



APPLICATION FOR LIMITED LICENSE

Instructions:

CAREFULLY READ ALL INSTRUCTIONS PRIOR TO COMPLETING APPLICATION- Failure to complete all required fields, provide necessary supplemental documentation and correct fee will delay the application process. If a question is not applicable, answer as N/A.

APPLICATION FEE FOR A LIMITED LICENSE:

LIMITED CATEGORY II LICENSE WITH NO CONTROLLED SUBSTANCES IS \$112.50

LIMITED CATEGORY III LICENSE WITH CONTROLLED SUBSTANCES IS \$150.00

THIS APPLICATION IS FOR THE FOLLOWING FACILITIES:

- E.M.S HEADQUARTER AND SATELLITES
- FIRST AID DEPARTMENT
- NURSING HOME DRUG STOCK
- TEACHING INSTITUTIONS
- PHYSICAL THERAPY FACILITIES
- HOME HEALTH CARE AGENCIES
- RETAILER SELLER OF MEDICAL OXYGEN
- OXYGEN SELLER OF CONTINGENCY STOCK
- FOOD PROCESSER USING NITOUS OXIDE
- MANUFACTURER-USING MEDICAL GASES
- ANIMAL EUTHANASIA
- ANIMAL SHELTER
- DOG WARDEN

**APPLICATION AND PAYMENT SHOULD BE MAILED TO: 77 SOUTH HIGH STREET, 17TH FLOOR,
COLUMBUS, OHIO 43215**

FAILURE TO COMPLETE ALL FIELDS, PROVIDE NECESSARY SUPPLEMENTAL DOCUMENTATION, AND CORRECT FEE WILL DELAY THE APPLICATION PROCESS. If a question is not applicable, answer as N/A.

77 South High Street, 17th Floor, Columbus, Ohio 43215



**LIMITED LICENSE
TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS**

Carefully read all instructions. **FAILURE TO COMPLETE ALL FIELDS, PROVIDE NECESSARY SUPPLEMENTAL DOCUMENTATION, AND CORRECT FEE WILL DELAY THE APPLICATION PROCESS.** If a question is not applicable, answer as N/A.

Please make check payable to "Treasurer, State of Ohio"

APPLICATION AND PAYMENT SHOULD BE MAILED TO: 77 SOUTH HIGH STREET, 17TH FLOOR, COLUMBUS, OH 43215

PLEASE TYPE OR PRINT LEGIBLY

1. LICENSE REQUEST

Change	Proposed opening date or date of change	If change, give current TDDD License Number
New		

If change, select **ALL** that apply:

Name	Ownership	New Satellite (EMS only)	Business Type
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Other, please specify below:

2. NAME OF BUSINESS BEING LICENSED - Name under which applicant will be doing business, address, phone number, and mailing address if different from above.

Business Name (i.e. reflected by signage/how you will answer the phone)			County
Street Address (No P.O. Box)	City, State	Zip Code	Phone (include area code)
Mailing Address, City, State, Zip Code (if different from above)			Fax (include area code)

3. APPLICANT INTENDS DOING BUSINESS AS (Select One) - Indicate the applicant's type of business organization.

Government	Corporation	Partnership	Limited Liability Company
Sole Proprietorship			

4a. NAME OF GOVERNMENT AGENCY (if applicable)

Name

For State of Ohio Board of Pharmacy Use Only

Control #	Amt Received	Office/Field	Class	BT	Drug Category	TDDD License New # /Same #
					I II III L	

77 South High Street, 17th Floor, Columbus, Ohio 43215



4b. CORPORATION INFORMATION, IF INCORPORATED - A copy of articles of incorporation and/or limited liability papers must accompany this application. The following information may be contained in the incorporation papers usually maintained by the applicant's business office or, for Ohio companies, may be obtained by visiting the Ohio Secretary of State: www.sos.state.oh.us

Leave blank if Government Agency

Entity/Charter number	Federal Tax ID or EIN Number	State where incorporated
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4c. NAME OF OWNER(S); OR, IF INCORPORATED, NAME AND TITLE OF OFFICERS
(If more than four, please include information on a separate piece of paper)

Leave blank if Government Agency

Name	Title	Date of Birth or Social Security Number
Name	Title	Date of Birth or Social Security Number
Name	Title	Date of Birth or Social Security Number
Name	Title	Date of Birth or Social Security Number

