

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 656

By: Price

AS INTRODUCED

An Act relating to public health and safety; defining terms; providing for electronic transfer of prescription information; 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 2-309.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or researches subject by:

- a. A practitioner, or
- b. The patient or research subject at the direction of the practitioner;

2. "Commissioner" means the State Commissioner of Health, or a designee;

3. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship;

4. "Department" means the State Department of Health;

5. "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery;

6. "Dispenser" means a practitioner who dispenses;

7. "Distribute" means to deliver other than by administering or dispensing a legend drug;

8. "Distributor" means a person who distributes;

9. "Drug" means:

- a. substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
- b. substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
- c. substances, other than food, minerals or vitamins, intended to affect the structure or any function of the body of humans or animals; and
- d. substances intended for use as a component of any article specified in subparagraphs a, b or of this paragraph. It does not include devices or their components, parts or accessories;

10. "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a legend drug between an authorized practitioner and a pharmacy or the transfer of prescription information for a legend drug from one pharmacy to another pharmacy;

11. "Legend drugs" means any drugs which are required by state law or rule of the Board of Pharmacy to be dispensed by prescription only or are restricted to use by practitioners only;

12. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity; and

13. "Practitioner" means:

- a. a physician licensed to practice medicine by the State Board of Medical Licensure and Supervision, pursuant to the provisions of Section 481 et seq. of Title 59 of the Oklahoma Statutes or the State Board of Osteopathic Examiners, pursuant to the provisions of Section 620 et seq. of Title 59 of the Oklahoma Statutes; a nurse practitioner; a licensed practical nurse; an optometrist; a physician assistant; or a pharmacist licensed under the laws of this state, and
- b. a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-309.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this act if the electronically communicated prescription information complies with the following:

1. Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

2. The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the State Board of Health with consultation from the Board of Pharmacy. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. the State Board of Health shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the Board;

3. An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

4. Prescription drug orders are confidential health information, may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

5. To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

6. The pharmacist shall exercise professional judgement regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules of the Board.

B. The Board shall promulgate rules to enact the provisions of this section.

SECTION 3. This act shall become effective November 1, 1999.

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