

As Reported by the House Primary and Secondary Education Committee

135th General Assembly

Regular Session

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H. B. No. 70

Representatives Fowler Arthur, Gross

**Cosponsors: Representatives Johnson, Brennan, Williams, Ferguson, Jordan,
Dean, Bird**

A BILL

To amend section 3313.713 of the Revised Code to
require schools to adopt a policy regarding the
administration of over-the-counter drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3313.713 of the Revised Code be
amended to read as follows:

Sec. 3313.713. (A) As used in this section:

~~(1) "Drug" means a drug, as defined in section 4729.01 of
the Revised Code, that is to be administered pursuant to the
instructions of the prescriber, whether or not required by law
to be sold only upon a prescription.~~

~~(2)~~ "Federal law" means the "Individuals with Disabilities
Education Act of 1997," 111 Stat. 37, 20 U.S.C. 1400, as
amended.

~~(3)~~ (2) "Over-the-counter drug" means a drug, as defined
in section 4729.01 of the Revised Code, that may be legally sold
without a prescription and that is administered without the

instruction of a prescriber. 17

(3) "Prescriber" has the same meaning as in section 18
4729.01 of the Revised Code. 19

(4) "Prescription drug" means a drug, as defined in 20
section 4729.01 of the Revised Code, that is to be administered 21
pursuant to the instructions of the prescriber, whether or not 22
required by law to be sold only upon a prescription. 23

(B) The board of education of each city, local, exempted 24
village, and joint vocational school district and the governing 25
authority of each chartered nonpublic school shall adopt a 26
policy on the authority of its employees, when acting in 27
situations other than those governed by sections 2305.23, 28
2305.231, 3313.712, 3313.7110, 3313.7112, 3313.7113, and 29
3313.7115 of the Revised Code, to administer prescription drugs 30
prescribed to students enrolled in the schools of the district 31
or the chartered nonpublic school. The policy shall provide 32
either that: 33

(1) Except as otherwise required by federal law, no person 34
employed by the board or governing authority shall, in the 35
course of such employment, administer any prescription drug 36
prescribed to any student enrolled in the schools of the 37
district or the chartered nonpublic school. 38

(2) Designated persons employed by the board or governing 39
authority are authorized to administer to a student a 40
prescription drug prescribed for the student. Effective July 1, 41
2011, only employees of the board or governing authority who are 42
licensed health professionals, or who have completed a drug 43
administration training program conducted by a licensed health 44
professional and considered appropriate by the board or 45

governing authority, may administer to a student a prescription 46
drug prescribed for the student. Except as otherwise provided by 47
federal law, the board's or governing authority's policy may 48
provide that certain prescription drugs or types of prescription 49
drugs shall not be administered or that no employee shall use 50
certain procedures, such as injection, to administer a 51
prescription drug to a student. 52

(C) No prescription drug prescribed for a student shall be 53
administered pursuant to federal law or a policy adopted under 54
division (B) of this section until the following occur: 55

(1) The board or governing authority, or a person 56
designated by the board or governing authority, receives a 57
written request, signed by the parent, guardian, or other person 58
having care or charge of the student, that the prescription drug 59
be administered to the student. 60

(2) The board or governing authority, or a person 61
designated by the board or governing authority, receives a 62
statement, signed by the prescriber, that includes all of the 63
following information: 64

(a) The name and address of the student; 65

(b) The school and class in which the student is enrolled; 66

(c) The name of the prescription drug and the dosage to be 67
administered; 68

(d) The times or intervals at which each dosage of the 69
prescription drug is to be administered; 70

(e) The date the administration of the prescription drug 71
is to begin; 72

(f) The date the administration of the prescription drug 73

is to cease; 74

(g) Any severe adverse reactions that should be reported 75
to the prescriber and one or more phone numbers at which the 76
prescriber can be reached in an emergency; 77

(h) Special instructions for administration of the 78
prescription drug, including sterile conditions and storage. 79

(3) The parent, guardian, or other person having care or 80
charge of the student agrees to submit a revised statement 81
signed by the prescriber to the board or governing authority or 82
a person designated by the board or governing authority if any 83
of the information provided by the prescriber pursuant to 84
division (C) (2) of this section changes. 85

(4) The person authorized by the board or governing 86
authority to administer the prescription drug receives a copy of 87
the statement required by division (C) (2) or (3) of this 88
section. 89

(5) The prescription drug is received by the person 90
authorized to administer the prescription drug to the student 91
for whom the drug is prescribed in the container in which it was 92
dispensed by the prescriber or a licensed pharmacist. 93

(6) Any other procedures required by the board or 94
governing authority are followed. 95

