

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2946

6 By: Derby

7 SUBCOMMITTEE RECOMMENDATION

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

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

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

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

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

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

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

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

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

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

15 5. Sell, offer for sale or barter or buy any professional
16 samples except through a program pursuant to the Utilization of
17 Unused Prescription Medications Act. For purpose of this paragraph,
18 "professional samples" means complimentary drugs packaged in
19 accordance with federal and state statutes and regulations and
20 provided to a licensed practitioner free of charge by manufacturers
21 or distributors for the purpose of being distributed free of charge
22 in such package by the licensed practitioner to a patient;

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

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

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

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

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

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

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

4 9. Knowingly violate a Board order or agreed order;

5 10. Compromise the security of licensure examination materials;

6 or

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

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

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