5. CATEGORY OF LICENSE (Check only ONE) Application is hereby made for a license as a TERMINAL DISTRIBUTOR of Dangerous Drugs, as provided in Sections 4729.54, 4729.541, 4729.55, 4729.551 and 4729.552 of the Ohio Revised Code, as follows:

LIMITED CATEGORY I - \$45.00 *This licensee may only possess single dose injections of IV fluids or parenteral solutions that have volume of 100ml(s) and contain no added substances. This license may also have single-dose injections of epinephrine to be administered pursuant to ORC 4765.38 & 4765.39*

LIMITED CATEGORY II - \$112.50 *This licensee may only possess, have custody or control of, and distribute prescription drugs (including medical grade gases) that are **not controlled substances** approved by a Medical Director. **An addendum will be produced as part of the license, listing the drugs that have been submitted.***

LIMITED CATEGORY III - \$150.00 *This licensee may only possess, have custody or control of, and distribute prescription drugs, **including controlled substances** approved by a Medical Director. **An addendum will be produced as part of the license, listing the drugs that have been submitted.***

6. PROVIDE A NARRATIVE DETAILING THE DESCRIPTION OF THE TYPE OF BUSINESS ACTIVITIES THAT WILL BE CONDUCTED AT THIS LOCATION (BE SPECIFIC):

7. TYPE OF ESTABLISHMENT BEING LICENSED (Check ONLY what applies in this section)

E.M.S-Headquarters	E.M.S. Satellite: If E.M.S. Satellite, provide the Headquarters TDDD Facility License# <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>
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ADDITIONAL DOCUMENTATION REQUIRED:

- EMS:**
1. Complete the E.M.S Contact Addendum Sheet for New or Change licenses which is included with this application
 2. Complete the Limited License Personnel List which is included at the end of the application
 3. Complete the Drug Addendum List which is included at the end of this application
 4. Provide a notarized protocol, or standing order that is signed by the medical director for the initial application and if there is a change in the medical director. Have this protocol readily retrievable on-site for inspection.

SATELLITE LOCATION(S): *One fee covers the headquarters and its satellite location(s).*

Remember an EMS organization must file a new application if there is ANY change in the number, or location of any of its units, or any change in the category of the dangerous drugs that any unit will possess. [ORC 4729.54\(C\)\(2\)](#).

FACILITIES:

First Aid Department	Teaching Institutions	Home Health Care Agency
Nursing Home Drug Stock	Physical Therapy Facilities	

FACILITIES ABOVE: Please refer to [OAC 4729-9-03](#) and [ORC 4729.54](#)

1. Provide a notarized list of drugs that will be on-site. The **Drug Addendum List** is provided with this application.
 - a. The list shall specify the purpose for which those drugs will be used and their source.
2. List of Personnel having access to and/or administering drugs, use the form attached to this application.
3. Provide a copy of a signed and notarized copy of a Protocol/Standing Order

MEDICAL GASES:

Food Processor using Nitrous Oxide	Retail seller of Medical Oxygen	Oxygen Seller of Contingency Stock
Manufacturer- using Medical Gases		

ADDITIONAL DOCUMENTATION REQUIRED:

1. Complete **THE MEDICAL GAS STATEMENT** that is included in this application. It must Signed by the Responsible Person and Notarized.
2. Submit a **PERSONNEL LIST**- List of personnel who will have access to and/or who are qualified to administer the supply of medical oxygen. For a nursing home, this may be all of the nursing staff. For an oxygen supplier business, this may be all of the employees. If an individual is not qualified to administer the medical oxygen, but assists in delivery, etc., indicate this on the personnel list next to that person’s name. This form is included at the end of this application.

If you are selling oxygen to an Ohio business (i.e., physician’s office, nursing home, etc.) rather than making a patient specific sale, then you are conducting a wholesale sale and need a wholesale distributor of dangerous drugs (WDDD) license. Depending on your business, you may need both TDDD & WDDD licenses. The WDDD license application is available here: <http://www.pharmacy.ohio.gov/WDDD/General.aspx>.

ANIMAL EUTHANASIA

Animal Euthanasia	Animal Shelter	Dog Warden
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Please review [ORC 4729.531](#) & [4729.532](#) and [OAC 4729-14-01](#) through [4729-14-06](#) regarding Animal Shelters.

