

As Introduced

**135th General Assembly
Regular Session
2023-2024**

H. B. No. 136

Representatives Holmes, Stewart

A BILL

To amend section 4729.285 and to enact section 1
4729.554 of the Revised Code to authorize the 2
operation of remote dispensing pharmacies. 3

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

Section 1. That section 4729.285 be amended and section 4
4729.554 of the Revised Code be enacted to read as follows: 5

Sec. 4729.285. A pharmacist may provide telehealth 6
services in accordance with section 4743.09 of the Revised Code, 7
except that in the case of dispensing a dangerous drug, a 8
pharmacist shall not use telehealth mechanisms or other virtual 9
means to perform any of the actions involved in dispensing the 10
dangerous drug unless the action is authorized by section 11
4729.554 of the Revised Code or by the state board of pharmacy 12
through rules it adopts under ~~this chapter or~~ section 4743.09 of 13
the Revised Code. 14

Sec. 4729.554. (A) As used in this section: 15

(1) "Remote dispensing pharmacy" means a pharmacy where 16
the dispensing of drugs, patient counseling, and other 17
pharmacist care is provided through a telepharmacy system. The 18
dispensing of drugs at a remote dispensing pharmacy may include 19

the dispensing of drug therapy related devices. 20

(2) "Telepharmacy system" means a system that monitors the 21
dispensing of drugs and provides for related drug utilization 22
review and patient counseling services by an electronic method. 23

(B) The state board of pharmacy shall regulate remote 24
dispensing pharmacies in accordance with this section. A remote 25
dispensing pharmacy may operate only by using a telepharmacy 26
system that meets standards established in rules adopted under 27
this section and by complying with all other requirements of 28
this section and the rules adopted under it for operating a 29
remote dispensing pharmacy. 30

(C) (1) To be eligible to operate as a remote dispensing 31
pharmacy, a pharmacy shall meet all of the following conditions: 32

(a) Be licensed under this chapter as a terminal 33
distributor of dangerous drugs; 34

(b) Be physically located in this state, in a building 35
that is zoned for commercial use, and in an area that meets the 36
conditions of division (C) (2) of this section; 37

(c) Have a supervising pharmacy that meets the 38
requirements of division (D) of this section and a supervising 39
pharmacist that meets the requirements of division (E) of this 40
section; 41

(d) Be staffed by two or more pharmacy interns or 42
certified pharmacy technicians who meet qualifications and 43
training requirements established in rules adopted under this 44
section. 45

(2) (a) Except as provided in division (C) (2) (b) of this 46
section, a remote dispensing pharmacy shall not be located 47

within ten miles of a pharmacy that serves the public as an 48
outpatient pharmacy. 49

(b) A remote dispensing pharmacy may be located within the 50
ten-mile limitation described in division (C)(2)(a) of this 51
section if either of the following is the case: 52

(i) The remote dispensing pharmacy is part of a federally 53
qualified health center or federally qualified health center 54
look-alike, as defined in section 3701.047 of the Revised Code. 55

(ii) The board, based on a demonstration of need that 56
meets the standards established in rules adopted under this 57
section, approves the remote dispensing pharmacy's physical 58
location. 59

(D)(1) To be eligible to serve as the supervising pharmacy 60
of a remote dispensing pharmacy, a pharmacy shall meet all of 61
the following conditions: 62

(a) Be licensed under this chapter as a terminal 63
distributor of dangerous drugs; 64

(b) Be physically located in this state; 65

(c) Be under common ownership and control with the remote 66
dispensing pharmacy or, pursuant to a contract that meets 67
requirements specified in rules adopted under this section, 68
operate under contract with the remote dispensing pharmacy. 69

(2) In serving as a supervising pharmacy, the supervising 70
pharmacy shall control the telepharmacy system used by the 71
remote dispensing pharmacy and shall employ or contract with the 72
supervising pharmacist of the remote dispensing pharmacy. 73

(E)(1) To be eligible to serve as the supervising 74
pharmacist of a remote dispensing pharmacy, a pharmacist shall 75

