

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2374

By: Hardin of the House and Simpson of the Senate

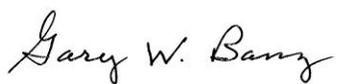
Title: Professions and occupations; Oklahoma Pharmacy Act; modifying definition; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

HB2374 CCR (A)
HOUSE CONFEREES

Banz, Gary W.		Bennett, John	
Coody, Ann		Dank, David	
Hardin, Tommy		Hoskin, Chuck	
Inman, Scott		McDaniel, Randy	
Proctor, Eric		Wesselhoft, Paul	

SENATE CONFEREES

Simpson

AR Sa

Boggs

Tom Boggs

Allen

Mark Allen

Sharp

Ron Sharp

Ivester

McAffrey

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2374

By: Hardin of the House

and

Simpson of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 amending 59 O.S. 2011, Section 353.1, which relates
13 to the Oklahoma Pharmacy Act; modifying definitions;
14 mandating use of certain procedures for medication
15 services in facilities operated by the Oklahoma
16 Department of Veterans Affairs; providing for
17 codification; and providing an effective date.

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

19 SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.1, is
20 amended to read as follows:

21 Section 353.1 For the purposes of the Oklahoma Pharmacy Act:

22 1. "Accredited program" means those seminars, classes,
23 meetings, work projects and other educational courses approved by
24 the Board for purposes of continuing professional education;

1 2. "Administer" means the direct application of a drug, whether
2 by injection, inhalation, ingestion or any other means, to the body
3 of a patient;

4 3. "Assistant pharmacist" means any person presently licensed
5 as an assistant pharmacist in the State of Oklahoma by the Board
6 pursuant to Section 353.10 of this title and for the purposes of
7 this act shall be considered the same as a pharmacist, except where
8 otherwise specified;

9 4. "Board" or "State Board" means the State Board of Pharmacy;

10 5. "Chemical" means any medicinal substance, whether simple or
11 compound or obtained through the process of the science and art of
12 chemistry, whether of organic or inorganic origin;

13 6. "Compounding" means the preparation, mixing, assembling,
14 packaging, or labeling of a drug or device:

15 a. in accordance with a licensed practitioner's
16 prescription drug order under an initiative based on
17 the practitioner/patient/pharmacist relationship in
18 the course of professional practice, or

19 b. for the purpose of, or incident to, research,
20 teaching, or chemical analysis and not for sale or
21 dispensing.

22 Compounding includes the preparation of drugs or devices in
23 anticipation of prescription drug orders based on routine, regularly
24 observed prescribing patterns;

1 7. "Continuing professional education" means professional,
2 pharmaceutical education in the general areas of the socioeconomic
3 and legal aspects of health care; the properties and actions of
4 drugs and dosage forms; and the etiology, characteristics and
5 therapeutics of the diseased state;

6 8. "Dangerous drug", "legend drug", "prescription drug" or "Rx
7 Only" means a drug which:

8 a. under federal law, is required, prior to being
9 dispensed or delivered, to be labeled with one of the
10 following statements:

11 (1) "Caution: Federal law prohibits dispensing
12 without prescription",

13 (2) "Caution: Federal law restricts this drug to use
14 by or on the order of a licensed veterinarian",
15 or

16 (3) "Rx Only", or

17 b. is required by any applicable federal or state law or
18 regulation to be dispensed on prescription only or is
19 restricted to use by licensed practitioners only;

20 9. "Dispense" or "dispensing" means the interpretation,
21 evaluation, and implementation of a prescription drug order,
22 including the preparation and delivery of a drug or device to a
23 patient or a patient's agent in a suitable container appropriately
24 labeled for subsequent administration to, or use by, a patient.

