

# AN ACT

To amend sections 307.86, 321.44, 340.01, 340.011, 340.03, 340.031, 340.032, 340.033, 340.034, 340.04, 340.05, 340.07, 340.08, 340.09, 340.091, 340.10, 340.12, 340.13, 340.15, 340.20, 1739.05, 2921.22, 2925.61, 2929.13, 2929.14, 2929.15, 2947.231, 3313.65, 3707.56, 3707.57, 3719.121, 3719.13, 3719.21, 3719.27, 3959.111, 4511.191, 4729.06, 4729.071, 4729.16, 4729.18, 4729.19, 4729.291, 4729.38, 4729.51, 4729.54, 4729.541, 4729.55, 4729.571, 4729.60, 4729.68, 4729.99, 4731.22, 4731.62, 4731.94, 4776.02, 4776.04, 5107.42, 5119.01, 5119.10, 5119.11, 5119.17, 5119.21, 5119.22, 5119.23, 5119.25, 5119.28, 5119.36, 5119.361, 5119.362, 5119.364, 5119.371, 5119.391, 5119.392, 5119.41, 5119.42, 5119.60, 5119.61, 5120.035, 5122.31, 5139.01, and 5167.12; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 340.032 (340.04), 340.04 (340.041), 5119.361 (5119.366), 5119.371 (5119.361), and 5119.372 (5119.367); to enact new section 340.032 and sections 340.036, 340.037, 1751.691, 2151.26, 2945.65, 3701.59, 3707.561, 4729.171, 4729.46, 3707.562, 3719.062, 3923.851, 4729.10, 4729.40, 4729.45, 4729.513, 4729.514, 4729.553, 4729.90, 4729.901, 4729.902, 4729.91, 4729.92, 4729.921, 4729.93, 4729.94, 4729.95, 4729.96, 4731.943, 5119.221, and 5164.091; and to repeal section 4729.42 of the Revised Code and to amend Sections 331.90 and 331.120 of Am. Sub. H.B. 64 of the 131st General Assembly to revise certain laws regarding the regulation of drugs, the practice of pharmacy, the procedures used by pharmacy benefit managers, and the provision of addiction and mental health services.

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

SECTION 1. That sections 307.86, 321.44, 340.01, 340.011, 340.03, 340.031, 340.032, 340.033, 340.034, 340.04, 340.05, 340.07, 340.08, 340.09, 340.091, 340.10, 340.12, 340.13, 340.15, 340.20, 1739.05, 2921.22, 2925.61, 2929.13, 2929.14, 2929.15, 2947.231, 3313.65, 3707.56, 3707.57, 3719.121, 3719.13, 3719.21, 3719.27, 3959.111, 4511.191, 4729.06, 4729.071, 4729.16, 4729.18, 4729.19, 4729.291, 4729.38, 4729.51, 4729.54, 4729.541, 4729.55, 4729.571, 4729.60, 4729.68, 4729.99, 4731.22, 4731.62, 4731.94, 4776.02, 4776.04, 5107.42, 5119.01, 5119.10, 5119.11, 5119.17, 5119.21, 5119.22, 5119.23, 5119.25, 5119.28, 5119.36, 5119.361, 5119.362, 5119.364, 5119.371, 5119.391, 5119.392, 5119.41, 5119.42, 5119.60, 5119.61, 5120.035, 5122.31, 5139.01, and 5167.12 be amended; sections 340.032 (340.04), 340.04 (340.041), 5119.361

(5119.366), 5119.371 (5119.361), and 5119.372 (5119.367) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new section 340.032 and sections 340.036, 4729.171 ~~340.037~~, 1751.691, 2151.26, 2945.65, 3701.59, 3707.561, 3707.562, 3719.062, 3923.851, 4729.10, ~~4729.40~~, ~~4729.45~~, 4729.513, 4729.514, 4729.553, 4729.90, 4729.901, 4729.902, 4729.91, 4729.92, 4729.46 4729.921, 4729.93, 4729.94, 4729.95, 4729.96, 4731.943, 5119.221, and 5164.091 of the Revised Code be enacted to read as follows:

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser, by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of fifty thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 339.05, ~~340.03~~ 340.036, 4115.31 to 4115.35, 5119.44, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than one hundred thousand dollars.

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than one hundred thousand dollars, but the estimated cost is fifty thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year after the contract is awarded or the amount of time the federal government requires.

(B)(1) The purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the county, and the only source of supply for the supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information technology, such as programming services, that are proprietary or limited to a single source.

