

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1493

By: Wilson

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5
6 AS INTRODUCED

7 An Act relating to public health and safety;
8 requiring pharmacies to dispense certain drugs and
9 devices in certain manner; clarifying right of
10 pharmacy to refuse to dispense a drug or device in
11 certain circumstances; requiring pharmacies to
12 provide options in certain circumstances; directing
13 pharmacies to deliver certain services in specified
14 manner; requiring pharmacies to display certain
15 notice; providing text of certain notice; requiring
16 inclusion of certain information; permitting certain
17 person to file a complaint; directing the Oklahoma
18 State Board of Pharmacy to make certain investigation
19 and determination; authorizing the Board to impose
20 sanctions in certain circumstances; permitting
21 certain persons to commence civil action in specified
22 circumstance; permitting the Oklahoma Attorney
23 General to commence civil action in certain
24 circumstance; providing for codification; and
providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 369.1 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:
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1 A. Upon receipt of a valid and lawful prescription, a licensed
2 pharmacy shall dispense any prescription contraceptive drug or
3 device in stock without delay, consistent with the normal time frame
4 for filling any other prescription.

5 B. Nothing in this section shall prohibit a licensed pharmacy
6 from refusing to dispense a prescription contraceptive drug or
7 device in accordance with standard pharmacy practice if:

8 1. There is a valid medical concern that such drug or device
9 will cause problems due to therapeutic duplications, drug-disease
10 contraindications, drug interactions, including serious interactions
11 with prescription or over-the-counter medications, incorrect dosage
12 or duration of drug treatment, drug-allergy interactions, drug
13 abuse, or drug misuse; or

14 2. The customer is unable to pay for the drug or device.

15 C. Where a customer requests a prescription contraceptive drug
16 or device not in stock, the pharmacy shall offer the customer the
17 following options and perform the customer's chosen option in a
18 timely fashion:

19 1. The pharmacy will obtain the drug or device under standard
20 procedures for expedited ordering of any prescription drug or device
21 not in stock and promptly notify the customer when the pharmacy
22 receives the drug or device; or

23 2. The pharmacy will locate a pharmacy of the customer's choice
24 or the nearest pharmacy that has the drug or device in stock and

1 transfer the customer's prescription to that pharmacy under standard
2 procedures for transferring prescriptions.

3 D. Every licensed pharmacy shall ensure that it does not
4 intimidate, threaten, or harass any person requesting a
5 contraceptive drug or device in the delivery of services pursuant to
6 this section.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 369.2 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A licensed pharmacy shall fulfill all lawful requests for
11 contraceptive drugs approved for over-the-counter use in a timely
12 fashion.

13 B. Where a customer lawfully requests contraceptive drugs
14 approved for over-the-counter use and that drug is not in stock, the
15 pharmacy shall offer the customer the following options and perform
16 the customer's chosen option in a timely fashion:

17 1. The pharmacy will obtain the contraceptive drug under the
18 pharmacy's standard procedures for expedited ordering of any over-
19 the-counter drug not in stock and notify the customer when the
20 pharmacy receives the contraceptive drug; or

21 2. The pharmacy will locate a pharmacy of the customer's choice
22 or the nearest pharmacy that has the contraceptive drug in stock and
23 refer the customer to that pharmacy.

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1 C. Every licensed pharmacy shall ensure that it does not
2 intimidate, threaten, or harass its customers in the delivery of
3 services pursuant to this section.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 369.3 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

7 Every licensed pharmacy shall conspicuously display the
8 following notice on 8.5 inch by 11 inch paper in an area at which
9 the pharmacy receives prescriptions:

10 IF YOU USE PRESCRIPTION CONTRACEPTIVE DRUGS OR DEVICES, KNOW
11 YOUR RIGHTS

12 If this pharmacy dispenses prescription contraceptive drugs or
13 devices, then you have the following rights under Oklahoma law:

14 Upon receipt of a valid or lawful prescription, this pharmacy
15 must dispense your prescription contraceptive drug or device without
16 delay and consistent with the normal time frame for filling any
17 other prescription.

18 When your prescription contraceptive drug or device is out of
19 stock, the pharmacy, in a timely fashion, must: 1) order your drug
20 or device and notify you when the pharmacy receives the drug or
21 device, or 2) transfer your prescription to a pharmacy of your
22 choice or to the nearest pharmacy.

23 You may instruct the pharmacy to return the prescription order
24 to you at any time prior to dispensing.

1 A pharmacy is not required to dispense a prescription
2 contraceptive drug or device if there is a valid concern that such
3 drug or device will cause problems due to therapeutic duplications,
4 drug-disease contraindications, drug interactions, including serious
5 interactions with prescription over-the-counter medications,
6 incorrect dosage or duration of the drug treatment, drug-allergy
7 interactions, drug abuse or misuse, or if the customer is unable to
8 pay for the drug or device.

9 IF YOU USE CONTRACEPTIVE DRUGS APPROVED FOR OVER-THE-COUNTER
10 USE, KNOW YOUR RIGHTS

11 The pharmacy must dispense contraceptive drugs approved for
12 over-the-counter use in a timely manner.

13 When contraceptive drugs approved for over-the-counter use is
14 out of stock, the pharmacy, in a timely fashion, must: 1) order the
15 drug and notify you when the pharmacy receives the drug, or 2)
16 locate and refer you to a pharmacy of your choice or the nearest
17 pharmacy which has the drug in stock.

18 You are entitled to request multiple packages of contraceptive
19 drugs approved for over-the-counter use.

20 IF YOU BELIEVE YOUR RIGHTS HAVE BEEN VIOLATED, CONTACT THE
21 OKLAHOMA STATE BOARD OF PHARMACY

22 1. The notice described in this subsection shall also include a
23 current phone number and/or website by which a person may inquire
24 about rights or file a complaint.

1 2. For the purposes of this act, "conspicuously" means so
2 displayed or presented that a reasonable person ought to have
3 noticed it. Whether a notice is conspicuous or not is a decision
4 for the court.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 369.4 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Any person who believes that a violation of this act has
9 occurred may file a complaint with the Oklahoma State Board of
10 Pharmacy. Within thirty (30) days of receiving a complaint, the
11 Board shall investigate the complaint and determine whether a
12 violation has occurred. If the Board determines that a violation
13 has occurred, the Board may impose administrative fines or deny,
14 suspend, revoke, or refuse to renew licensure of the pharmacy.

15 B. Any person who has been injured by a violation of this act
16 may commence a civil action for compensatory and punitive damages,
17 as well as the costs of suit and reasonable fees for attorneys and
18 expert witnesses. With respect to compensatory damages, the
19 plaintiff may elect, at any time prior to the rendering of final
20 judgment, to recover, in lieu of actual damages, an award of
21 statutory damages in the amount of Five Thousand Dollars
22 (\$5,000.00).

23 C. If the Oklahoma Attorney General has reasonable cause to
24 believe that any person or group of persons is being, has been, or

1 may be injured by conduct constituting a violation of this act, the
2 Oklahoma Attorney General may commence a civil action in the name of
3 the state as parens patriae on behalf of natural persons residing in
4 the state. In such an action, the court may award appropriate
5 relief, including compensatory damages and civil penalties.

6 SECTION 5. This act shall become effective November 1, 2008.

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