1. You must provide a **NOTARIZED DRUG ADDENDUM LIST** that contains only those drugs specifically identified in the law (Ohio Revised Code [4729.532](#)) that can be legally possessed by an animal euthanasia (combination drugs that contain pentobarbital and at least one non-controlled substance active ingredient, etc.) It must contain the following information for each drug. This form is included with the application.

Note: Pursuant to [OAC 4729-14-03\(D\)](#), the notarized drug list required by [ORC 4729.54](#) and must include this statement: "*The drug(s) listed on this document will be purchased and stored at this location for the sole purpose of the performance of euthanasia on animals by registered veterinary technicians or euthanasia technicians pursuant to section [4729.531](#) and [4729.532](#) of the Revised Code.*" This statement shall be signed by the Responsible Person and at least one registered veterinary technician or euthanasia technician.

2. You must also submit a **PERSONNEL LIST** of those who will be performing euthanasia using the drugs listed above. Please use the "Limited License Personnel List – New Application" form attached or available on the Board's web site: www.pharmacy.ohio.gov/TDDD/General.aspx.
3. Include a **CURRENT COPY OF EACH REGISTERED VETERINARY TECHNICIANS REGISTRATION** from the Ohio Veterinary Medicine Board and a certificate of completion form

NOTE: If an Ohio licensed veterinarian is the Responsible Person and Medical Director, the drug list may contain any type of euthanizing and tranquilizing drugs or other drugs for the treatment of animals. However, this requires a different type of TDDD license – please contact the Board.

ANIMAL SHELTER & DOG WARDEN:

1. Shall include a **NOTARIZED DRUG ADDENDUM** list of dangerous drugs to be administered to animals
2. You must include a **PERSONNEL LIST** who is authorized to administer the drugs pursuant [ORC 4729.532](#).
3. After obtaining a terminal distributor license, any changes in the protocol/standing orders and personnel shall be notarized and signed by the medical director and maintained on site. Drug list and personnel forms to be filled out are included at the end of this application.

8. HAS THE ENTITY EVER BEEN DENIED A LICENSE/PERMIT OR REQUESTED TO WITHDRAW OR HAS IT WITHDRAWN AN APPLICATION FOR LICENSURE IN THIS OR ANY OTHER STATE?

Yes	No	If yes, please provide the name of the licensing agency and approximate date of application:

LEGAL QUESTIONS (9 & 10)

Please note these questions pertain to all of the following: the applicant (business at that location), the owner(s), the Responsible Person, any agent, and any employee (at the specific location). This would apply to the same business at a previous location on a change of address application, but not for every location in a corporation. **Failure to answer these questions makes your application incomplete, delaying the licensing process. Answering incorrectly could be a crime, see [ORC 2921.13](#)**

9. RECORD OF DISCIPLINARY ACTIONS AND FINES IMPOSED - The legal questions must be answered.

Has the applicant, owner(s), Responsible Person, any agent or any employee of the location being licensed, or any officer of the corporation, ever been the subject of disciplinary action (or any pending action) by any state or federal agency; even if subsequently dismissed or resolved without formal discipline?	
Yes	No
If yes, provide a detailed explanation on a separate sheet and INCLUDE A COPY OF THE DISCIPLINE DOCUMENT WITH THE APPLICATION.	

10. RECORD OF ARRESTS, CHARGES, CONVICTIONS, AND FINES IMPOSED

Does the applicant, owner(s), Responsible Person, any agent or any employee of the location being licensed, or any officer of the corporation, have a record of arrest or charges pending or have a conviction of a felony, misdemeanor or traffic violation (even if expunged, dismissed or sealed) or the equivalent in another jurisdiction?

FOR TRAFFIC VIOLATIONS:

CHECK YES - Charge(s) for traffic offenses such as OVI (also referred to as OMVI, DUI or DWI [driving/operating a motor vehicle under the influence]), failure to stop after an accident (also referred to as "hit skip"), operation of a vehicle in willful or wanton disregard of the safety of persons or property (also referred to as "reckless operation"), having physical control of vehicle while under the influence and driving under suspension – even if the charge was ultimately reduced or plead to a different offense other than the original charge.

DO NOT CHECK YES - Parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration.

Yes No

If yes, explain in detail on a separate sheet listing names and addresses of the court or government agency and dates such charges were filed. **Send a certified copy of the charging document and the final judgment entry for each occurrence.**

PLEASE NOTE: Pursuant to Section 2953.33(B) of the Ohio Revised Code, you must answer in the affirmative if you have a record of a charge or conviction that has subsequently been sealed or expunged (or the equivalent in another jurisdiction).

