

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1849

By: Shelton

4  
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 State Board  
18 of Pharmacy to make certain investigation and  
19 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:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 369.1 of Title 59, unless there  
is created a duplication in numbering, reads as follows:

A. Upon receipt of a valid and lawful prescription, a licensed  
pharmacy shall dispense any prescription contraceptive drug or

1 device in stock without delay, consistent with the normal time frame  
2 for filling any other prescription.

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

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

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

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

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

21 2. The pharmacy will locate a pharmacy of the customer's choice  
22 or the nearest pharmacy that has the drug or device in stock and  
23 transfer the customer's prescription to that pharmacy under standard  
24 procedures for transferring prescriptions.

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

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

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

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

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

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

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

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

4 Every licensed pharmacy shall conspicuously display the  
5 following notice on 8.5-inch by 11-inch paper in an area at which  
6 the pharmacy receives prescriptions:

7 IF YOU USE PRESCRIPTION CONTRACEPTIVE DRUGS OR DEVICES, KNOW  
8 YOUR RIGHTS

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

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

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

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

22 A pharmacy is not required to dispense a prescription  
23 contraceptive drug or device if there is a valid concern that such  
24 drug or device will cause problems due to therapeutic duplications,

1 drug-disease contraindications, drug interactions, including serious  
2 interactions with prescription over-the-counter medications,  
3 incorrect dosage or duration of the drug treatment, drug-allergy  
4 interactions, drug abuse or misuse, or if the customer is unable to  
5 pay for the drug or device.

6 IF YOU USE CONTRACEPTIVE DRUGS APPROVED FOR OVER-THE-COUNTER  
7 USE, KNOW YOUR RIGHTS

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

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

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

17 IF YOU BELIEVE YOUR RIGHTS HAVE BEEN VIOLATED, CONTACT THE STATE  
18 BOARD OF PHARMACY

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

22 2. For the purposes of this act, "conspicuously" means so  
23 displayed or presented that a reasonable person ought to have  
24

1 noticed it. Whether a notice is conspicuous or not is a decision  
2 for the court.

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

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

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

21 C. If the Oklahoma Attorney General has reasonable cause to  
22 believe that any person or group of persons is being, has been, or  
23 may be injured by conduct constituting a violation of this act, the  
24 Oklahoma Attorney General may commence a civil action in the name of

1 the state as parens patriae on behalf of natural persons residing in  
2 the state. In such an action, the court may award appropriate  
3 relief, including compensatory damages and civil penalties.

4 SECTION 5. This act shall become effective November 1, 2013.

5  
6 54-1-5954 AM 12/21/12  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24