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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 558
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Roemer and Jordan

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SUMMARY

- Revises the laws governing the State Board of Pharmacy's Drug Repository Program, including by exempting charitable pharmacies and nonprofit clinics from current law's general prohibition on accepting or distributing drugs not in their original sealed and tamper-evident packaging.
- Exempts charitable pharmacies and nonprofit clinics from the existing law prohibition on reselling drugs donated to the program, by authorizing those entities to make occasional sales of donated drugs at wholesale.
- Extends the authority to distribute drugs under the program to licensed health professionals authorized to prescribe drugs.
- Eliminates the requirement that the Board consult with the Director of Health when adopting rules.
- Makes other changes to the program's laws, including several conforming changes.

DETAILED ANALYSIS

Drug repository program

H.B. 558 modifies the laws governing the State Board of Pharmacy's Drug Repository Program, a program for the collection and redistribution of drugs donated or given by pharmacies, drug manufacturers, health care facilities, and others to Ohio residents who meet eligibility standards established by the Board in rules.¹

¹ R.C. 3715.87 to 3715.873.

Charitable pharmacies and nonprofit clinics

Two of the bill's substantive changes relate to charitable pharmacies and nonprofit clinics participating in the Drug Repository Program. Each is described briefly below.

Original sealed and tamper-evident packaging

In general under current law, only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and distributed under the program. The bill moderates this limitation, by authorizing drugs that are not in their original sealed and tamper-evident packaging to be accepted and distributed under the program if done so by a charitable pharmacy or nonprofit clinic. This authority is subject to rules that are to be adopted by the Board of Pharmacy, and the existing law exclusion of controlled substances is retained.

The bill specifies that the authority being granted to a charitable pharmacy or nonprofit clinic extends to both (1) orally administered cancer drugs and (2) drugs that may require storage at a special temperature. For other pharmacies and hospitals, however, the bill retains a provision that permits drugs not in their original sealed and tamper-evident packaging to be accepted and distributed only if they are orally administered cancer drugs that do not require refrigeration, freezing, or storage at a special temperature.²

Occasional sales of donated drugs at wholesale

The bill establishes an exemption to the current law prohibition on reselling drugs that are donated or given to the program, by authorizing – in Board rules – charitable pharmacies and nonprofit clinics to make occasional sales of donated drugs at wholesale.³

Definitions

Under the bill, “**charitable pharmacy**” is defined as a pharmacy that meets all of the following requirements:

- Holds a terminal distributor license issued by the Board of Pharmacy;
- Is exempt from federal taxation;
- Is not a hospital.⁴

The bill expands the definition of “**nonprofit clinic**” to include those providing health care services to underinsured persons, as defined in Board rules. At present, for purposes of the Drug Repository Program, a nonprofit clinic provides health care services only to indigent and uninsured persons. Note that such a clinic does not include a hospital, nursing home, residential care facility, or facility operated for profit.⁵

² R.C. 3715.871.

³ R.C. 3715.871 and 3715.873.

⁴ R.C. 3715.87 and 3719.811, not in the bill.

⁵ R.C. 3715.87.

Distribution by prescribers

Under existing law, when an entity participating in the Drug Repository Program distributes a drug to an eligible individual, the distribution must be pursuant to a prescription. The bill clarifies this provision, by referring to the pharmacist who dispenses such a drug. In addition, the provision is broadened, by authorizing a drug to be distributed by being personally furnished by a licensed health professional authorized to prescribe, often referred to as a prescriber.⁶ The bill also makes a conforming change to include prescribers in the immunity from civil liability provisions that currently apply under the program.⁷

Facilitating the donation or gift of drugs

At present, any pharmacy, drug manufacturer, health care facility, or other person or government entity may donate or give prescription drugs to the Drug Repository Program. The bill maintains this authority, but also permits any person or government entity to facilitate the donation or gift of drugs. Note that the bill neither defines nor describes the act of facilitating a donation or gift.⁸

Rules on eligible drugs and forms for making donations

Existing law requires the Board of Pharmacy to adopt rules governing the program, including rules that establish lists of drugs that the program will and will not accept. Separate lists must be established regarding drugs that individuals may donate and drugs that health care facilities may donate. Rather than requiring separate lists outlining the drugs that will or will not be accepted, with distinctions based on the type of donor, the bill instead requires just one: a list of the drugs or drug types ineligible for donation.

Current law also directs the Board to establish in rule a form that must be signed when a donation is made to the program directly by an individual. Under the bill, the Board also must establish a form to be signed by an individual who represents a person or government entity that is donating drugs to the program. The form must allow for the individual representative to state that the person or entity being represented is the drugs' owner and intends to voluntarily donate them to the program.⁹

Consultation with the Director of Health

The bill eliminates the requirement that the Board of Pharmacy consult with the Director of Health when adopting rules governing the Drug Repository Program. In a

⁶ R.C. 3715.871.

⁷ R.C. 3715.872.

⁸ R.C. 3715.871.

⁹ R.C. 3715.873. *See also* Ohio Administrative Code 4729:5-10-06(A)(2).

corresponding change, the bill removes the Director from the current law provisions describing the persons and entities that receive immunity from civil liability under the program.¹⁰

HISTORY

Action	Date
Introduced	02-01-22

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¹⁰ R.C. 3715.872 and 3715.873.