11. STATEMENT OF APPLICANT (Person who may legally sign for the business)

Statement must be manually signed (**wet ink – NO COPIES**) and completed by the individual who may legally sign for the business and can verify the information provided in this application is true, correct, and complete. Failure to do so makes your application incomplete, delaying the licensing process.

Name	Title	
Phone (including area code)	E-mail	
I DECLARE UNDER PENALTIES OF FALSIFICATION AS SET FORTH IN CHAPTERS 2921., 3715., 3719. AND 4729. OF THE OHIO REVISED CODE THAT I AM AUTHORIZED TO PURSUE THIS APPLICATION ON BEHALF OF THE ENTITY LISTED IN THIS APPLICATION AND THAT THIS APPLICATION IS TRUE, CORRECT, AND COMPLETE . I HEREBY ACKNOWLEDGE THAT IF THE LICENSE APPLIED FOR IS GRANTED, THE LICENSE-HOLDER SHALL SUBMIT TO THE JURISDICTION OF THE STATE OF OHIO BOARD OF PHARMACY AND TO THE LAWS OF THIS STATE FOR THE PURPOSE OF ENFORCEMENT OF CHAPTERS 2925., 3715., 3719. AND 4729. OF THE OHIO REVISED CODE AND ALL RELATED LAWS AND RULES.		
Signature of Applicant	Date	Date of Birth or Social Security Number

12. INDIVIDUAL TO CONTACT REGARDING ABOVE LOCATION, BETWEEN 8 AM AND 5 PM WEEKDAYS - Individual to contact if there are questions regarding the application (must be the Responsible Person or Designee) & the person who will receive your Ohio license.

Name	Title
Phone (including area code)	E-mail

13. STATEMENT OF INDIVIDUAL RESPONSIBLE FOR SUPERVISION AND CONTROL OF DANGEROUS DRUGS

Statement must be signed (wet ink – NO COPIES) and dated by the individual who will be responsible for the supervision and control of the dangerous drugs and drug records at this location (i.e. the Responsible Person). The Responsible Person is also responsible for ensuring that the application is true, correct and complete.

I HEREBY AGREE to and assume the responsibility for supervision and control over the possession and custody of the dangerous drugs and drug records that may be acquired/maintained by, or on behalf of, the applicant pursuant to Section 4729.55(B), O.R.C.

I FULLY UNDERSTAND that, as a licensed Terminal Distributor, drugs may be purchased only within the requested category of license from Wholesale Distributors of Dangerous Drugs registered in the State of Ohio by the Ohio State Board of Pharmacy. I also understand that if and when this business is discontinued that a "Written Notice of Discontinuing Business" form must be secured from the Ohio State Board of Pharmacy, completed by me, and returned to their offices with the license being discontinued as required in Rule 4729-9-07 of the Ohio Administrative Code.

I DECLARE UNDER PENALTIES OF FALSIFICATION AS SET FORTH IN CHAPTERS 2921., 3715., 3719. AND 4729. OF THE OHIO REVISED CODE THAT I AM AUTHORIZED TO PURSUE THIS APPLICATION ON BEHALF OF THE ENTITY LISTED IN THIS APPLICATION AND THAT THIS APPLICATION IS **TRUE, CORRECT, AND COMPLETE**. I HEREBY ACKNOWLEDGE THAT IF THE LICENSE APPLIED FOR IS GRANTED, THE LICENSE-HOLDER AND I SHALL SUBMIT TO THE JURISDICTION OF THE STATE OF OHIO BOARD OF PHARMACY AND TO THE LAWS OF THIS STATE FOR THE PURPOSE OF ENFORCEMENT OF CHAPTERS 2925., 3715., 3719. AND 4729. OF THE OHIO REVISED CODE AND ALL RELATED LAWS AND RULES.

SIGNATURE of Responsible Person	Date Signed	PRINT OR TYPE NAME
Phone (including area code)	E-mail Address	

Qualifications of Responsible Person:

DVM License Number:

MD/DO License Number:

RN/LPN License Number:

APN Certificate to Prescribe Number: **Must also submit signed APN statement available here: www.pharmacy.ohio.gov/APNRP**

RRT Title: Date of Birth:

Other: Title: Social Security Number:

**COMPLETION OF THIS FORM IS REQUIRED BY O.R.C. SECTION 4729.54
MAXIMUM PENALTY: DENIAL OF LICENSE**



MEDICAL GAS STATEMENT

Statement to be completed by the person who is signing as responsible person for a terminal distributor of dangerous drug (TDDD) limited license as a retail seller of medical gases

PLEASE CHECK THE ONE THAT APPLIES:

I certify that **NO PRESCRIPTION DRUGS ARE TO BE PURCHASED/ACQUIRED, STORED AND USED** at this location under this terminal distributor license. This license is for the billing of medical gases only.

