

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2485

By: Crocker

AS INTRODUCED

An Act relating to professions and occupations; specifying qualifications for chiropractic physicians to prescribe or administer certain drugs; requiring certain certificate; requiring such certificate for certain purposes; requiring additional continuing education for certain purposes; amending 59 O.S. 1991, Sections 353.1, as amended by Section 2, Chapter 199, O.S.L. 1993, Section 22, Chapter 199, O.S.L. 1993, and 355 (59 O.S. Supp. 1993, Sections 353.1 and 353.13A), which relate to the dispensing of drugs; redefining term; authorizing pharmacists to dispense legend drug prescribed by certain chiropractic physicians; requiring certification number of chiropractic physician on all prescriptions issued by such physician; requiring the Board of Chiropractic Examiners to provide certain list to pharmacies; redefining "licensed practitioner"; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161.11A of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A chiropractic physician desiring to prescribe or administer legend drugs shall have satisfactorily completed courses in pharmacology which are at least equal to the hours of study of pharmacology required for graduation from the University of Oklahoma College of Medicine. The Board of Chiropractic Examiners shall approve such courses in pharmacology and shall certify those chiropractic physicians qualified by such education and training to prescribe or administer legend drugs. The prescribing or administering of any legend drug by a chiropractic physician shall be unlawful unless said chiropractic physician is in possession of a current certificate from the Board as provided for in this section. A chiropractic physician shall furnish evidence to any pharmacist or other supplier from whom legend drugs are sought as to his holding a current certificate.

B. A chiropractic physician who holds a certificate from the Board authorizing him to prescribe or administer legend drugs each calendar year shall attend at least sixteen (16) hours of a continuing education program relating to pharmacology in order to maintain a current certificate. Such continuing education program must be approved by the Board. The continuing education requirement of this section shall be in addition to the continuing education requirement provided for in Section 161.11 of this title.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 353.1, as amended by Section 2, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1993, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act, Section 353.1 et. seq. of this title:

1. "Pharmacy" means a place regularly licensed by the Oklahoma State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed;

2. "Pharmacist" means a person registered by the Oklahoma State Board of Pharmacy to engage in the practice of pharmacy;

3. "Drugs" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in humans and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human;

4. "Medicine" means any drug or combination of drugs which has the property of curing, preventing, treating, diagnosing or mitigating diseases, or which is used for that purpose;

5. "Poison" means any substance which when introduced into the system, either directly or by absorption, produces violent, morbid or fatal changes, or which destroys living tissue with which such substance comes into contact;

6. "Chemical" means any medicinal substance, whether simple or compound or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin;

7. "Prescription" means and includes any order for drug or medical supplies written or signed or transmitted by word of mouth, telephone or other means of communication by a legally competent practitioner of medicine, dentistry, osteopathy, chiropractic certified by the Board of Chiropractic Examiners, optometry certified by the Board of Examiners in Optometry, podiatry, or veterinary medicine, licensed by law to prescribe such drugs and medical supplies intended to be filled, compounded, or dispensed by a pharmacist;

8. "Filled prescription" means a packaged prescription medication to which a label has been affixed, which shall contain such information as is required by the Oklahoma Pharmacy Act;

9. "Nonprescription drugs" means medicines or drugs which are sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government. Such items shall also include medical and dental supplies, and bottled or nonbulk chemicals which are sold or offered for sale to the general public, if such articles or preparations meet the requirements of the Federal Food, Drug and Cosmetic Act;

10. "Hospital" means any institution licensed by this state for the care and treatment of patients;

11. "Person" means every individual, copartnership, corporation or association, unless the context otherwise requires;

12. "Board" or "State Board" means the Oklahoma State Board of Pharmacy;

13. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient;

14. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver, or supply;

15. "Wholesaler" or "Distributor" means a person engaged in the business of distributing dangerous drugs or medicines at wholesale to pharmacies, hospitals, practitioners, government agencies, or other lawful drug outlets permitted to sell or use drugs or medicines;

16. "Dangerous drug", "legend drug" or "prescription drug" means a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) "Caution: Federal law prohibits dispensing without prescription", or (ii) "Caution: Federal law restricts this drug to

use by or on the order of a licensed veterinarian", or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only;

17. "Manufacturer" means a person engaged in the manufacturing of drugs;

18. "Practice of pharmacy" means:

