

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 746

By: Douglass

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 128, O.S.L. 1998 (59 O.S. Supp. 2000, Section 353.1), which relates to Oklahoma Pharmacy Act; defining terms; providing for certification of pharmacy technicians; allowing interns to obtain certification as pharmacy technicians; allowing interns to work as pharmacy technicians under specified conditions; allowing pharmacies to remain open while pharmacist is away; limiting time pharmacist is away from pharmacy; allowing continuation of operations of pharmacy with exception; allowing pharmacy technician to perform specified functions in absence of pharmacist; requiring pharmacist to contact specified persons after returning from a break; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 128, O.S.L. 1998 (59 O.S. Supp. 2000, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act, Section 353 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. "Pharmacist in charge" means a pharmacist who has responsibility for the practice of pharmacy as provided in rules promulgated by the Board of Pharmacy at the pharmacy for which the pharmacist functions as the pharmacist in charge;

4. "Permit holder" means the person responsible for all other administrative and operational functions of the pharmacy;

5. "Pharmacy technician" means an individual who is trained according to the written standards of an employer to perform routine functions that do not require the use of professional judgment in connection with the preparing compounding, distribution or dispensing of medications. The employer shall make such written standards available to the Board of Pharmacy and its designated personnel for inspection and/or approval;

6. "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.~~ 7. "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.~~ 8. "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.~~ 9. "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.~~ 10. "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 licensed practitioner of allopathic or osteopathic medicine, including physician assistants under the supervision of a licensed physician, dentistry, 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.~~ 11. "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.~~ 12. "Electronic transmission of prescriptions" or "electronically transmitted prescriptions" means the communication of original prescriptions, refill authorizations or drug orders, including controlled substances, to the extent permitted by federal law, from an authorized licensed prescribing practitioner or his or her authorized agent to the pharmacy of the patient's choice by electronic means including, but not limited to, telephone, facsimile machine, computer, computer modem or any other electronic device or authorized means;

13. "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, 21 U.S.C.A., Section 321 et seq.;

~~10.~~ 14. "Hospital" means any institution licensed by this state for the care and treatment of patients;

~~11.~~ 15. "Person" means every individual, copartnership, corporation or association, unless the context otherwise requires;

~~12.~~ 16. "Board" or "State Board" means the Oklahoma State Board of Pharmacy;

~~13.~~ 17. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient;

~~14.~~ 18. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver, or supply;

~~15.~~ 19. "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.~~ 20. "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.~~ 21. "Manufacturer" means a person engaged in the manufacturing of drugs;

~~18.~~ 22. "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.~~ 23. "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.~~ 24. "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.~~ 25. "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.~~ 26. "Intern" means a student of pharmacy, currently enrolled in an Oklahoma accredited pharmacy school, who is training under the direct supervision of a preceptor, for hours which apply to graduation credits;

27. "Preceptor" means an assigned pharmacist who is responsible for the direct supervision of an intern;

28. "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.~~ 29. "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.~~ 30. "Accredited program" means those seminars, classes, meetings, work projects and other educational courses approved by the Board for purposes of continuing professional education;

~~25.~~ 31. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, pursuant to the provisions of Section 481 et seq. of this title, or the State Board of Osteopathic Examiners, pursuant to the provisions of Section 620 et seq. of this title, who supervises an advanced practice nurse as defined in Section 567.3a of this title, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners; and

~~26.~~ 32. "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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 353.9A of Title 59, unless there is created a duplication in numbering, reads as follows:

A. An individual who satisfies the requirements to be certified as a pharmacy technician as defined in Section 353.1 of this title shall be eligible to apply for certification as a pharmacy technician pursuant to rules promulgated by the Board of Pharmacy. An intern may obtain certification as a pharmacy technician. An intern may work as a pharmacy technician when no longer under the supervision of the preceptor. The hours worked as a pharmacy technician shall not be applied to hours toward a degree. The intern will be limited to performing only the functions of a pharmacy technician when working as a pharmacy technician, and shall not perform any duties performed as an intern.

B. The pharmacy may remain open while the pharmacist is away from the pharmacy on a lunch break, not exceeding one hour. The operations of the pharmacy can continue in the absence of the pharmacist, except that no unchecked prescription shall be given to a customer. During a period when a pharmacist in charge takes a break, a certified pharmacy technician may, at the discretion of the pharmacist in charge, perform the following functions:

1. Assemble prescriptions to be checked, provided that a pharmacist shall check any product and the order before it is presented to a patient;

2. Receive telephone prescription orders at the discretion of the pharmacist in charge;

3. Provide a prescription that has been previously prepared by a pharmacist to a patient or the patient's representative, provided the pharmacy technician maintains a log of such transactions that includes the telephone number at which the patient may be reached. The log shall be available to the pharmacist upon return from break.

C. For any new prescription picked up during a period when a pharmacist in charge takes a break, the pharmacist in charge shall call the patient or the patient's representative as appropriate within a reasonable time upon returning from break.

SECTION 3. This act shall become effective November 1, 2001.

48-1-248

CJ

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