

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2946

By: Derby of the House

and

Anderson of the Senate

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10 COMMITTEE SUBSTITUTE

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

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

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

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

1 1. Forge or increase the quantity of drug in any prescription,
2 or to present a prescription bearing forged, fictitious or altered
3 information or to possess any drug secured by such forged,
4 fictitious or altered prescription. However, nothing in this
5 paragraph shall prohibit a pharmacist who is exercising professional
6 judgment, with documented patient request, from dispensing
7 additional quantities of maintenance medications up to the total
8 number of dosage units authorized by the prescriber on the original
9 prescription and any refills, not to exceed a ninety-day supply. In
10 the event a ninety-day supply is provided to a patient, the
11 prescriber shall be notified. For purposes of this paragraph,
12 "maintenance medications" shall mean noncontrolled medications
13 prescribed for a stable, chronic condition and shall include
14 medications for diabetes, eye disease, hypertension, asthma,
15 thyroid, cardiovascular disease, dyslipidemia, hormone replacement,
16 as well as nonsteroidal anti-inflammatory drugs, contraceptives,
17 nutritional supplements and vitamins;

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

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

4 4. Enter into any arrangement whereby prescription orders are
5 received, or prescriptions delivered at a place other than the
6 pharmacy in which they are compounded and dispensed. However,
7 nothing in this paragraph shall prevent a pharmacist or an employee
8 of the pharmacy from personally receiving a prescription or
9 delivering a legally filled prescription at a residence, office or
10 place of employment of the patient for whom the prescription was
11 written. Provided further, the provisions of this paragraph shall
12 not apply to any Department of Mental Health and Substance Abuse
13 Services employee or any person whose facility contracts with the
14 Department of Mental Health and Substances Abuse Services whose
15 possession of any dangerous drug, as defined in Section 353.1 of
16 this title, is for the purpose of delivery of a mental health
17 consumer's medicine to the consumer's home or residence. Nothing in
18 this paragraph shall prevent veterinary prescription drugs from
19 being shipped directly from an Oklahoma licensed wholesaler or
20 distributor to a client; provided, such drugs may be dispensed only
21 on prescription of a licensed veterinarian and only when an existing
22 veterinary-client-patient relationship exists;

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1 5. Sell, offer for sale or barter or buy any professional
2 samples except through a program pursuant to the Utilization of
3 Unused Prescription Medications Act. For purpose of this paragraph,
4 "professional samples" means complimentary drugs packaged in
5 accordance with federal and state statutes and regulations and
6 provided to a licensed practitioner free of charge by manufacturers
7 or distributors for the purpose of being distributed free of charge
8 in such package by the licensed practitioner to a patient;

9 6. Refuse to permit or otherwise prevent members of the Board
10 or such representatives thereof from entering and inspecting any and
11 all places, including premises, equipment, contents, and records,
12 where drugs, medicine, chemicals or poisons are stored, sold,
13 vended, given away, compounded, dispensed or manufactured;

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

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

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

11 b. A second violation of this section shall constitute a
12 felony and upon conviction shall be punishable by
13 imprisonment in the Department of Corrections for a
14 term not exceeding five (5) years and a fine in an
15 amount not more than Two Thousand Dollars (\$2,000.00);

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

17 10. Compromise the security of licensure examination materials;

18 or

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 02/27/2012 - DO PASS, As Amended and Coauthored.