

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE JOINT
RESOLUTION NO. 1047

By: Bastin

AS INTRODUCED

A Joint Resolution relating to proposed rules of the Oklahoma State Board of Pharmacy; disapproving proposed permanent rules OAC 535:10-9-5 and OAC 535:10-9-15, regarding pharmacists; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or any portion thereof; and

WHEREAS, on March 27, 1997, the Oklahoma State Board of Pharmacy adopted proposed permanent rules OAC 535:10-9-5 and OAC 535:10-9-15, regarding pharmacists, relating to definitions and drug therapy management by protocol, and on April 1, 1997, the Oklahoma State Board of Pharmacy submitted proposed permanent rules OAC 535:10-9-5 and OAC 535:10-9-15, regarding pharmacists, relating to definitions and drug therapy management by protocol to the Legislature for its review; and

WHEREAS, the Legislature recognizes that pharmacists, with their extensive knowledge of pharmacology and their ability to monitor patients' patterns of drug use, serve a valuable consultative role to physicians and have an important educational task of counseling

patients about appropriate drug use, preventing adverse drug reactions, and promoting compliance with a drug regimen; and

WHEREAS, the proposed permanent rule OAC 535:10-9-5 broadly defines "pharmaceutical care" as "pharmacist-directed patient care" that includes "intervening and managing drug therapies"; and

WHEREAS, the Legislature believes that pharmacists should become involved in pharmaceutical care in order to focus on disease prevention and wellness to enhance patient outcomes, but that pharmacists should not act independently by treating patients and making decisions about drug therapy without consulting with the patient's physician; and

WHEREAS, Section 353.1 of Title 59 of the Oklahoma Statutes defines "prescription" as "any order for drug or medical supplies written or signed, or transmitted by word of mouth, telephone or other means of communication by a licensed practitioner of medicine, dentistry, osteopathy, 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"; and

WHEREAS, the proposed permanent rule OAC 535:10-9-5 appears to provide pharmacists with the authority to prescribe medicines by defining "drug therapy management" to include the collaborative authority to "initiate, modify and manage drug therapy"; and

WHEREAS, the Legislature believes that a patient's physician, who has the comprehensive training in the diagnosis and treatment of illness, the ongoing relationship with and responsibility for the care of the patient, and the full knowledge of the patient's medical history is the most qualified individual to make decisions regarding a patient's drug therapy; and

WHEREAS, the proposed permanent rules OAC 535:10-9-5 and OAC 535:10-9-15 provide for a collaborative agreement between a pharmacist or a group of pharmacists and a prescribing practitioner

or a group of prescribing practitioners that creates standing orders with guidelines for drug therapy management for the patients of the prescribing practitioners; and

WHEREAS, the Legislature believes that standardized drug therapy management arrangements have the potential to compromise patient health and safety in that such blanket protocols are not tailored to a specific patient or the patient's needs and that physicians are trained to take responsibility for the comprehensive care of an individual patient and that physicians are not authorized to delegate any aspects of this responsibility; and

WHEREAS, the Legislature recognizes that the proposed permanent rules OAC 535:10-9-5 and OAC 535:10-9-15 are inconsistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 46TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves proposed permanent rules OAC 535:10-9-5 and OAC 535:10-9-15, which read as follows:

Rule 535:10-9-5. Definitions

The following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administer" means administer as defined in O.S., Title 59, Section 353.1 (13).

"Drug Therapy Management" means the review and evaluation of a patient's drug therapy regimen by a pharmacist. Drug therapy management includes the collaborative authority to:

- (A) Initiate, modify, and manage drug therapy;
- (B) Collect and review patient drug histories;
- (C) Measure and review routine patient vital signs including pulse, temperature, blood pressure and respiration; and,

(D) Order, perform, and evaluate the results of laboratory tests relating to drug therapy when performed in accordance with protocols.

"Pharmaceutical care" means pharmacist-directed patient care management through which pharmacists provide an expanded level of patient care that focuses on disease prevention and wellness and includes dispensing and administering, monitoring, evaluating, counseling, intervening and managing drug therapies to enhance patient care and improve health outcomes.

"Pharmacist" means a health care provider duly licensed by the Oklahoma State Board of Pharmacy to engage in the practice of pharmacy pursuant to the Oklahoma Pharmacy Act.

"Prescribing practitioner" means a practitioner in active practice duly authorized or recognized by law in Oklahoma to prescribe dangerous drugs and/or controlled dangerous drugs.

"Protocols" means a collaborative agreement between a pharmacist or a group of pharmacists and a prescribing practitioner or a group of prescribing practitioners that creates standing orders with guidelines for drug therapy management for the patients of the prescribing practitioners.

Rule 535:10-9-15. Drug Therapy Management by protocol

A pharmacist planning to initiate a collaborative drug therapy management practice shall have on file at the place of practice a written guideline or protocol. The guideline or protocol shall authorize a pharmacist to exercise drug therapy management authority and shall be established and approved by the prescribing practitioner. A copy of the written guideline or protocol shall be kept on file in the pharmacy. The authority that the prescribing practitioner grants to a pharmacist shall be within the scope of the prescribing practitioner's current practice.

(1) Guideline or Protocol Requirements

(A) A statement identifying the prescribing practitioner(s) and the pharmacist(s) who are parties to the guideline or protocol;

(B) A statement of the types of drug therapy management authority decisions that the pharmacist is authorized to make which may include:

(i) A statement of the types of diseases, drugs, or drug categories involved and the type of drug therapy management authority authorized in each case, and

(ii) A general statement of the procedures, decision criteria, or plan the pharmacist is to follow when exercising drug therapy management authority;

(C) A statement of the activities the pharmacist is to follow in the course of exercising drug therapy management authority, including documentation of decisions made and a plan for communication or feedback to the authorizing practitioner concerning specific decisions made.

Documentation may occur on the prescription record, patient profile, patient medical chart, or in a separate log book; and

(D) A statement that describes appropriate mechanisms for reporting to the practitioner monitoring activities and results.

2. Review. The written guideline or protocol shall be reviewed and, if necessary, revised every two years.

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Executive Director of the Oklahoma State Board of Pharmacy and the Editor of "The Oklahoma Register".

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-7390

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