



## Ohio Administrative Code Rule 4729:5-4-01 Disciplinary actions.

Effective: April 25, 2022

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(A) The state board of pharmacy, in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a person licensed as a terminal distributor of dangerous drugs for any of the causes set forth in paragraph (B) of this rule:

- (1) Suspend, revoke, restrict, limit, or refuse to grant or renew a license;
- (2) Reprimand or place the license holder on probation;
- (3) Impose a monetary penalty or forfeiture as set forth in section 4729.57 of the Revised Code.

(B) The board may impose the sanctions set forth in paragraph (A) of this rule for any of the following:

- (1) Making any false material statements in an application for a license or renewal of a license as a terminal distributor of dangerous drugs.
- (2) Violating any rule of the board.
- (3) Violating any provision of Chapter 4729. of the Revised Code.
- (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 rule



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 section 4729.57 of the Revised Code:

(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) Violation of any restrictions placed by the state board of pharmacy on a license or violating any terms of a board order issued against the licensee.

(11) Exclusion from participation in medicare or a state health care program.

(12) Being denied a license or registration by the drug enforcement administration or appropriate issuing body of any state or jurisdiction.

(13) Being the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction:

(a) A disciplinary action that resulted in the suspension or revocation of the person's license or registration; or



(b) A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug.

(14) Commission of an act that constitutes a disqualifying offense, regardless of the jurisdiction in which the act was committed.

(15) Has been subject to any of the following:

(a) A finding by a court of the person's eligibility for intervention in lieu of conviction; or

(b) A finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction.

(16) Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof.

(17) Is addicted to or abusing alcohol or drugs.

(18) Commission of an act that constitutes a misdemeanor that is related to, or committed in, the person's professional practice.

(19) Employs a responsible person that does not meet the requirements set forth in rule 4729:5-2-01 of the Administrative Code.

(20) The ownership of such entity has been transferred from a person whose license issued in accordance with Chapter 4729. of the Revised Code has been revoked or disciplined by the state board of pharmacy or any other professional licensing agency to a spouse or other family member.

(21) The ownership of such facility has been transferred from a licensee whose license has been revoked or disciplined by the state board of pharmacy or any other professional licensing agency to another who employs the former owner or who allows the former owner to be present within the



physical confines of the location to be licensed.

(22) Except as provided in Chapter 3719. of the Revised Code, dispensing a sample drug as defined in rule 4729:6-3-08 of the Administrative Code.

(23) The method used by the terminal distributor to store, possess or distribute dangerous drugs poses serious harm to others.

(24) The furnishing of false or fraudulent information or omitting information on due diligence questionnaires and/or attestation documents regarding the purchase or receipt of dangerous drugs from manufacturers, repackagers, third-party logistics providers, outsourcing facilities, wholesale distributors or other terminal distributors.

(25) Retaliating against or disciplining an employee for filing a complaint with a board of pharmacy or other licensing body or reporting a violation of state or federal statute or any ordinance or regulation of a political subdivision that the employee's employer has authority to correct. As used in this rule, retaliation or discipline of an employee includes, but is not limited to, the following:

(a) Removing or suspending the employee from employment;

(b) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;

(c) Transferring or reassigning the employee;

(d) Denying the employee a promotion that otherwise would have been received;

(e) Reducing the employee in pay or position.

(26) Unless otherwise approved by the board, a terminal distributor knowingly employs a person with access to drug stock who:

(a) Has been denied the right to work in any facility by the state board of pharmacy as part of an



official order of the board.

- (b) Has been denied the right to work in such a facility by another professional licensing agency as part of an official order of that agency.
- (c) Has committed an act that constitutes a disqualifying offense, regardless of the jurisdiction in which the act was committed.
- (d) Has committed an act that constitutes a misdemeanor or felony drug offense, except for a minor misdemeanor drug offense, regardless of the jurisdiction in which the act was committed.
- (e) Has been subject to any of the following:
  - (i) A finding by a court of the person's eligibility for intervention in lieu of conviction; or
  - (ii) A finding by a court of the person's eligibility for treatment or intervention in lieu of conviction in another jurisdiction.
- (f) Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof.
- (g) Is addicted to or abusing alcohol or drugs.
- (h) Has been excluded from participation in medicare or a state health care program.
- (i) Has been denied a license or registration by the drug enforcement administration or appropriate issuing body of any state or jurisdiction.
- (j) Has been the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction:
  - (i) A disciplinary action that resulted in the suspension, probation, surrender or revocation of the person's license or registration; or



(ii) A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, securing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug.

(k) Has committed an act that constitutes a misdemeanor that is related to, or committed in, the employee's professional practice.