



## Ohio Revised Code

### Section 3712.062 Policies to prevent diversion of opioids in hospice care programs.

Effective: September 17, 2014

Legislation: House Bill 366 - 130th General Assembly

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(A) Each hospice care program licensed under this chapter that provides hospice care and services in a hospice patient's home shall establish a written policy establishing procedures to be followed in preventing the diversion of controlled substances containing opioids that are prescribed to its hospice patients. The policy shall include procedures for the disposal of any such drugs prescribed to a hospice patient as part of the patient's interdisciplinary plan of care that are relinquished to the program after the patient's death or that otherwise are no longer needed by the patient. The policy shall require that the disposal be documented by a program employee and conducted in any of the following ways:

- (1) Performed by a program employee and witnessed by the patient or patient's family member;
- (2) Performed by the patient or patient's family member and witnessed by a program employee;
- (3) Performed by a program employee and witnessed by another program employee.

(B) As part of a hospice patient's interdisciplinary plan of care required by section 3712.06 of the Revised Code, each hospice care program that provides hospice care and services in the patient's home shall do all of the following:

- (1) Before providing hospice care and services, distribute a copy of the written policy established under division (A) of this section to the patient and patient's family and discuss the procedures included in the policy with the patient and patient's family;
- (2) Assess the patient, the patient's family, and the care environment for any risk factors associated with diversion;
- (3) Maintain records of controlled substances containing opioids prescribed to the patient and



included in the patient's interdisciplinary plan of care, including accurate counts of the numbers dispensed and used;

(4) Monitor the use and consumption of controlled substances containing opioids prescribed to the patient and included in the patient's interdisciplinary plan of care, including prescription refills, for signs of diversion;

(5) Investigate any sign of suspected diversion in accordance with rules adopted under division (A)(5) of section 3712.03 of the Revised Code.

(6) Report the results of an investigation of suspected diversion to the local law enforcement agency with jurisdiction over the territory in which the hospice patient's home is located in accordance with rules adopted under division (A)(6) of section 3712.03 of the Revised Code;

(7) Before providing hospice care and services, inform the patient and the patient's family that the hospice care program will dispose of any controlled substances containing opioids that are no longer needed by the patient and were included in the patient's interdisciplinary plan of care;

(8) After the patient's death or when no longer needed by the patient, request, in writing, that the patient or patient's family relinquish to the program for disposal any remaining controlled substances containing opioids that were included in the patient's interdisciplinary plan of care to the program;

(9) Report to the local law enforcement agency with jurisdiction over the territory in which the hospice patient's home is located the quantity and type of any remaining controlled substances containing opioids that were included in the patient's interdisciplinary plan of care and were not relinquished to the program by the patient or patient's family.

(C) If a hospice care program complies with divisions (B)(8) and (9) of this section, none of the following shall be liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission relative to this section unless the action or omission constitutes willful or wanton misconduct: the program; a program employee, officer, or director; or a prescriber of controlled substances containing opioids that were included in the patient's interdisciplinary plan of care.



(D) No person who receives a written request under division (B)(8) of this section shall fail to relinquish controlled substances containing opioids that were included in a patient's interdisciplinary plan of care.

(E) Following a report from a hospice program under division (B)(9) of this section, the local law enforcement agency with jurisdiction over the territory in which the hospice patient's home is located shall investigate and dispose of the remaining controlled substances containing opioids that were reported to the agency pursuant to division (B)(9) of this section.

(F) After a review of the written evidence submitted under division (B) of section 3712.04 of the Revised Code with an application for license renewal, if the department determines that the program is not in compliance with this section, the department may suspend the program's license for not more than six months and impose a fine not to exceed twenty thousand dollars.

(G) Not later than one year after the effective date of this section, the director of health shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the submission and review of the written evidence required by division (B) of section 3712.04 of the Revised Code for renewal of a hospice care program license.