



## Pharmacist Duty to Report Requirements

Updated 10/8/2020

Rule [4729:1-4-02](#) of the Ohio Administrative Code requires Ohio licensed pharmacists to report to the State of Ohio Board of Pharmacy certain types of conduct of which the licensed pharmacist has knowledge. **REMINDER:** Per section [4729.23](#) of the Ohio Revised Code, the identity of the pharmacist making a report in accordance with this rule will remain confidential.

### CONDUCT OF OTHER LICENSEES

The following must be reported to the Board by a pharmacist:

1. Conduct indicating an individual licensed or registered by the Board (i.e. pharmacist, pharmacy intern, certified pharmacy technician, registered pharmacy technician, and pharmacy technician trainee) is addicted to or is suspected to be abusing alcohol, drugs or other chemical substances or impaired physically or mentally to such a degree as to render the individual unfit to carry out their professional duties.  
  
**IMPORTANT:** A pharmacist shall not report someone who is addicted to or is suspected to be abusing alcohol, drugs or other chemical substances or impaired physically or mentally to such a degree as to render the individual unfit to carry out their professional duties if the pharmacist becomes aware of any condition as a result of either:
  - i. The pharmacist's treatment of the individual for the condition; or
  - ii. The pharmacist having access to the individual's protected health information.
2. Violations, attempts to violate, or aiding and abetting in the violation of any of the provisions of Chapters [4729](#). (Pharmacy Practice Act), [4752](#). (Home Medical Services), [3715](#). (Pure Food and Drug Law), [3719](#). (Controlled Substances), [3796](#). (Medical Marijuana Control Program), [2925](#). (Drug Offenses), and [2913](#). (Theft and Fraud) of the Revised Code, or any rule adopted by the Board under those provisions by an **individual or entity** licensed or registered by the Board (i.e. terminal distributor of dangerous drugs, wholesale distributor of dangerous drugs, manufacturer of dangerous drugs, outsourcing facility, repackager, home medical equipment services provider, medical marijuana dispensary, third-party logistics provider, pharmacist, pharmacy intern, certified pharmacy technician, registered pharmacy technician, and pharmacy technician trainee).

**IMPORTANT:** A pharmacist is not required to report an error in dispensing or prescription error except when the error is the result of *reckless behavior or unprofessional conduct* and



meets any of the following per the [National Coordinating Council for Medication Error Reporting and Prevention's Index for Categorizing Medication Errors](#):

- i. An error occurred that may have contributed to or resulted in temporary harm to the patient and required intervention;
- ii. An error occurred that may have contributed to or resulted in temporary harm to the patient and required initial or prolonged hospitalization;
- iii. An error occurred that may have contributed to or resulted in permanent patient harm;
- iv. An error occurred that required intervention necessary to sustain life; or
- v. An error occurred that may have contributed to or resulted in the patient's death.

**IMPORTANT:** See Q8 of this document for definitions of "harm," "intervention," "intervention necessary to sustain life," and "reckless behavior."

3. Conduct by a pharmacy technician trainee, registered pharmacy technician, certified pharmacy technician, pharmacy intern or pharmacist that constitutes unprofessional conduct or dishonesty (see Q6 of this document for the definition of unprofessional conduct and dishonesty).

### **SELF-REPORTING REQUIREMENTS**

The rule also includes provisions requiring a pharmacist to self-report to the Board any of the following:

1. Any criminal conviction within ten days after the date of conviction, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration. **NOTE:** The conviction must be reported regardless of whether the case has been expunged or sealed or the equivalent thereof.
2. The pharmacist is convicted of, plead guilty to, is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state under section 2951.041 of the Revised Code or the equivalent thereof in another jurisdiction within ten days after the individual is deemed eligible. **NOTE:** The conviction must be reported regardless of whether the case has been expunged or sealed or the equivalent thereof.
3. The pharmacist is granted entry into a diversion program, deferred prosecution program, or the equivalent thereof within ten days after the individual is granted entry into a program.
4. Any arrest for a felony within ten days after the arrest.
5. A pharmacist shall notify the board of any disciplinary licensing or registration action taken by another state against the licensee within ten days of the notice action. This includes, but is not limited to, a disciplinary action that is stayed pending appeal (see Q5 of this document for the definition of a disciplinary action).

**IMPORTANT:** A licensee that seeks out care for a mental health condition is not required to self-report under the rule.

For questions regarding these requirements, please review the following frequently asked questions. Other questions not addressed here may be emailed to the Board by visiting: <http://www.pharmacy.ohio.gov/contact.aspx>.

**Q1) How do I submit a report relating to the conduct of an individual or entity licensed or registered by the Board?**

**IMPORTANT:** This process is only for reporting other licensees/registrants. See Q2 for self-reporting requirements.

Reporting required in accordance with this rule must be made using any of the following methods:

- In writing, either by mail or using the Board's online complaint form (available on the Board's web site: [www.pharmacy.ohio.gov/complaint](http://www.pharmacy.ohio.gov/complaint)); or
- By telephone during normal business hours (614-466-4143 – ask to speak with the Compliance and Enforcement Department).

The report must include the following:

1. The name of the licensee, registrant or other individual who may have committed a violation;
2. The violation which is believed to have occurred; and
3. The date(s) of and place(s) of occurrence(s), if known.

**REMINDER:** Per section [4729.23](#) of the Ohio Revised Code, the identity of the pharmacist making a report in accordance with this rule will remain confidential.

