

4729:1-4-02

Duty to Report.**(A) As used in this rule:**

- (1) "Error in dispensing" or "prescription error" means an act or omission of clinical significance relating to the dispensing of a drug. An error in dispensing may be considered a violation of division (A)(2) of section 3715.52 and section 3715.64 of the Revised Code.
- (2) "Harm" means impairment of the physical, emotional, or psychological function or structure of the body and/or pain resulting therefrom.
- (3) "Intervention" means a change in therapy or active medical/surgical treatment.
- (4) "Intervention necessary to sustain life" means cardiovascular and respiratory support (e.g., CPR, defibrillation, intubation, etc.).
- (5) "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.
- (6) "Unprofessional conduct" has the same meaning as defined in paragraph (A) of rule 4729:1- 4-01 of the Administrative Code.

(B) Pursuant to section 4729.10 of the Revised Code, a pharmacist who has knowledge, from direct observation or objective evidence, of violations described in paragraph (C) of this rule shall report such conduct to the state board of pharmacy.

(C) The following shall be reported to the board:

- (1) Except as provided in paragraph (C)(1)(a) of this rule, conduct indicating an individual licensed or registered by the board 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.
 - (a) A pharmacist shall not be required to report in accordance with this rule if the pharmacist becomes aware of any condition described in paragraph (C)(1) of this rule 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) Except as provided in paragraph (H) of this rule, violations, attempts to violate, or aiding and abetting in the violation of any of the provisions of Chapters 4729., 4752., 3715., 3719., 3796., 2925., and 2913. 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.

(3) Conduct by a pharmacy technician trainee, registered pharmacy technician, certified pharmacy technician, pharmacy intern or pharmacist that constitutes unprofessional conduct or dishonesty as defined in rule 4729:1-4-01 of the Administrative Code.

(D)

(1) Pursuant to section 4729.23 of the Revised Code, the identity of the pharmacist making a report in accordance with this rule shall remain confidential.

(2) Notwithstanding the confidentiality provided in accordance with paragraph (D)(1) of this rule, a pharmacist may be required to testify in a disciplinary proceeding as to the conduct or violations listed in paragraph (C) of this rule without disclosing the pharmacist was the reporting individual.

(E) Reporting required in accordance with this rule shall be made in writing, either by mail, using the board's online complaint form (available on the board's web site: www.pharmacy.ohio.gov), or by telephone and shall include the following information:

(1) The name of the licensee, registrant or other individual who may have committed a violation listed in paragraph (C) of this rule;

(2) The violation which is believed to have occurred; and

(3) The date(s) of and place(s) of occurrence(s), if known.

(F) A licensed pharmacist shall notify the board of 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.

- (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.
 - (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.
- (G) 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.
- (H) An error in dispensing shall not be required to be reported pursuant to paragraph (C) of this rule 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 (2/20/2001):
 - (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.
- (I) Pursuant to rule 4729.10 of the 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 Revised Code is not liable to any person for damages in a civil action as a result of the report or testimony.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119.03
Statutory Authority:	4729.10, 4729.26, 3719.28
Rule Amplifies:	4729.08, 4729.16