

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2773

By: Derby of the House

and

Crain of the Senate

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8 An Act relating to public health and safety; amending
9 Section 6, Chapter 154, O.S.L. 2014 (63 O.S. Supp.
10 2015, Section 2-312.2), which relates to the sale or
11 dispensation of naloxone; providing that no
12 dispensing protocol shall be required; authorizing
13 pharmacists to exercise professional judgment in
14 dispensing refill medications in certain
15 circumstances; excluding certain medications;
16 providing quantity limitations; providing for
17 codification; and providing an effective date.

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AUTHOR: Remove Crain as principal Senate Author, replace with David
as principal Senate Author

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

"An Act relating to pharmacy; amending 59 O.S. 2011,
Section 353.1, as last amended by Section 1, Chapter
230, O.S.L. 2015 (59 O.S. Supp. 2015, Section 353.1),
which relates to definitions; updating statutory
references; amending 59 O.S. 2011, Section 353.11, as
amended by Section 7, Chapter 230, O.S.L. 2015 (59
O.S. Supp. 2015, Section 353.11), which relates to
license renewal; amending Section 8, Chapter 230,
O.S.L. 2015 (59 O.S. Supp. 2015, Section 353.11a),
which relates to continuing education requirements;
amending 59 O.S. 2011, Section 353.18, as amended by
Section 11, Chapter 230, O.S.L. 2015 (59 O.S. Supp.
2015, Section 353.18), which relates to the sale,

1 manufacturing, and packaging of dangerous drugs;
2 amending 59 O.S. 2011, Section 353.24, as amended by
3 Section 16, Chapter 230, O.S.L. 2015 (59 O.S. Supp.
4 2015, Section 353.24), which relates to unlawful
5 acts; amending 59 O.S. 2011, Section 353.26, as
6 amended by Section 17, Chapter 230, O.S.L. 2015 (59
7 O.S. Supp. 2015, Section 353.26), which relates to
8 revocations or suspensions of licenses; clarifying
9 language; amending Section 6, Chapter 154, O.S.L.
10 2014 (63 O.S. Supp. 2015, Section 2-312.2), which
11 relates to the sale or dispensation of naloxone;
12 providing that no dispensing protocol shall be
13 required; authorizing pharmacists to exercise
14 professional judgment in dispensing refill
15 medications in certain circumstances; excluding
16 certain medications; providing quantity limitations;
17 repealing 59 O.S. 2011, Sections 353.13, 353.29, 364,
18 and 366, which relate to unlawful acts, supportive
19 personnel, renewal certifications, and alternative
20 methods of meeting certain requirements; providing
21 for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.1, as
last amended by Section 1, Chapter 230, O.S.L. 2015 (59 O.S. Supp.
2015, 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. "Act" means the Oklahoma Pharmacy Act;

1 3. "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 4. "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 the
7 Oklahoma Pharmacy Act shall be considered the same as a pharmacist,
8 except where otherwise specified;

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

10 6. "Certify" or "certification of a prescription" means the
11 review of a filled prescription by a licensed pharmacist or a
12 licensed practitioner with dispensing authority to confirm that the
13 medication, labeling and packaging of the filled prescription are
14 accurate and meet all requirements prescribed by state and federal
15 law. For the purposes of this paragraph, "licensed practitioner"
16 shall not include optometrists with dispensing authority;

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

20 8. "Compounding" means the combining, admixing, mixing,
21 diluting, pooling, reconstituting or otherwise altering of a drug or
22 bulk drug substance to create a drug. Compounding includes the
23 preparation of drugs or devices in anticipation of prescription drug
24 orders based on routine, regularly observed prescribing patterns;

1 9. "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 10. "Dangerous drug", "legend drug", "prescription drug" or "Rx
7 Only" means a drug:

- 8 a. for human use subject to 21 U.S.C. 353(b)(1); or
- 9 b. is labeled "Prescription Only", or labeled with the
10 following statement: "Caution: Federal law restricts
11 this drug except for use by or on the order of a
12 licensed veterinarian".