1 Dispense includes sell, distribute, leave with, give away, dispose
2 of, deliver or supply;

3 10. "Doctor of Pharmacy" means a person licensed by the Board
4 to engage in the practice of pharmacy. The terms "pharmacist" and
5 "Doctor of Pharmacy" shall be interchangeable and shall have the
6 same meaning wherever they appear in the Oklahoma Statutes and the
7 rules promulgated by the Board;

8 11. "Drug outlet" means all pharmacies, wholesalers,
9 manufacturers and facilities which are engaged in dispensing,
10 delivery, distribution or storage of dangerous drugs;

11 12. "Drugs" means all medicinal substances and preparations
12 recognized by the United States Pharmacopoeia and National
13 Formulary, or any revision thereof, and all substances and
14 preparations intended for external and/or internal use in the cure,
15 diagnosis, mitigation, treatment or prevention of disease in humans
16 or animals and all substances and preparations, other than food,
17 intended to affect the structure or any function of the body of a
18 human or animals;

19 13. "Filled prescription" means a packaged prescription
20 medication to which a label has been affixed which contains such
21 information as is required by the Oklahoma Pharmacy Act;

22 14. "Hospital" means any institution licensed as a hospital by
23 this state for the care and treatment of patients, or a pharmacy
24 operated by the Oklahoma Department of Veterans Affairs;

1 15. "Licensed practitioner" means an allopathic physician,
2 osteopathic physician, podiatric physician, dentist, veterinarian or
3 optometrist licensed to practice and authorized to prescribe
4 dangerous drugs within the scope of practice of such practitioner;

5 16. "Manufacturer" means a person engaged in the manufacturing
6 of drugs;

7 17. "Manufacturing" means the production, preparation,
8 propagation, compounding, conversion or processing of a device or a
9 drug, either directly or indirectly by extraction from substances of
10 natural origin or independently by means of chemical or biological
11 synthesis and includes any packaging or repackaging of the
12 substances or labeling or relabeling of its container, and the
13 promotion and marketing of such drugs or devices. The term
14 "manufacturing" also includes the preparation and promotion of
15 commercially available products from bulk compounds for resale by
16 licensed pharmacies, licensed practitioners or other persons;

17 18. "Medical gas" means those gases including those in liquid
18 state upon which the manufacturer or distributor has placed one of
19 several cautions, such as "Rx Only", in compliance with federal law;

20 19. "Medical gas order" means an order for medical gas issued
21 by a licensed medical practitioner;

22 20. "Medical gas distributor" means a person licensed to
23 distribute, transfer, wholesale, deliver or sell medical gases on
24 drug orders to suppliers or other entities licensed to use,

1 administer or distribute medical gas and may also include a patient
2 or ultimate user;

3 21. "Medical gas supplier" means a person who dispenses medical
4 gases on drug orders only to a patient or ultimate user;

5 22. "Medicine" means any drug or combination of drugs which has
6 the property of curing, preventing, treating, diagnosing or
7 mitigating diseases, or which is used for that purpose;

8 23. "Nonprescription drugs" means medicines or drugs which are
9 sold without a prescription and which are prepackaged for use by the
10 consumer and labeled in accordance with the requirements of the
11 statutes and regulations of this state and the federal government.
12 Such items shall also include medical and dental supplies and
13 bottled or nonbulk chemicals which are sold or offered for sale to
14 the general public if such articles or preparations meet the
15 requirements of the Federal Food, Drug and Cosmetic Act, 21
16 U.S.C.A., Section 321 et seq.;

17 24. "Packager" means any person, firm or corporation, except a
18 pharmacy, who transfers dangerous drugs including, but not limited
19 to, compressed medical gases from one container to another of any
20 type;

21 25. "Person" means an individual, partnership, limited
22 liability company, corporation or association, unless the context
23 otherwise requires;

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1 26. "Pharmacy" means a place regularly licensed by the Board of
2 Pharmacy in which prescriptions, drugs, medicines, chemicals and
3 poisons are compounded or dispensed, or a pharmacy operated by the
4 Oklahoma Department of Veterans Affairs;

5 27. "Poison" means any substance which when introduced into the
6 body, either directly or by absorption, produces violent, morbid or
7 fatal changes, or which destroys living tissue with which such
8 substance comes into contact;

9 28. "Practice of pharmacy" means:

- 10 a. the interpretation and evaluation of prescription
11 orders,
- 12 b. the compounding, dispensing, administering and
13 labeling of drugs and devices, except labeling by a
14 manufacturer, packer or distributor of nonprescription
15 drugs and commercially packaged legend drugs and
16 devices,
- 17 c. the participation in drug selection and drug
18 utilization reviews,
- 19 d. the proper and safe storage of drugs and devices and
20 the maintenance of proper records thereof,
- 21 e. the responsibility for advising by counseling and
22 providing information, where professionally necessary
23 or where regulated, of therapeutic values, content,
24 hazards and use of drugs and devices,