- a. the interpretation and evaluation of prescription orders,
- b. the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices,
- c. the participation in drug selection and drug utilization reviews,
- d. the proper and safe storage of drugs and devices and the maintenance of proper records thereof,
- e. the responsibility for advising by counseling and providing information, where professionally necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices,
- f. the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy, and
- g. the provision of those acts or services that are necessary to provide pharmaceutical care;

19. "Drug outlet" means all pharmacies, wholesalers, manufacturers, or wherever dangerous drugs are stored, and facilities which are engaged in dispensing, delivery or distribution of dangerous drugs;

20. "Manufacturing" means the production, preparation, propagation, compounding, conversion, or processing of a device or a

drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. The term "manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners or other persons;

21. "Assistant pharmacist" means any person presently licensed as an assistant pharmacist in the State of Oklahoma by the Board pursuant to Section 353.10 of this title and for the purposes of this act shall be considered the same as a pharmacist, except where otherwise specified;

22. "Packager" means any person, firm, or corporation, except a pharmacy, who transfers dangerous drugs including but not limited to compressed medical gases from one container to another of any type;

23. "Continuing professional education" means professional, pharmaceutical education in the general areas of the socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the diseased state;

24. "Accredited program" means those seminars, classes, meetings, work projects and other educational courses approved by the Board for purposes of continuing professional education; and

25. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

- a. as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or

- b. for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

SECTION 3. AMENDATORY Section 22, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1993, Section 353.13A), is amended to read as follows:

Section 353.13A A. Prescriptions received by other than written communication shall be promptly recorded in writing by the pharmacist. The record made by the pharmacist shall constitute the original prescription to be filled by the pharmacist.

B. 1. Pharmacists may dispense prescriptions for legend drugs prescribed by qualified chiropractic physicians certified by the Board of Chiropractic Examiners pursuant to Section 1 of this act, and may dispense prescriptions for ocular topical pharmaceutical agents prescribed by qualified optometrists certified by the Board of Examiners in Optometry to use such ocular topical pharmaceutical agents. Nothing in this subsection shall provide for optometrists to be authorized in any way to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes any controlled dangerous substance as defined in paragraph 8 of Section 2-101 of Title 63 of the Oklahoma Statutes.

2. All prescriptions issued by certified chiropractic physicians shall include the certification number of the chiropractic physician as assigned by the Board of Chiropractic Examiners, and all prescriptions issued by certified optometrists shall include the certification number of the optometrist as assigned by the Board of Examiners in Optometry. The Board of Chiropractic Examiners shall provide an annual list of all certified chiropractic physicians, and the Board of Examiners in Optometry

shall provide an annual list of all certified optometrists, directly to each pharmacy licensed by the Oklahoma State Board of Pharmacy. Any additions or deletions in certification shall be mailed to all pharmacies in this state within thirty (30) days of such change.

C. A filled prescription label shall include the name and address of the pharmacy of origin, date of filling, name of patient, name of prescriber, directions for administration and prescription number. The label shall also include the trade or generic name, and the quantity and strength of the drug therein contained, except when otherwise directed by the prescriber. This requirement shall not apply to compounded prescriptions or medicines and drugs supplied or delivered directly to patients for consumption on the premises while admitted to any hospital or mental institution.

D. No prescription shall be written in any characters, figures or ciphers other than in the English or Latin language, generally in use among medical and pharmaceutical practitioners.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 355, is amended to read as follows:

Section 355. As used in ~~this act~~ the Oklahoma Pharmacy Act:

1. "Dangerous drugs" means any drug intended for use by man which, because of its toxicity or other potentiality for harmful effects, or the method of its use, or the collateral measures necessary for its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drugs. This shall include all drugs upon which the manufacturer or distributor has, in compliance with federal law and regulations, placed the following: "Caution - Federal Law prohibits dispensing without prescription";

2. "Licensed practitioner" means a physician, ~~dentist,~~ ~~podiatrist,~~ ~~osteopathic physician,~~ as defined in subsection C of Section 725.2 of this title, or veterinarian, ~~or optometrist~~

licensed to practice and authorized to prescribe medication within the scope of his practice; and

3. "Professional samples" means complimentary drugs packaged in accordance with federal and state statutes and regulations and provided to a licensed practitioner free of charge by manufacturers or distributors and distributed free of charge in such package by the licensed practitioner to his patients.

SECTION 5. This act shall become effective September 1, 1994.

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