13 11. "Director" means the Executive Director of the State Board
14 of Pharmacy unless context clearly indicates otherwise;

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

22 13. "Dispenser" means a retail pharmacy, hospital pharmacy, a
23 group of chain pharmacies under common ownership and control that do
24 not act as a wholesale distributor, or any other person authorized

1 by law to dispense or administer prescription drugs, and the
2 affiliated warehouses or distributions of such entities under common
3 ownership and control that do not act as a wholesale distributor.
4 For the purposes of this paragraph, "dispenser" does not mean a
5 person who dispenses only products to be used in animals in
6 accordance with 21 U.S.C. 360b(a) (5);

7 14. "Distribute" or "distribution" means the sale, purchase,
8 trade, delivery, handling, storage, or receipt of a product, and
9 does not include the dispensing of a product pursuant to a
10 prescription executed in accordance with 21 U.S.C. 353(b) (1) or the
11 dispensing of a product approved under 21 U.S.C. 360b(b);

12 15. "Doctor of Pharmacy" means a person licensed by the Board
13 to engage in the practice of pharmacy. The terms "pharmacist",
14 "D.Ph.", and "Doctor of Pharmacy" shall be interchangeable and shall
15 have the same meaning wherever they appear in the Oklahoma Statutes
16 and the rules promulgated by the Board;

17 16. "Drug outlet" means all manufacturers, repackagers,
18 outsourcing facilities, wholesale distributors, third-party
19 logistics providers, pharmacies, and all other facilities which are
20 engaged in dispensing, delivery, distribution or storage of
21 dangerous drugs;

22 17. "Drugs" means all medicinal substances and preparations
23 recognized by the United States Pharmacopoeia and National
24 Formulary, or any revision thereof, and all substances and

1 preparations intended for external and/or internal use in the cure,
2 diagnosis, mitigation, treatment or prevention of disease in humans
3 or animals and all substances and preparations, other than food,
4 intended to affect the structure or any function of the body of a
5 human or animals;

6 18. "Drug sample" means a unit of a prescription drug packaged
7 under the authority and responsibility of the manufacturer that is
8 not intended to be sold and is intended to promote the sale of the
9 drug;

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

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

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

20 22. "Manufacturer" or "virtual manufacturer" means with respect
21 to a product:

22 a. a person that holds an application approved under 21
23 U.S.C. 355 or a license issued under 42 U.S.C. 262 for
24 such product, or if such product is not the subject of

1 an approved application or license, the person who
2 manufactured the product,

3 b. a co-licensed partner of the person described in
4 subparagraph a that obtains the product directly from
5 a person described in this subparagraph or
6 subparagraph a, or

7 c. an affiliate of a person described in subparagraph a
8 or b who receives the product directly from a person
9 described in this subparagraph or in subparagraph a or
10 b;

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

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

1 25. "Medical gas order" means an order for medical gas issued
2 by a licensed prescriber;

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

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

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

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

22 30. "Outsourcing facility", including "virtual outsourcing
23 facility" means a facility at one geographic location or address
24 that:

- 1 a. is engaged in the compounding of sterile drugs,
- 2 b. has elected to register as an outsourcing facility,
- 3 and
- 4 c. complies with all requirements of 21 U.S.C. 353b;

5 31. "Package" means the smallest individual saleable unit of
6 product for distribution by a manufacturer or repackager that is
7 intended by the manufacturer for ultimate sale to the dispenser of
8 such product. For the purposes of this paragraph, "individual
9 saleable unit" means the smallest container of a product introduced
10 into commerce by the manufacturer or repackager that is intended by
11 the manufacturer or repackager for individual sale to a dispenser;

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

15 33. "Pharmacist-in-charge" or "PIC" means the pharmacist
16 licensed in this state responsible for the management control of a
17 pharmacy and all other aspects of the practice of pharmacy in a
18 licensed pharmacy as defined by Section 353.18 of this title;

19 34. "Pharmacy" means a place regularly licensed by the Board of
20 Pharmacy in which prescriptions, drugs, medicines, chemicals and
21 poisons are compounded or dispensed or such place where pharmacists
22 practice the profession of pharmacy, or a pharmacy operated by the
23 Oklahoma Department of Veterans Affairs;

1 35. "Pharmacy technician", "technician", "Rx tech", or "tech"
2 means a person issued a Technician permit by the State Board of
3 Pharmacy to assist the pharmacist and perform nonjudgmental,
4 technical, manipulative, non-discretionary functions in the
5 prescription department under the immediate and direct supervision
6 of a pharmacist;

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

11 37. "Practice of pharmacy" means:

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

1 or where regulated, of therapeutic values, content,
2 hazards, and use of drugs and devices,

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

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

8 38. "Preparation" means an article which may or may not contain
9 sterile products compounded in a licensed pharmacy pursuant to the
10 order of a licensed prescriber;

