STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 2374 By: Hardin

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2011, Section 353.1, which relates to the Oklahoma Pharmacy Act; modifying definition; and providing an effective date.

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

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

Section 353.1 For the purposes of the Oklahoma Pharmacy Act:

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

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

3. "Assistant pharmacist" means any person presently licensed as an assistant pharmacist in the State of Oklahoma by the Board

pursuant to Section 353.10 of this title and for the purposes of this act shall be considered the same as a pharmacist, except where otherwise specified;

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

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

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

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

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

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

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

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

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

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

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

(3) "Rx Only", or

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

9. "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or a patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispense includes sell, distribute, leave with, give away, dispose of, deliver or supply;

10. "Doctor of Pharmacy" means a person licensed by the Board to engage in the practice of pharmacy. The terms "pharmacist" and "Doctor of Pharmacy" shall be interchangeable and shall have the

same meaning wherever they appear in the Oklahoma Statutes and the rules promulgated by the Board;

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

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

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

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

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

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

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

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

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

20. "Medical gas distributor" means a person licensed to distribute, transfer, wholesale, deliver or sell medical gases on drug orders to suppliers or other entities licensed to use, administer or distribute medical gas and may also include a patient or ultimate user;

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

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

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

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

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

26. "Pharmacy" means a place regularly licensed by the Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed;

27. "Poison" means any substance which when introduced into the body, either directly or by absorption, produces violent, morbid or

fatal changes, or which destroys living tissue with which such substance comes into contact;

28. "Practice of pharmacy" means:

a. the interpretation and evaluation of prescription orders,

b. the compounding, dispensing, administering and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices,

c. the participation in drug selection and drug utilization reviews,

d. the proper and safe storage of drugs and devices and the maintenance of proper records thereof,

e. the responsibility for advising by counseling and providing information, where professionally necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices,

f. the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy, and

g. the provision of those acts or services that are necessary to provide pharmaceutical care;

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

a. a licensed practitioner of allopathic or osteopathic medicine, dentistry, podiatry, optometry, or veterinary medicine, or

b. under the supervision of an Oklahoma licensed physician, an Oklahoma licensed advanced practice nurse or an Oklahoma licensed physician assistant, or

c. an Oklahoma licensed wholesaler or distributor as authorized in subsection G of Section 353.13 of this title;

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

31. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, pursuant to the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, or the State Board of Osteopathic Examiners, pursuant to the provisions of the Oklahoma Osteopathic Medicine Act, who supervises an advanced practice nurse as defined in Section 567.3a of this title, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by

the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners;

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

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

SECTION 2. This act shall become effective November 1, 2014.

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