- 1 f. the offering or performing of those acts, services,
2 operations or transactions necessary in the conduct,
3 operation, management and control of a pharmacy, and
4 g. the provision of those acts or services that are
5 necessary to provide pharmaceutical care;

6 29. "Prescription" means and includes any order for drug or
7 medical supplies written or signed, or transmitted by word of mouth,
8 telephone or other means of communication by:

- 9 a. a licensed practitioner of allopathic or osteopathic
10 medicine, dentistry, podiatry, optometry, or
11 veterinary medicine, or
12 b. under the supervision of an Oklahoma licensed
13 physician, an Oklahoma licensed advanced practice
14 nurse or an Oklahoma licensed physician assistant, or
15 c. an Oklahoma licensed wholesaler or distributor as
16 authorized in subsection G of Section 353.13 of this
17 title;

18 30. "Professional samples" means complimentary drugs packaged
19 in accordance with federal and state statutes and regulations;

20 31. "Supervising physician" means an individual holding a
21 current license to practice as a physician from the State Board of
22 Medical Licensure and Supervision, pursuant to the provisions of the
23 Oklahoma Allopathic Medical and Surgical Licensure and Supervision
24 Act, or the State Board of Osteopathic Examiners, pursuant to the

1 provisions of the Oklahoma Osteopathic Medicine Act, who supervises
2 an advanced practice nurse as defined in Section 567.3a of this
3 title, and who is not in training as an intern, resident, or fellow.
4 To be eligible to supervise an advanced practice nurse, such
5 physician shall remain in compliance with the rules promulgated by
6 the State Board of Medical Licensure and Supervision or the State
7 Board of Osteopathic Examiners;

8 32. "Supportive personnel" means technicians and auxiliary
9 supportive persons who are regularly paid employees of a pharmacy
10 who work and perform tasks in the pharmacy as authorized by Section
11 353.29 of this title; and

12 33. "Wholesaler" or "distributor" means a person engaged in the
13 business of distributing dangerous drugs or medicines at wholesale
14 to pharmacies, hospitals, practitioners, government agencies or
15 other lawful drug outlets permitted to sell or use drugs or
16 medicines, or as authorized in subsection G of Section 353.13 of
17 this title.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 374 of Title 59, unless there is
20 created a duplication in numbering, reads as follows:

21 In facilities operated by the Oklahoma Department of Veterans
22 Affairs, the following medication services procedures shall be
23 utilized:

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1 1. An inventory record shall be maintained for each Schedule
2 II-V medication distributed to a nursing station such that each dose
3 (unit) is documented;

4 2. For medications which require a prescription, the resident's
5 full name will be affixed to the resident's individual drawer
6 located on the medication cart; and the medication strength, dosage,
7 and directions for use will be located on the medical administration
8 record (MAR);

9 3. For over-the-counter medications that are prescribed, the
10 resident's full name will be affixed to the resident's individual
11 drawer located on the medication cart; and the medication strength,
12 dosage, and directions for use will be located on the medical
13 administration record (MAR);

14 4. When a resident is permanently discharged, the unused
15 medication shall be returned to the facility pharmacy as required by
16 United States Department of Veterans Affairs guidelines;

17 5. Noncontrolled medications prescribed for residents who have
18 died and noncontrolled medications which have been discontinued
19 shall be returned to the facility pharmacy; and

20 6. Facilities may maintain nonprescription drugs as bulk
21 medications. Bulk medications may include drugs listed in a
22 formulary developed by the facility pharmacist, medical director,
23 and director of nursing. Nonformulary over-the-counter medications
24 may be prescribed if the resident has therapeutic failure, drug

1 allergy, drug interaction or contraindication to the over-the-
2 counter formulary. In addition, bulk dispensing of prescription
3 medications may include controlled and noncontrolled medications.
4 Facilities shall establish policies and procedures to assure the
5 safe administration of all medications and full accountability of
6 controlled medications.

7 SECTION 3. This act shall become effective November 1, 2014.

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