11 39. "Prescriber" means a person licensed in this state who is
12 authorized to prescribe dangerous drugs within the scope of practice
13 of the person's profession;

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

17 a. by a licensed practitioner,

18 b. under the supervision of an Oklahoma licensed
19 practitioner, an Oklahoma licensed advanced practice
20 registered nurse or an Oklahoma licensed physician
21 assistant, or

22 c. by an Oklahoma licensed wholesaler or distributor as
23 authorized in Section ~~353.29~~ 353.29.1 of this title;

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1 41. "Product" means a prescription drug in a finished dosage
2 form for administration to a patient without substantial further
3 manufacturing, such as capsules, tablets, and lyophilized products
4 before reconstitution. "Product" does not include blood components
5 intended for transfusion, radioactive drugs or biologics and medical
6 gas;

7 42. "Repackager", including "virtual repackager", means a
8 person who owns or operates an establishment that repacks and
9 relabels a product or package for further sale or distribution
10 without further transaction;

11 43. "Sterile drug" means a drug that is intended for parental
12 administration, an ophthalmic or oral inhalation drug in aqueous
13 format, or a drug that is required to be sterile under state and
14 federal law;

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

1 promulgated by the State Board of Medical Licensure and Supervision
2 or the State Board of Osteopathic Examiners;

3 45. "Supportive personnel" means technicians and auxiliary
4 supportive persons who are regularly paid employees of a pharmacy
5 who work and perform tasks in the pharmacy as authorized by Section
6 ~~353.19~~ 353.18A of this title;

7 46. "Third-party logistics provider", including "virtual third-
8 party logistics provider" means an entity that provides or
9 coordinates warehousing, or other logistics services of a product in
10 interstate commerce on behalf of a manufacturer, wholesale
11 distributor, or dispenser of a product but does not take ownership
12 of the product, nor have responsibility to direct the sale or
13 disposition of the product. For the purposes of this paragraph,
14 "third-party logistics provider" does not include shippers and the
15 United States Postal Service; and

16 47. "Wholesale distributor", including "virtual wholesale
17 distributor" means a person other than a manufacturer, a
18 manufacturer's co-licensed partner, a third-party logistics
19 provider, or repackager engaged in wholesale distribution as defined
20 by 21 U.S.C 353(e) (4) as amended by the Drug Supply Chain Security
21 Act.

22 SECTION 2. AMENDATORY 59 O.S. 2011, Section 353.11, as
23 amended by Section 7, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2015,
24 Section 353.11), is amended to read as follows:

1 Section 353.11. A. 1. Every licensed pharmacist who desires
2 to continue in the profession of pharmacy in this state shall, on or
3 before the expiration date of the license, complete a renewal form
4 and remit to the State Board of Pharmacy a renewal fee to be fixed
5 by the Board. Upon compliance with the provisions of the Oklahoma
6 Pharmacy Act and payment of such renewal fee by a licensee in good
7 standing with the Board, a renewal certificate of licensure shall be
8 issued.

9 2. Every licensed pharmacist who fails to complete a renewal
10 form and remit the required renewal fee to the Board by the
11 fifteenth day after the expiration of the license shall pay a late
12 fee to be fixed by the Board.

13 B. If any pharmacist fails or neglects to procure the renewal
14 of his or her license, as herein required, the Board may, after the
15 expiration of thirty (30) days following the issue of the notice,
16 deprive the person of his or her license and all other privileges
17 conferred by the Oklahoma Pharmacy Act.

18 C. In order to regain licensure, the pharmacist shall apply in
19 writing to the Board requesting reinstatement. The pharmacist shall
20 pay ~~back~~ all back fees and provide proof of having obtained all
21 delinquent continuing education plus an additional fifteen (15)
22 hours of continuing education. The Board may require the pharmacist
23 to appear before the Board at a regular meeting. The Board may
24

1 require evidence of competency through examination or impose other
2 requirements for reinstatement.

3 SECTION 3. AMENDATORY Section 8, Chapter 230, O.S.L.
4 2015 (59 O.S. Supp. 2015, Section 353.11a), is amended to read as
5 follows:

6 Section 353.11a. A. No annual renewal certificate shall be
7 issued to a pharmacist until such pharmacist has submitted proof to
8 the State Board of Pharmacy that the pharmacist has satisfactorily
9 completed no less than fifteen (15) clock hours of an accredited or
10 Board-approved program of continuing professional education during
11 the previous calendar year.