I certify that the only prescription drugs **TO BE PURCHASED/ACQUIRED, STORED OR USED** at this location under this terminal distributor license are (check all that apply):

Medical Oxygen

Nitrous Oxide

Nitrogen

NAME the applicant will be DOING BUSINESS AS (i.e., reflected by signage/how you will answer the phone)

Street Address, City, State, Zip Code (No P.O. Box)

Printed Name of Responsible Person

Signature of Responsible Person

Document must be notarized:

Sworn to and signed before me this date:
Date
Signature of Notary
[SEAL]





E.M.S. ADDENDUM

The complete application must include all supporting documents listed below. Refer to ORC [4729.54](#)(C) & (D).
Incomplete applications will delay the licensing process.

ALL ITEMS BELOW MUST BE SUBMITTED BEFORE PROCESSING CAN BEGIN

- Completed E.M.S. application with original signatures
- CHECK/MONEY ORDER for appropriate category (Limited II or III)
- LIST OF PERSONNEL – Use form included or spreadsheet with same info.
- PROTOCOL/STANDING ORDERS, which must be signed and notarized.
 1. Submit cover letter stating that the Medical Director has reviewed and approved accompanying protocol. This letter must be SIGNED by the Medical Director and NOTARIZED. NOTE: Only dangerous drugs listed on the Drug Addendum may be purchased and stored at this location. Over-the-Counter medications are not required to be listed on the Drug Addendum but must be included in the notarized protocols.
 2. Submit copy of the protocol on a CD or upload the protocol on our website at www.pharmacy.ohio.gov. Label the CD with your E.M.S. name, E.M.S. TDDD license # (or location if this is a new application & no # yet), and the date the protocol is effective.
 3. For drugs to be used in a true EMERGENCY, a protocol is a definitive set of treatment guidelines that include definitive orders for drugs and their specified dosages. The protocol must specifically define the intended audience, list the drug name and strength, and give specific instructions on how to administer the drug. [[OAC 4729-5-01\(L\)](#)]
 4. Special situation drugs (i.e., WMD prophylaxis, vaccines) may be requested by the Medical Director by including the following signed, notarized statement above the list of these particular requested drug(s): "The drugs listed below will only be used when I give a direct order to an authorized health care professional to administer such drugs in specific situations."
- DRUG LIST
 1. This list is a compilation of all drugs approved for use in the protocol
 2. Addendum is generated from this list
 3. It must contain for each drug:
 - a. the brand name (if applicable)
 - b. the generic name
 - c. strength to be stocked (not the dosage that will be given/protocol)
 - d. dosage form
 4. The drug list must be signed by your medical director and notarized NOTE: There is no fee to change the drug list/addendum. Therefore, send a complete updated list to the Board whenever your protocol/drug list changes so that it stays current.



□ SATELLITE LOCATION(S)

1. Each and every location that will store drugs must be licensed.
2. One fee covers the headquarters and its satellite location(s).
3. Must list the E.M.S. Headquarters of each satellite location with the initial application.
4. For each satellite location, submit all of the following:
 - a. Name
 - b. Address
 - c. Limited Category of drugs needed (II or III)
 - d. Indicate if same protocol & drug list as Headquarters is used
 - e. List of personnel



E.M.S. CONTACT ADDENDUM SHEET FOR NEW OR CHANGE LICENSES

Complete this form & return with application, other required supplemental documents, and fee.

