugs that the licensee is authorized to possess, have custody or control of, and distribute.

If no certificate is obtained or furnished before a sale is made, it shall be presumed that the sale of dangerous drugs by the wholesale distributor is in violation of division (B) of section 4729.51 of the Revised Code and the purchase of dangerous drugs by the purchaser is in violation of division (C) of section 4729.51 of the Revised Code. If a registered wholesale distributor of dangerous drugs obtains or is furnished a certificate from a terminal distributor of dangerous drugs and relies on the certificate in selling dangerous drugs at wholesale to the terminal distributor of dangerous drugs, the wholesale distributor of dangerous drugs shall be deemed not to have violated division (B) of section 4729.51 of the Revised Code in making the sale.

(B) Before a licensed terminal distributor of dangerous drugs may purchase dangerous drugs at wholesale, the terminal distributor shall obtain from the seller and the seller shall furnish to the terminal distributor the number of the seller's registration certificate to engage in the sale of dangerous drugs at wholesale.

If no registration number is obtained or furnished before a purchase is made, it shall be presumed that the purchase of dangerous drugs by the terminal distributor is in violation of division (D) of section 4729.51 of the Revised Code and the sale of dangerous drugs by the seller is in violation of division (A) of section 4729.51 of the Revised Code. If a licensed terminal distributor of dangerous drugs obtains or is furnished a registration number from a wholesale distributor of dangerous drugs and relies on the registration number in purchasing dangerous drugs at wholesale from the wholesale distributor of dangerous drugs, the terminal distributor shall be deemed not to have violated division (D) of section 4729.51 of the Revised Code in making the purchase.

4730.433 Sec. 4729.88. Notwithstanding any provision of this chapter or rule adopted by the state board of pharmacy, a pharmacist may dispense epinephrine autoinjectors pursuant to a prescription issued under section 4723.483, ~~4730.432~~, or 4731.96 of the Revised Code.

A pharmacist who in good faith dispenses epinephrine autoinjectors under this section is not liable for or subject to any of the following for any action or omission of an entity to which an epinephrine autoinjector is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

4730.433 ~~Sec. 4730.432~~ (A)(1) Subject to division (A)(2) of this section, and notwithstanding any provision of this chapter or rule adopted by the state medical board, a physician assistant who holds a license issued under this chapter and a valid prescriber number issued by the state medical board and has been granted physician-delegated prescriptive authority may do either of the following without having examined an individual to whom epinephrine may be administered:

(a) Personally furnish a supply of epinephrine autoinjectors for use in accordance with sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 3728.03 to 3728.05, and 5101.76 of the Revised Code;

(b) Issue a prescription for epinephrine autoinjectors for use in accordance with sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 3728.03 to 3728.05, and 5101.76 of the Revised Code.

(2) An epinephrine autoinjector personally furnished or prescribed under division (A)(1) of

this section must be furnished or prescribed in such a manner that it may be administered only in a manufactured dosage form.

(B) A physician assistant who acts in good faith in accordance with this section is not liable for or subject to any of the following for any action or omission of an entity to which an epinephrine autoinjector is furnished or a prescription is issued: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

Sec. 4731.96. (A) As used in this section, "physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(B)(1) Subject to division (B)(2) of this section, and notwithstanding any provision of this chapter or rule adopted by the state medical board, a physician may do either of the following without having examined an individual to whom epinephrine may be administered:

(a) Personally furnish a supply of epinephrine autoinjectors for use in accordance with sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 3728.03 to 3728.05, and 5101.76 of the Revised Code;

(b) Issue a prescription for epinephrine autoinjectors for use in accordance with sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 3728.03 to 3728.05, and 5101.76 of the Revised Code.

(2) An epinephrine autoinjector personally furnished or prescribed under division (B)(1) of this section must be furnished or prescribed in such a manner that it may be administered only in a manufactured dosage form.

(C) A physician who acts in good faith in accordance with this section is not liable for or subject to any of the following for any action or omission of an entity to which an epinephrine autoinjector is furnished or a prescription is issued: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

Sec. 5101.76. (A) A residential camp, as defined in section 2151.011 of the Revised Code, a child day camp, as defined in section 5104.01 of the Revised Code, or a child day camp operated by any county, township, municipal corporation, township park district created under section 511.18 of the Revised Code, park district created under section 1545.04 of the Revised Code, or joint recreation district established under section 755.14 of the Revised Code may procure epinephrine autoinjectors for use in emergency situations identified under division (C)(5) of this section by doing one of the following:

(1) Having a licensed health professional authorized to prescribe drugs, acting in accordance with section 4723.483, ~~4730.432~~, or 4731.96 of the Revised Code, personally furnish the epinephrine autoinjectors to the camp or issue a prescription for them in the name of the camp;

(2) Obtaining a prescriber-issued protocol that includes definitive orders for epinephrine autoinjectors and the dosages of epinephrine to be administered through them. A-

A camp that elects to procure epinephrine autoinjectors under this section is encouraged to maintain at least two epinephrine autoinjectors at all times.

(B) A camp that elects to procure epinephrine autoinjectors under this section shall adopt a policy governing their maintenance and use. Before adopting the policy, the camp shall consult with a licensed health professional authorized to prescribe drugs, as defined in section 4729.01 of the

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code. *

Mark C. Flanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 9th day of June, A. D. 2016.

Jim Hoot

Secretary of State.

File No. 81

Effective Date September 8, 2016

*This certification has required my designation of the following in the left-hand margin as a proper code section number:

4730.433

Mark C. Flanders

Director, Legislative Service Commission

(131st General Assembly)
(Substitute House Bill Number 200)

AN ACT

To amend sections 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4729.01, 4729.51, 4729.60, and 5101.76 and to enact sections 2925.64, 3728.01, 4730.433, 3728.03, 3728.04, 3728.05, 3728.09, 3728.10, 3728.11, 4723.483, 4729.88, ~~4730.433~~ and 4731.96 of the Revised Code regarding procuring, storing, and accessing epinephrine autoinjectors for which there are no patient-specific prescriptions and civil immunity of health professionals.

Introduced by

Representative Hagan

Cosponsors: Representatives Duffey, Becker, Roegner, Blessing, Hackett, Gonzales, Huffman, Antonio, Barnes, Bishop, Brown, Butler, Ginter, Johnson, T., Kuhns, LaTourette, Lepore-Hagan, Schuring, Sears, Sprague, Amstutz, Anielski, Arndt, Ashford, Baker, Boose, Boyd, Buchy, Burkley, Celebrezze, Cera, Condit, Cupp, Derickson, Dever, DeVitis, Dovilla, Driehaus, Fedor, Green, Grossman, Hall, Hambley, Hayes, Henne, Hill, Howse, Koehler, Kunze, Landis, Leland, Maag, Manning, McClain, McColley, O'Brien, M., O'Brien, S., Patterson, Pelanda, Perales, Phillips, Ramos, Reece, Reineke, Retherford, Rezabek, Rogers, Ruhl, Ryan, Schaffer, Scherer, Sheehy, Smith, K., Smith, R., Stinziano, Strahom, Sweeney, Terhar, Thompson, Young
Senators Tavares, Brown, Balderson, Beagle, Burke, Coley, Eklund, Faber, Gardner, Hite, Hottinger, Hughes, Jones, LaRose, Lehner, Manning, Obhof, Oelslager, Patton, Peterson, Schiavoni, Seitz, Thomas, Uecker, Yuko

Passed by the House of Representatives,

December 1, 2015

Passed by the Senate,

May 25, 2016

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Columbus, Ohio, on the*

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Secretary of State.

*Concurred in
Senate amendments,
May 25, 2016.*