(C) The purchase is from the federal government, the state, another county or contracting authority of another county, or a board of education, educational service center, township, or municipal corporation.

(D) The purchase is made by a county department of job and family services under section

(a) Prescription that is billed to any agency, division, or department of this state which will reimburse the pharmacy;

(b) Prescriptions for patients of a hospital, nursing home, or similar patient care facility.

(B) Unless the prescriber instructs otherwise, the label for every drug dispensed shall include the drug's brand name, if any, or its generic name and the name of the distributor, using abbreviations if necessary. When dispensing at retail a generically equivalent drug for the brand name drug prescribed, the pharmacist shall indicate on the drug's label or container that a generic substitution was made. The labeling requirements established by this division are in addition to all other labeling requirements of Chapter 3715. of the Revised Code.

(C) A pharmacist who selects a generically equivalent drug pursuant to this section assumes no greater liability for selecting the dispensed drug than would be incurred in filling a prescription for a drug prescribed by its brand name.

(D) The failure of a prescriber to restrict a prescription by specifying "dispense as written," or "D.A.W.," pursuant to division (A)(1) of this section shall not constitute evidence of the prescriber's negligence unless the prescriber had reasonable cause to believe that the health condition of the patient for whom the drug was intended warranted the prescription of a specific brand name drug and no other. No prescriber shall be liable for civil damages or in any criminal prosecution arising from the interchange of a generically equivalent drug for a prescribed brand name drug by a pharmacist, unless the prescribed brand name drug would have reasonably caused the same loss, damage, injury, or death.

(E) No pharmacist shall knowingly engage in conduct that is prohibited by division (A) or (B) of this section.

4729.171

Sec. 4729.40 (A)(1)(a) The state board of pharmacy may designate one or more attorneys at law who have been admitted to the practice of law, and who are classified as either administrative law attorney examiners or as administrative law attorney examiner administrators under the state job classification plan adopted under section 124.14 of the Revised Code, as hearing examiners, subject to Chapter 119. of the Revised Code, to conduct any hearing the board is empowered to hold or undertake pursuant to Chapter 119. of the Revised Code.

(b) Notwithstanding the requirement of division (A)(1)(a) of this section that the board designate as a hearing examiner an attorney who is classified as either an administrative law attorney examiner or an administrative law attorney examiner administrator, the board may, subject to section 127.16 of the Revised Code, enter into a personal service contract with an attorney admitted to the practice of law in this state to serve as a hearing examiner.

(2) The hearing examiner shall hear and consider the oral and documented evidence introduced by the parties and issue in writing proposed findings of fact and conclusions of law to the board for their consideration within thirty days following the close of the hearing.

(B) The board shall be given copies of the transcript of the hearing record and all exhibits and documents presented by the parties at the hearing.

(C) The board shall render a decision and take action within ninety days following the receipt of the hearing examiner's proposed findings of fact and conclusions of law.

(D) The final decision of the board in any hearing shall be in writing and contain findings of fact and conclusions of law. Copies of the decision shall be delivered to the parties personally or by

certified mail. The decision is final on delivery or mailing, but may be appealed as provided by Chapter 119. of the Revised Code.

4729.46

Sec. 4729.45/ (A) As used in this section, "opioid analgesic" has the same meaning as in section 3719.01 of the Revised Code.

(B) Except as provided in division (C) of this section or in any rules adopted under division (D) of this section, all of the following apply with respect to a prescription for an opioid analgesic to be used by an individual on an outpatient basis:

(1) A pharmacist, pharmacy intern, or terminal distributor of dangerous drugs shall not dispense or sell the opioid analgesic in an amount that exceeds a ninety-day supply, as determined according to the prescription's directions for use of the drug, regardless of whether the prescription was issued for a greater amount.

(2) Except as provided in division (B)(3) of this section, a pharmacist, pharmacy intern, or terminal distributor of dangerous drugs shall not dispense or sell the opioid analgesic if more than fourteen days have elapsed since the prescription was issued.

(3) A pharmacist, pharmacy intern, or terminal distributor of dangerous drugs may dispense or sell the opioid analgesic after more than fourteen days have elapsed since the prescription was issued if all of the following apply:

(a) The prescription is one of multiple prescriptions for the drug issued by a single prescriber to the patient on a single day.

(b) When combined, the prescriptions do not authorize the patient to receive an amount that exceeds a ninety-day supply of the drug, as determined according to the prescriptions' directions for use of the drug.

(c) The prescriber has provided written instructions on the prescription indicating the earliest date on which the prescription may be filled.

(d) Not more than fourteen days have elapsed since the date described in division (B)(3)(c) of this section.