Name of E.M.S.	TDDD Limited Category (select one) II III	E.M.S. DEA # (if applicable)
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MEDICAL ADVISOR (Ohio licensed physician who approves protocol and performs other advisor related activities)

Name	Title	
Street Address, City, State, Zip Code (No P.O. Box)		Area Code / Phone # Ext
Ohio Medical License #	E-mail Address	

RESPONSIBLE PERSON (Individual who signs drug license – must be an Ohio licensed physician or pharmacist)

Name	Title	
Street Address, City, State, Zip Code (No P.O. Box)		Area Code / Phone # Ext
Ohio Medical License #	E-mail Address	

CONTACT PERSON

Name	Title	
Area Code / Phone # Ext	E-mail Address	

E.M.S. GENERAL INFORMATION

Business Office Area Code/Phone # Ext	Dispatcher Area Code/Phone # Ext
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WHOLESALE AND TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS **APPLICATION LEGAL QUESTIONS**

UPDATED 5/23/2016

The required legal questions on the initial and renewal applications provide the opportunity for the Board to review the facts and circumstances related to a particular case to determine its potential connection, if any, to the issuance or renewal of a license. The purpose of such questions is to act as a safeguard against the diversion of dangerous drugs and protection of confidential patient information by disclosing information necessary to protect the health and safety of the public. The questions are as follows:

On the initial application:

Does the applicant, owner(s), Responsible Person, any agent or any employee of the location being licensed, or any officer of the corporation, have a record of arrest or charges pending or have a conviction of a felony, misdemeanor or traffic violation (even if expunged, dismissed or sealed) or the equivalent in another jurisdiction?

NOTE: An applicant should not answer yes for any 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 an expired registration.

Has the applicant, owner(s), Responsible Person, any agent or any employee of the location being licensed, or any officer of the corporation, ever been the subject of disciplinary action (or any pending action) by any state or federal agency; even if subsequently dismissed or resolved without formal discipline?

For a renewal application:

Within the last 18 months: does the Responsible Person or owner(s), or any agent or any employee of the location being licensed, or any officer of the corporation, have a record of arrest or criminal charges pending or have a conviction of a felony, misdemeanor, or traffic violation (even if sealed or expunged)?

NOTE: A licensee should not answer yes for any 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 an expired registration.

Within the last 18 months: has the Responsible Person or owner(s), or any agent or employee of the Responsible Person/owner(s), or any officer of the corporation, been the subject of disciplinary action by any state or federal agency?



Frequently Asked Questions:

Q1: Who is covered by the legal questions? Does this apply to all employees, agents, or contractors of an entity, even those that do not work on-site?

A1: The questions include the Responsible Person, any officer of the corporation and all employees, agents, or contractors working at the physical location of the licensee with access to dangerous drugs and D.E.A. controlled substance order forms.

It does **not** include employees/contractors such as administrative, janitorial, IT or other staff that may need limited supervised access to areas where dangerous drugs or D.E.A. controlled substance order forms are kept. However, the licensee must have policies in place that prohibit unsupervised access to such areas by these employees.

This question does not apply to former employees or agents of the licensee at the time the legal questions are answered.

PLEASE NOTE: For a pain management clinic, section 4729.552 of the Revised Code requires all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, either of the following:

(1) A theft offense, described in division (K)(3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States; or

(2) A felony drug abuse offense, as defined in section 2925.01 of the Revised Code.

Q2: How is it possible for a Responsible Person (RP) or owner to sign off that they know about any possible criminal charges, convictions, or discipline that may have occurred for all "owners, agents or employees" at the time of initial licensure or since the previous renewal?

A2: The entity seeking licensure and the RP should exercise due diligence in making sure they know the answers to these questions as they pertain to the owners, officers, employees and contractors described in Q1. For large companies, this will come as a result of having appropriate policies in place that require reporting when an owner, officer, employee or contractor is charged/convicted or disciplined during the timeframe in question. This also means having initial screening policies of new owners, officers, employees or contractors who meet the criteria listed in Q1.

The Board does not advise an entity on how to obtain their information nor instruct an entity as to what their policy must include. However, as a general rule, a policy with a mandatory reporting clause has been found to be acceptable by the Board. Such a policy should be implemented in accordance with all federal and state laws. There must be

mechanism in place for results of that mandatory reporting to be relayed to the RP/owner/applicant on the license so that the legal questions can be answered honestly and accurately. As long as the entity/RP is aware that such a mechanism is in place requiring such reporting and that the necessary personnel (i.e. RP) would be aware of it when completing and signing the application, the entity/RP may check answer the questions accordingly.

NOTE REGARDING THE FEDERAL EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC):

The EEOC does not have the authority to prohibit employers from obtaining or using arrest or conviction records. The EEOC simply seeks to ensure that such information is not used in a discriminatory way.