(D) If a prescription drug is administered to a student, 96
the board of education or governing authority of the chartered 97
nonpublic school shall acquire and retain copies of the written 98
requests required by division (C) (1) and the statements required 99
by divisions (C) (2) and (3) of this section and shall ensure 100
that by the next school day following the receipt of any such 101
statement a copy is given to the person authorized to administer 102

prescription drugs to the student for whom the statement has 103
been received. The board or governing authority, or a person 104
designated by the board or governing authority, shall establish 105
a location in each school building for the storage of 106
prescription drugs to be administered under this section and 107
federal law. All such drugs shall be stored in that location in 108
a locked storage place, except that drugs that require 109
refrigeration may be kept in a refrigerator in a place not 110
commonly used by students. 111

(E) No person who has been authorized by a board of 112
education or governing authority of a chartered nonpublic school 113
to administer a prescription drug and has a copy of the most 114
recent statement required by division (C)(2) or (3) of this 115
section given to the person in accordance with division (D) of 116
this section prior to administering the prescription drug is 117
liable in civil damages for administering or failing to 118
administer the prescription drug, unless such person acts in a 119
manner that constitutes gross negligence or wanton or reckless 120
misconduct. 121

(F) The board of education of each city, local, exempted 122
village, and joint vocational school district and the governing 123
authority of each chartered nonpublic school shall adopt a 124
policy on the authority of its employees, when acting in 125
situations other than those governed by sections 2305.23, 126
2305.231, 3313.712, 3313.7110, 3313.7112, 3313.7113, and 127
3313.7115 of the Revised Code, to administer over-the-counter 128
drugs to students enrolled in the schools of the district or the 129
chartered nonpublic school. The policy may include provisions on 130
the following: 131

(1) Whether the district or school will authorize any 132

employees, in the course of their employment, to administer any 133
over-the-counter drugs to students; 134

(2) Whether the permission of a parent or guardian will be 135
required before a district or school employee may administer an 136
over-the-counter drug to a student. 137

(G) A board of education or governing authority of a 138
chartered nonpublic school may designate a person or persons to 139
perform any function or functions in connection with a 140
prescription or over-the-counter drug policy adopted under this 141
section either by name or by position, training, qualifications, 142
or similar distinguishing factors. 143

~~(G)~~ (H) A policy adopted by a board of education or 144
governing authority of a chartered nonpublic school pursuant to 145
this section may be changed, modified, or revised by action of 146
the board or the governing authority. 147

~~(H)~~ (I) Nothing in this section shall be construed to 148
require a person employed by a board of education or governing 149
authority of a chartered nonpublic school to administer a 150
prescription or over-the-counter drug to a student unless the 151
board's or governing authority's policy adopted in compliance 152
with this section establishes such a requirement. A board or 153
governing authority shall not require an employee to administer 154
a prescription or over-the-counter drug to a student if the 155
employee objects, on the basis of religious convictions, to 156
administering the drug. 157

Nothing in this section affects the application of section 158
2305.23, 2305.231, 3313.712, 3313.7110, 3313.7112, 3313.7113, or 159
3313.7115 of the Revised Code to the administration of emergency 160
care or treatment to a student. 161

Nothing in this section affects the ability of a public or 162
nonpublic school to participate in a school-based fluoride mouth 163
rinse program established by the director of health pursuant to 164
section 3701.136 of the Revised Code. Nothing in this section 165
affects the ability of a person who is employed by, or who 166
volunteers for, a school that participates in such a program to 167
administer fluoride mouth rinse to a student in accordance with 168
section 3701.136 of the Revised Code and any rules adopted by 169
the director under that section. 170

~~(I)~~ (J) Nothing in this section shall be construed to 171
require a school district or chartered nonpublic school to 172
obtain written authorization or instructions from a health care 173
provider to apply nonprescription topical ointments designed to 174
prevent sunburn. Furthermore, nothing in this section shall be 175
construed to prohibit a student to possess and self-apply 176
nonprescription topical ointment designed to prevent sunburn 177
while on school property or at a school-sponsored event without 178
written authorization or instructions from a healthcare 179
provider. The ~~policy~~ policies adopted by a school district or 180
chartered nonpublic school pursuant to this section shall not 181
require written authorization from a health care provider, but 182
may require parental authorization, for the possession or 183
application of such sunscreen. A designated person employed by 184
the board of education of a school district or governing 185
authority of a chartered nonpublic school shall apply sunscreen 186
to a student in accordance with the school district's or 187
governing authority's policy upon request. 188

Section 2. That existing section 3313.713 of the Revised 189
Code is hereby repealed. 190