STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2946 By: Derby

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2011, Section 353.24, which relates to the Oklahoma Pharmacy Act; modifying unlawful acts; permitting pharmacist exercising professional judgment with documented patient request to dispense certain additional quantities of maintenance medications; requiring prescriber to be notified under certain circumstance; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.24, is amended to read as follows:

Section 353.24 It shall be unlawful for any person, firm or business entity to:

1. Forge or increase the quantity of drug in any prescription, or to present a prescription bearing forged, fictitious or altered information or to possess any drug secured by such forged, fictitious or altered prescription. However, nothing in this paragraph shall prohibit a pharmacist who is exercising professional

judgment, with documented patient request, from dispensing additional quantities of maintenance medications up to the total number of dosage units authorized by the prescriber on the original prescription and any refills, not to exceed a ninety-day supply. In the event a ninety-day supply is provided to a patient, the prescriber shall be notified. For purposes of this paragraph, "maintenance medications" shall mean noncontrolled medications prescribed for a stable, chronic condition and shall include medications for diabetes, eye disease, hypertension, asthma, thyroid, cardiovascular disease, dyslipidemia, hormone replacement, as well as nonsteroidal anti-inflammatory drugs, contraceptives, nutritional supplements and vitamins;

2. Sell, offer for sale, barter or give away any unused quantity of drugs obtained by prescription, except through a program pursuant to the Utilization of Unused Prescription Medications Act or as otherwise provided by the State Board of Pharmacy;

3. Sell, offer for sale, barter or give away any drugs damaged by fire, water, or other causes without first obtaining the written approval of the Board or the State Department of Health;

4. Enter into any arrangement whereby prescription orders are received, or prescriptions delivered at a place other than the pharmacy in which they are compounded and dispensed. However, nothing in this paragraph shall prevent a pharmacist or an employee of the pharmacy from personally receiving a prescription or

delivering a legally filled prescription at a residence, office or place of employment of the patient for whom the prescription was written. Provided further, the provisions of this paragraph shall not apply to any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substances Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of this title, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence. Nothing in this paragraph shall prevent veterinary prescription drugs from being shipped directly from an Oklahoma licensed wholesaler or distributor to a client; provided, such drugs may be dispensed only on prescription of a licensed veterinarian and only when an existing veterinary-client-patient relationship exists;

5. Sell, offer for sale or barter or buy any professional samples except through a program pursuant to the Utilization of Unused Prescription Medications Act. For purpose of this paragraph, "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 for the purpose of being distributed free of charge in such package by the licensed practitioner to a patient;

6. Refuse to permit or otherwise prevent members of the Board or such representatives thereof from entering and inspecting any and

all places, including premises, equipment, contents, and records, where drugs, medicine, chemicals or poisons are stored, sold, vended, given away, compounded, dispensed or manufactured;

7. Possess dangerous drugs without a valid prescription or a valid license to possess such drugs; provided, however, this provision shall not apply to any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substances Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of this title, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence;

8. Possess, sell, offer for sale, barter or give away any quantity of dangerous drugs not listed as a scheduled drug pursuant to Sections 2-201 through 2-212 of Title 63 of the Oklahoma Statutes when obtained by prescription bearing forged, fictitious or altered information.

a. A first violation of this section shall constitute a misdemeanor and upon conviction shall be punishable by imprisonment in the county jail for a term not more than one (1) year and a fine in an amount not more than One Thousand Dollars ($1,000.00).

b. A second violation of this section shall constitute a felony and upon conviction shall be punishable by

imprisonment in the Department of Corrections for a term not exceeding five (5) years and a fine in an amount not more than Two Thousand Dollars ($2,000.00);

9. Knowingly violate a Board order or agreed order;

10. Compromise the security of licensure examination materials; or

11. Fail to notify the Board, in writing, within ten (10) days of an address change.

SECTION 2. This act shall become effective November 1, 2012.

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