In implementing policies related to obtaining appropriate employment information in the Wholesale or Terminal Distributor of Dangerous Drugs setting, be mindful that the policy should be applied equally to all applicants. The EEOC publishes the following guidance:

In all cases, make sure that you're treating everyone equally. It's illegal to check the background of applicants and employees when that decision is based on a person's race, national origin, color, sex, religion, disability, genetic information (including family medical history), or age (40 or older). For example, asking only people of a certain race about their financial histories or criminal records is evidence of discrimination.

The EEOC enforces Title VII, which prohibits employment discrimination based on race, color, religion, sex, or national origin. Having a criminal record is not listed as a protected basis in Title VII. Therefore, whether a covered employer's reliance on a criminal record to deny employment violates Title VII depends on whether it is part of a claim of employment discrimination based on race, color, religion, sex, or national origin. Title VII liability for employment discrimination is determined using two analytic frameworks: "disparate treatment" and "disparate impact."

Title VII also does not preempt federal statutes and regulations that govern eligibility for occupational licenses and registrations. These restrictions cover diverse sectors of the economy including the transportation industry, the financial industry, and import/export activities, among others.

Q3: If an owner, officer, employee or contractor described in Q1 has been charged/convicted/disciplined prior to initial licensure or in the intervening timeframe for renewals, must the entity terminate that individual's employment in order to obtain a license?

A3: The Board does not advise an entity on whether to terminate an individual with a criminal case/conviction or disciplinary action; that decision rests with the entity's personnel policies. However, the entity MUST report the underlying charge/conviction/discipline to the Board so that the Board may review the facts and

circumstances related to a particular case to determine its potential connection, if any, to the license for which the entity/RP is renewing or applying.

Q4: Rule 4729-9-27 states the following:

(A) Pursuant to [21 C.F.R. Section 1301.76](#) (10/20/2015), a terminal or wholesale distributor of dangerous drugs that is a United States Drug Enforcement Administration registrant shall not employ in a position which allows access to controlled substances any person who has been convicted of a felony relating to controlled substances, or who, at any time, has had an application for DEA registration denied, revoked, or surrendered for cause. "For cause" means surrendering a registration in lieu of, or as a consequence of, any federal or state administrative, civil, or criminal action resulting from an investigation of the individual's handling of controlled substances.

(B) Paragraph (A) of this rule does not apply if a waiver is obtained by a registrant pursuant to [21 C.F.R. Section 1307.03](#).

Does this apply to a potential employee who may have had their felony record(s) expunged, unless granted a waiver by the DEA?

A4: Yes. According to the DEA, the employer would be required to obtain a waiver even if a conviction is expunged. A waiver would also be required for a potential employee who has entered a felony guilty plea relating to controlled substances, as the DEA considers this a conviction. As this rule references an existing federal regulation, the Board will interpret and enforce this requirement in the same manner as the DEA.

More information regarding the waiver process can be accessed here:

http://www.deadiversion.usdoj.gov/faq/waiver_1301_76.htm

To contact your local DEA regional office:

<https://www.deadiversion.usdoj.gov/contactDea/spring/fullSearch?execution=e3s1>

Q5: How can the Board expect an employer to require an employee, agent, etc. to disclose an expunged or sealed criminal record?

A5: Section 2953.33(B) of the Ohio Revised Code permits inquiry into sealed convictions if the question bears a direct and substantial relationship to the position for which the person is being considered. This code section applies to applications for employment, license, or other right or privilege. An inquiry into past charges or convictions for violating state and federal drug laws bears a direct and substantial relationship to the position of a licensed pharmacist. See also *Ohio State Bd. of Pharmacy v. Friendly Drugs*. Employers are expected to perform due diligence in the hiring process to ensure that no applicant is hired in violation of state or federal law (unless a DEA waiver has been granted, please see Q4).

Q6: Is there a list of disciplinary actions (including pending actions) by state or federal agencies that must be reported to the Board of Pharmacy upon initial licensure or renewal? Does the Board expect to be notified of employer disciplinary action?

A6: While no such list of disciplinary action exists, the National Practitioner Data Bank has developed some guidance for reporting of licensure discipline actions:
<http://www.npdb.hrsa.gov/resources/aboutGuidebooks.jsp?page=EStateLicensureActions.jsp> (NOTE: While this reference is specific to state licensure or certification actions, it can also apply to similar actions by federal agencies.)

The Board is not seeking information on an employer disciplinary action (such as being late to work, dress code, or attendance issues), ***unless*** that action resulted in or is related to state licensing and certification action taken against a license.