<u>meet all of the following conditions:</u>	76
<u>(a) Be licensed under this chapter as a pharmacist;</u>	77
<u>(b) Be physically located in this state when acting as the</u> <u>supervising pharmacist;</u>	78 79
<u>(c) Be employed by or under contract with the supervising</u> <u>pharmacy.</u>	80 81
<u>(2) In serving as a supervising pharmacist, the</u> <u>supervising pharmacist shall do all of the following:</u>	82 83
<u>(a) Be in full and actual charge of the remote dispensing</u> <u>pharmacy by using the the pharmacy's telepharmacy system and by</u> <u>using a surveillance system that meets standards established in</u> <u>rules adopted under this section;</u>	84 85 86 87
<u>(b) Through the telepharmacy system and surveillance</u> <u>system, oversee the pharmacy interns and certified pharmacy</u> <u>technicians who are staffing the remote dispensing pharmacy;</u>	88 89 90
<u>(c) Verify each prescription and drug dispensed pursuant</u> <u>to the prescription before the drug leaves the remote dispensing</u> <u>pharmacy and provide the verification through visual review and</u> <u>the use of barcoding and any other technology required in rules</u> <u>adopted under this section;</u>	91 92 93 94 95
<u>(d) Offer to provide the service of counseling for each</u> <u>drug dispensed pursuant to a new prescription for a patient at</u> <u>the remote dispensing pharmacy.</u>	96 97 98
<u>(3) Unless otherwise approved by the board in accordance</u> <u>with standards established in rules adopted under this section,</u> <u>a supervising pharmacist shall not simultaneously oversee the</u> <u>activities of more than one remote dispensing pharmacy.</u>	99 100 101 102

<u>(F) All of the following apply to the operation of a</u>	103
<u>remote dispensing pharmacy:</u>	104
<u>(1) Unless otherwise approved by the board, a remote</u>	105
<u>dispensing pharmacy shall not dispense drugs pursuant to more</u>	106
<u>than an average of one hundred fifty prescriptions per day</u>	107
<u>during a ninety-day period.</u>	108
<u>(2) A remote dispensing pharmacy shall implement a quality</u>	109
<u>assurance plan to ensure that there is a planned and systematic</u>	110
<u>process for monitoring and evaluating the quality and</u>	111
<u>appropriateness of the pharmacy services being provided and for</u>	112
<u>identifying and resolving problems.</u>	113
<u>(3) A remote dispensing pharmacy that holds a category III</u>	114
<u>terminal distributor of dangerous drugs license shall maintain a</u>	115
<u>perpetual controlled substance inventory, as specified in rules</u>	116
<u>adopted under this section.</u>	117
<u>(G) Notwithstanding section 4729.91 of the Revised Code or</u>	118
<u>any other section of this chapter to the contrary, both of the</u>	119
<u>following apply to a pharmacy intern or certified pharmacy</u>	120
<u>technician staffing a remote dispensing pharmacy:</u>	121
<u>(1) The intern or technician may assist in the process of</u>	122
<u>dispensing drugs at the pharmacy.</u>	123
<u>(2) The intern or technician shall not do any of the</u>	124
<u>following:</u>	125
<u>(a) Counsel an individual regarding drugs that are</u>	126
<u>dispensed, recommend drugs and drug therapy related devices or</u>	127
<u>otherwise provide advice regarding drug therapy, or assist with</u>	128
<u>selecting drugs and drug therapy related devices for treatment</u>	129
<u>of common diseases and injuries or assist with providing</u>	130
<u>instruction on their use;</u>	131