**Q2) How do I submit a self-report notification to the Board?**

To meet the self-report notification requirements, a licensee/registrant must electronically submit a [Self-Report Form](#) along with supporting documentation. The form, along with submission instructions, may be accessed here: [www.pharmacy.ohio.gov/SelfReport](http://www.pharmacy.ohio.gov/SelfReport).

**Q3) Am I required to self-report criminal or disciplinary actions that occurred in the past?**

Any prior criminal or disciplinary actions should have been reported upon initial licensure or renewal. The self-report requirements apply to any criminal or disciplinary action, including felony arrest, that occurs on or after December 1, 2019.

**Q4) I am currently appealing a criminal conviction or disciplinary action, am I still required to self-report to the Board?**

Yes. A pharmacist must still self-report any criminal conviction or disciplinary action to the Board, including a criminal conviction or disciplinary action that is stayed pending appeal.

**Q5) How does the Board define a disciplinary action for the purposes of self-reporting?**

Per rule [4729:1-1-01](#) of the Ohio Administrative Code, a "disciplinary action" means any of the following by the Drug Enforcement Administration or licensing agency of any state or jurisdiction, regardless of whether the action occurred by formal proceeding, consent, settlement, or other agreement:

- (1) An action to revoke, suspend, restrict, limit, or refuse to grant or renew a license, registration, or certification;
- (2) A summary or emergency suspension of a license, registration or certification, of any length, and any subsequent revision to the action;
- (3) An administrative fine or money penalty, taken as a result of a formal proceeding, to include any fine or money penalty connected to the delivery of health care services or taken in conjunction with other adverse licensure, registration or certification actions, such as revocation, suspension, censure, reprimand, or probation;
- (4) An action to reprimand or place the license, registration, or certification holder on probation;
- (5) The issuance of a corrective action plan only if such issuance is in conjunction with other adverse licensure, registration or certification actions, such as revocation, suspension, reprimand, probation, or surrender;
- (6) The withdrawal of a renewal application for licensure, registration or certification while under investigation;
- (7) The non-renewal of a license, registration or certification while under investigation or to avoid an investigation;
- (8) The surrender or other relinquishment of a license, registration or certification in lieu of a formal sanction against a person's license, registration, or certificate, whether permanent or temporary;
- (9) In lieu of an adverse licensure, registration or certification action, a licensing agency issues a consent order in which a person agrees not to re-apply for a license, registration, or certification in the future;
- (10) An enforceable agreement not to practice or to be placed into inactive or other equivalent status while under investigation or in exchange for not conducting an investigation.

**Q6) How does the Board define unprofessional conduct and dishonesty?**

The terms are defined in [rule 4729:1-4-01 of the Ohio Administrative Code](#):

"Unprofessional conduct" means conduct unbecoming of a licensee, registrant or applicant, or conduct that is detrimental to the best interests of the public, including conduct that endangers the health, safety or welfare of a patient or client. Such conduct shall include, but not be limited to, the

following acts: coercion, intimidation, harassment, sexual harassment, improper use of private health information, threats, degradation of character, indecent or obscene conduct, and theft.

"Dishonesty" means any action by a licensee, registrant or applicant to include, but is not limited to, making any statement that deceives, misrepresents or misleads, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in the practice of pharmacy or in the operation or conduct of a pharmacy.

### **Q7) What is the standard of proof for reporting other licensees/registrants?**

The rule states a pharmacist is required to report if the pharmacist has knowledge from either direct observation or objective evidence. A pharmacist should use their professional judgement if presented with a situation where they may need to report a licensee or registrant. When in doubt, a licensee/registrator should submit a report.

### **Q8) Am I required to report errors in dispensing or medication errors?**

The rule requires an error in dispensing or medication error to be reported only if the error is the result of reckless behavior or unprofessional conduct and meets any of the following criteria:

1. An error occurred that may have contributed to or resulted in temporary harm to the patient and required intervention;
2. An error occurred that may have contributed to or resulted in temporary harm to the patient and required initial or prolonged hospitalization;
3. An error occurred that may have contributed to or resulted in permanent patient harm;
4. An error occurred that required intervention necessary to sustain life; or
5. An error occurred that may have contributed to or resulted in the patient's death.

**NOTE:** The following are defined in rule 4729:1-4-02:

- "Harm" means impairment of the physical, emotional, or psychological function or structure of the body and/or pain resulting therefrom.
- "Intervention" means a change in therapy or active medical/surgical treatment.
- "Intervention necessary to sustain life" means cardiovascular and respiratory support (e.g., CPR, defibrillation, intubation, etc.).
- "Reckless behavior" means a person who acts recklessly or who is reckless. A person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

**Q9) What is the required timeframe for reporting?**

**For reporting other licensees/registrants:** The Board encourages a pharmacist to submit a report as soon as possible. However, as the rule does not specifically impose a time period for reporting, it is Board policy that a report must be submitted within thirty (30) days of a pharmacist having knowledge of a reportable violation.

**For self-reporting:** The rule states that all self-reporting to the Board must be conducted within ten (10) days.

**Q10) Is the identity of the individual submitting the report confidential?**

Yes. By law, the identity of the pharmacist making a report shall remain confidential.

**Q11) Are there legal protections for an individual submitting a report?**

Yes. Pursuant to section [4729.10](#) of the Ohio Revised Code, in the absence of fraud or bad faith, a person who reports in accordance with this rule or testifies in any adjudication conducted under Chapter 119. of the Ohio Revised Code is not liable to any person for damages in a civil action as a result of the report or testimony.

**Q12) Am I required to self-report seeking treatment for a mental health condition?**

No. A licensee that seeks out care for a mental health condition is not required to self-report under the rule.