(C) Division (B) of this section does not apply when a pharmacist, pharmacy intern, or terminal distributor of dangerous drugs dispenses or sells an opioid analgesic to be delivered outside of this state by mail, parcel post, or common carrier to a patient who resides outside of this state.

(D) The state board of pharmacy may adopt rules establishing an amount that is less than the ninety-day supply described in division (B)(1) of this section or a period that is less than the fourteen-day period described in division (B)(2) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4729.51. (A)(1) Except as provided in division (A)(2) of this section, no person other than a registered wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs, except as follows:

(a)(1) A pharmacist who is a licensed terminal distributor of dangerous drugs or who is employed by a licensed terminal distributor of dangerous drugs that is a pharmacy may make occasional sales of dangerous drugs at wholesale.

(b)(2) A licensed terminal distributor of dangerous drugs having more than one establishment or place licensed location may transfer or deliver dangerous drugs from one establishment or place for which a license has been issued to the terminal distributor licensed

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

*Mark C. Flanders*

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the 5  
day of January, A. D. 2017.

*John Haste*

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*Secretary of State.*

File No. 158

Effective Date April 6, 2017; except as otherwise  
provided by law

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

4729.171

4729.46

*Mark C. Flanders*

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Director, Legislative Service Commission

(131st General Assembly)  
(Substitute Senate Bill Number 319)

AN ACT

To amend sections 307.86, 321.44, 340.01, 340.011, 340.03, 340.031, 340.032, 340.033, 340.034, 340.04, 340.05, 340.07, 340.08, 340.09, 340.091, 340.10, 340.12, 340.13, 340.15, 340.20, 1739.05, 2921.22, 2925.61, 2929.13, 2929.14, 2929.15, 2947.231, 3313.65, 3707.56, 3707.57, 3719.121, 3719.13, 3719.21, 3719.27, 3959.111, 4511.191, 4729.06, 4729.071, 4729.16, 4729.18, 4729.19, 4729.291, 4729.38, 4729.51, 4729.54, 4729.541, 4729.55, 4729.571, 4729.60, 4729.68, 4729.99, 4731.22, 4731.62, 4731.94, 4776.02, 4776.04, 5107.42, 5119.01, 5119.10, 5119.11, 5119.17, 5119.21, 5119.22, 5119.23, 5119.25, 5119.28, 5119.36, 5119.361, 5119.362, 5119.364, 5119.371, 5119.391, 5119.392, 5119.41, 5119.42, 5119.60, 5119.61, 5120.035, 5122.31, 5139.01, and 5167.12; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 340.032 (340.04), 340.04 (340.041), 5119.361 (5119.366), 5119.371 (5119.361), and 5119.372 (5119.367); to enact new section 340.032 and sections 340.036, 340.037, 4729.171, 1751.691, 2151.26, 2945.65, 3701.59, 3707.561, 3707.562, 3719.062, 3923.851, 4729.10, 4729.40, 4729.45, 4729.513, 4729.514, 4729.553, 4729.90, 4729.901, 4729.902, 4729.91, 4729.92, 4729.921, 4729.93, 4729.94, 4729.95, 4729.96, 4731.943, 5119.221, and 5164.091; and to repeal section 4729.42 of the Revised Code and to amend Sections 331.90 and 331.120 of Am. Sub. H.B. 64 of the 131st General Assembly to revise certain laws regarding the regulation of drugs, the practice of pharmacy, the procedures used by pharmacy benefit managers, and the provision of addiction and mental health services.

Introduced by

Senator: Eklund  
Cosponsors: Senators Manning, Beagle, Tavares, Brown, Coley, Faber, Hackett, Hite, Jones, Obhof, Skindell, Thomas, Uecker, Williams  
Representatives Green, Sprague, Amstutz, Anielski, Antonio, Arrndt, Baker, Bishoff, Boggs, Boose, Boyce, Boyd, Celebrezze, Clyde, Condit, Craig, Driehaus, Fedor, Gavaroni, Ginter, Hall, Huffman, Kuhns, LaTourrette,

Leland, Manning, O'Brien, M., O'Brien, S., Patterson, Pelanda, Phillips, Reineke, Rezabek, Rogers, Ryan, Sheehy, Smith, R., Sweeney, Sykes, Terhar, Young

Passed by the Senate,

May 25, 2016

Passed by the House of Representatives,

December 7, 2016

Filed in the office of the Secretary of State at Columbus, Ohio, on the

5 day of January, A. D. 2017

*Pa Skiba*  
Secretary of State.

*concurrent in House amendments December 7, 2016*