<u>(b) Perform compounding of sterile or nonsterile drugs,</u>	132
<u>except for the reconstitution of prepackaged dangerous drugs;</u>	133
<u>(c) Engage in the repackaging of dangerous drugs;</u>	134
<u>(d) Administer immunizations or perform diagnostic</u>	135
<u>testing, unless a pharmacist is onsite to provide direct</u>	136
<u>supervision;</u>	137
<u>(e) Perform any other activity prohibited by rules adopted</u>	138
<u>under this section.</u>	139
<u>(H) The board shall adopt rules for purposes of its</u>	140
<u>regulation of remote dispensing pharmacies. The rules shall be</u>	141
<u>adopted in accordance with Chapter 119. of the Revised Code and</u>	142
<u>include all of the following:</u>	143
<u>(1) Standards for a system of continuous video</u>	144
<u>surveillance and recording of remote dispensing pharmacies,</u>	145
<u>including standards for both of the following:</u>	146
<u>(a) An adequate number of views of the entire remote</u>	147
<u>dispensing pharmacy to ensure that the supervising pharmacist</u>	148
<u>can maintain oversight;</u>	149
<u>(b) Retention of each recording made by the system for at</u>	150
<u>least sixty days after the date of the recording.</u>	151
<u>(2) Standards for telepharmacy systems and surveillance</u>	152
<u>systems used by remote dispensing pharmacies, supervising</u>	153
<u>pharmacies, and supervising pharmacists, including standards to</u>	154
<u>ensure that the systems are capable of all of the following:</u>	155
<u>(a) Facilitating a safe and secured method for appropriate</u>	156
<u>pharmacist supervision;</u>	157
<u>(b) Allowing an appropriate exchange of visual, verbal,</u>	158

<u>and written communications for patient counseling and other</u>	159
<u>pharmacy services;</u>	160
<u>(c) Being secure and compliant with the "Health Insurance</u>	161
<u>Portability and Accountability Act of 1996," 42 U.S.C. 1320d et</u>	162
<u>seq.</u>	163
<u>(3) Requirements for any contract between a supervising</u>	164
<u>pharmacy and a remote dispensing pharmacy;</u>	165
<u>(4) Standards that must be met to make a demonstration of</u>	166
<u>need for purposes of division (C) (2) (b) (ii) of this section;</u>	167
<u>(5) Requirements for the implementation of a quality</u>	168
<u>assurance plan by a remote dispensing pharmacy;</u>	169
<u>(6) The qualifications and training necessary for pharmacy</u>	170
<u>interns and certified pharmacy technicians who staff remote</u>	171
<u>dispensing pharmacies, including the number of experiential</u>	172
<u>hours required;</u>	173
<u>(7) Any additional activities that pharmacy interns and</u>	174
<u>certified pharmacy technicians staffing remote dispensing</u>	175
<u>pharmacies are prohibited from performing;</u>	176
<u>(8) The number of pharmacy interns and certified pharmacy</u>	177
<u>technicians that a supervising pharmacist may supervise at any</u>	178
<u>given time;</u>	179
<u>(9) The maximum distance a supervising pharmacist may be</u>	180
<u>physically located from the remote dispensing pharmacy;</u>	181
<u>(10) Standards for remote patient counseling by a</u>	182
<u>supervising pharmacist, including the counseling that is</u>	183
<u>required to be offered for each drug dispensed pursuant to a new</u>	184
<u>prescription for a patient by the remote dispensing pharmacy;</u>	185

<u>(11) Standards for and frequency of inspection of a remote</u>	186
<u>dispensing pharmacy by the supervising pharmacist;</u>	187
<u>(12) Requirements for the closure of a remote dispensing</u>	188
<u>pharmacy if the required telepharmacy system or surveillance</u>	189
<u>system, or any related security system used by or for the</u>	190
<u>pharmacy, is malfunctioning;</u>	191
<u>(13) Requirements related to perpetual controlled</u>	192
<u>substance inventories;</u>	193
<u>(14) Security requirements for remote dispensing</u>	194
<u>pharmacies that include methods for supervising pharmacists to</u>	195
<u>determine who has accessed the pharmacy;</u>	196
<u>(15) Standards by which a supervising pharmacist may be</u>	197
<u>approved by the board to oversee simultaneously more than one</u>	198
<u>remote dispensing pharmacy;</u>	199
<u>(16) Requirements for a remote dispensing pharmacy's</u>	200
<u>responsible person, as that term is defined in rules adopted by</u>	201
<u>the board;</u>	202
<u>(17) Any other standards or procedures the board considers</u>	203
<u>necessary to implement this section.</u>	204
Section 2. That existing section 4729.285 of the Revised	205
Code is hereby repealed.	206
Section 3. The State Board of Pharmacy shall adopt the	207
rules required by section 4729.554 of the Revised Code not later	208
than eighteen months after the effective date of this section.	209
If the Board fails to adopt the rules within that time period,	210
the Attorney General or a county prosecuting attorney may apply	211
to a court of common pleas for a court order requiring the	212
adoption of the rules.	213