



Ohio Revised Code

Section 4729.57 Disciplinary actions - terminal distributor.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) The state board of pharmacy may after notice and a hearing in accordance with Chapter 119. of the Revised Code, impose any one or more of the following sanctions on a terminal distributor of dangerous drugs for any of the causes set forth in division (B) of this section:

- (1) Suspend, revoke, restrict, limit, or refuse to grant or renew any license;
- (2) Reprimand or place the license holder on probation;
- (3) Impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or one thousand dollars if the acts committed have not been classified as an offense by the Revised Code.

(B) The board may impose the sanctions listed in division (A) of this section for any of the following:

- (1) Making any false material statements in an application for a license as a terminal distributor of dangerous drugs;
- (2) Violating any rule of the board;
- (3) Violating any provision of this chapter;
- (4) Except as provided in section 4729.89 of the Revised Code, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code;
- (5) Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code;



(6) Falsely or fraudulently promoting to the public a dangerous drug, except that nothing in this division prohibits a terminal distributor of dangerous drugs from furnishing information concerning a dangerous drug to a health care provider or another licensed terminal distributor;

(7) Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code;

(8) Except as provided in division (C) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the services provided by a terminal distributor of dangerous drugs, would otherwise be required to pay for the services if the waiver is used as an enticement to a patient or group of patients to receive pharmacy services from that terminal distributor;

(b) Advertising that the terminal distributor will waive the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the pharmaceutical services, would otherwise be required to pay for the services.

(9) Conviction of a felony;

(10) Any other cause for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code.

(C) Sanctions shall not be imposed under division (B)(8) of this section against any terminal distributor of dangerous drugs that waives deductibles and copayments as follows:

(1) In compliance with a health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board on request.



(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(D)(1) Upon the suspension or revocation of a license issued to a terminal distributor of dangerous drugs or the refusal by the board to renew such a license, the distributor shall immediately surrender the license to the board.

(2)(a) The board may place under seal all dangerous drugs that are owned by or in the possession, custody, or control of a terminal distributor at the time the license is suspended or revoked or at the time the board refuses to renew the license. Except as provided in division (D)(2)(b) of this section, dangerous drugs so sealed shall not be disposed of until appeal rights under Chapter 119. of the Revised Code have expired or an appeal filed pursuant to that chapter has been determined.

(b) The court involved in an appeal filed pursuant to Chapter 119. of the Revised Code may order the board, during the pendency of the appeal, to sell sealed dangerous drugs that are perishable. The proceeds of such a sale shall be deposited with that court.

(E) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division (A) of this section.

(F) Notwithstanding division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case must be deemed not to have occurred, sealing of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.