12 B. The Board may grant alternate methods of obtaining
13 continuing education hours to a pharmacist who meets all necessary
14 requirements for licensure except the continuing education
15 requirements.

16 C. 1. Any pharmacist who does not meet the requirements for
17 continuing education may obtain an inactive renewal certificate of
18 licensure.

19 2. The holder of an inactive renewal certificate of licensure
20 shall not engage in the practice of pharmacy in this state.

21 3. The holder of an inactive renewal certificate of licensure
22 may apply to the Board to ~~the~~ be removed from inactive status.
23
24

1 SECTION 4. AMENDATORY 59 O.S. 2011, Section 353.18, as
2 amended by Section 11, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2015,
3 Section 353.18), is amended to read as follows:

4 Section 353.18. A. 1. It shall be unlawful for any person,
5 including, but not limited to, Internet, website or online
6 pharmacies, to sell at retail or to offer for sale, dangerous drugs,
7 medicines, chemicals or poisons for the treatment of disease,
8 excluding agricultural chemicals and drugs, or to accept
9 prescriptions for same, without first procuring a license from the
10 State Board of Pharmacy. This licensure requirement applies whether
11 such sale, offer for sale or acceptance of prescriptions occurs in
12 this state, or such sale, offer for sale, or acceptance of
13 prescription occurs out of state and the dangerous drug, medicine,
14 chemical or poison is to be delivered, distributed or dispensed to
15 patients or customers in this state.

16 2. A pharmacy license shall be issued to such person as the
17 Board shall deem qualified upon evidence satisfactory to the Board
18 that:

- 19 a. the place for which the license is sought will be
20 conducted in full compliance with the law and the
21 rules of the Board,
- 22 b. the location and physical characteristics of the place
23 are reasonably consistent with the maintenance of
24

1 professional surroundings and constitute no known
2 danger to the public health and safety,

3 c. the place will be under the management and control of
4 a licensed pharmacist or pharmacist-in-charge who
5 shall be licensed as a pharmacist in Oklahoma, and

6 d. a licensed pharmacist shall be present and on duty at
7 all business hours; provided, however, the provisions
8 of this subparagraph shall not apply to hospital drug
9 rooms.

10 3. a. An application for an initial or renewal license
11 issued pursuant to the provisions of this subsection
12 shall:

13 (1) be submitted to the Board in writing,

14 (2) contain the name or names of persons owning the
15 pharmacy, and

16 (3) provide other such information deemed relevant by
17 the Board.

18 b. An application for an initial or renewal license shall
19 be accompanied by a licensing fee not to exceed Three
20 Hundred Dollars (\$300.00) for each period of one (1)
21 year. Prior to opening for business, all applicants
22 for an initial license or permit shall be inspected.
23 An initial licensure applicant shall pay an inspection
24 fee not to exceed Two Hundred Dollars (\$200.00);

1 provided, however, that no charge shall be made for
2 the licensing of any Federal Veterans Hospital in the
3 State of Oklahoma. Non-resident pharmacies shall
4 reimburse the Board for any actual expenses incurred
5 for inspections.

6 c. A license issued pursuant to the provisions of this
7 subsection shall be valid for a period set by the
8 Board and shall contain the name of the licensee and
9 the address of the place at which such business shall
10 be conducted.

11 4. A retail pharmacy that prepares sterile drugs shall obtain a
12 pharmacy license, and shall also obtain a sterile compounding permit
13 at a fee set by the Board, not to exceed Seventy-five Dollars
14 (\$75.00). Such pharmacy shall meet requirements set by the Board by
15 rule for sterile compounding permits.

16 5. An outsourcing facility desiring to dispense prescriptions
17 to patients must additionally license and meet the requirements of a
18 pharmacy.

19 B. 1. It shall be unlawful for any person to manufacture,
20 repackage, distribute, outsource, warehouse, or ~~have an outsourcing~~
21 ~~facility,~~ be a third-party logistics provider, ~~or warehouse of~~ any
22 dangerous drugs, medicines, medical gases, chemicals, or poisons for
23 the treatment of disease, excluding agricultural chemicals ~~and~~
24 ~~drugs, or to sell or offer to sale at retail or wholesale medical~~

1 ~~gases~~ without first procuring a license from the Board. It shall be
2 unlawful to sell or offer for sale at retail or wholesale dangerous
3 drugs, medicines, medical gases, chemicals or poisons without first
4 procuring a license from the Board. This licensure requirement
5 shall apply when the manufacturing, repackaging, distributing,
6 outsourcing, warehousing, ~~outsourcing facility or third-party~~
7 ~~logistics provider or facility sale or offer to sell~~ or provision of
8 third-party logistics occurs in this state or ~~when such dangerous~~
9 ~~drugs, medicines, chemicals or poisons are sold or offered to be~~
10 ~~sold~~ out of state for delivery, distribution, or dispensing to
11 patients or customers in this state.

12 2. A license shall be issued to such person as the Board shall
13 deem qualified upon satisfactory evidence to the Board that:

- 14 a. the place for which the license is sought will be
15 conducted in full compliance with the laws of this
16 state and the administrative rules of the Board,
- 17 b. the location and physical characteristics of the place
18 of business are reasonably consistent with the
19 maintenance of professional surroundings and
20 constitute no known danger to public health and
21 safety,
- 22 c. the place shall be under the management and control of
23 such persons as may be approved by the Board after a
24

1 review and determination of the persons'
2 qualifications, and

3 d. an outsourcing facility shall designate in writing on
4 a Board-approved form a person to serve as the
5 pharmacist-in-charge who is a pharmacist licensed by
6 the Board,

7 3. a. An application for an initial or renewal license
8 issued pursuant to the provisions of this subsection
9 shall:

10 (1) be submitted to the Board in writing,

11 (2) contain the name or names of the owners or the
12 applicants, and

13 (3) provide such other information deemed relevant by
14 the Board,

15 b. An application for an initial or renewal license
16 shall be accompanied by a licensing fee not to exceed
17 Three Hundred Dollars (\$300.00) for each period of
18 one (1) year. Prior to opening for business, all
19 applicants for initial or renewal license shall be
20 inspected. An initial licensure applicant shall pay
21 an inspection fee not to exceed Two Hundred Dollars
22 (\$200.00). Non-resident applicants shall reimburse
23 the Board for any actual expenses incurred for
24 inspections.

1 c. A license issued pursuant to the provisions of this
2 subsection shall contain the name of the licensee and
3 the address of the place at which such business shall
4 be conducted and shall be valid for a period of time
5 set by the Board.

6 C. A licensee or permit holder who, pursuant to the provisions
7 of this section, fails to complete an application for a renewal
8 license or permit by the fifteenth day after the expiration of the
9 license or permit shall pay a late fee to be fixed by the Board.

10 D. 1. The Board shall promulgate rules regarding the issuance
11 and renewal of licenses and permits pursuant to the Oklahoma
12 Pharmacy Act which shall include, but need not be limited to
13 provisions for new or renewal application requirements for its
14 licensees and permit holders. Requirements for new and renewal
15 applications may include, but need not be limited to, the following:

- 16 a. type of ownership, whether individual, partnership,
17 limited liability company or corporation,
- 18 b. names and addresses of principal owners or officers
19 and their Social Security numbers, including
20 applicant's full name, all trade or business names
21 used, full business address, telephone numbers, and
22 email addresses,

- 1 c. names of designated representatives and facility
2 managers and their Social Security numbers and dates
3 of birth,
4 d. evidence of a criminal background check and
5 fingerprinting of the applicant, if a person, and all
6 of the applicant's designated representatives and
7 facility managers,
8 e. a copy of the license from the applicant's home state,
9 and if applicable, from the federal government,
10 f. bond requirements, and
11 g. any other information deemed by the Board to be
12 necessary to protect the public health and safety.

13 2. The Board shall be authorized to use an outside agency, such
14 as the National Association of Boards of Pharmacy (NABP) or the
15 Verified-Accredited Wholesale Distributors (VAWD), to accredit
16 wholesale distributors and repackagers.

17 E. The Oklahoma Pharmacy Act shall not be construed to prevent
18 the sale of nonprescription drugs in original manufacturer packages
19 by any merchant or dealer.

20 SECTION 5. AMENDATORY 59 O.S. 2011, Section 353.24, as
21 amended by Section 16, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2015,
22 Section 353.24), is amended to read as follows:

23 Section 353.24. A. It shall be unlawful for any licensee or
24 other person 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;

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

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

12 4. Enter into any arrangement whereby prescription orders are
13 received, or prescriptions are delivered at a place other than the
14 pharmacy in which they are filled, compounded or dispensed.
15 However, nothing in this paragraph shall prevent a pharmacist or an
16 employee of the pharmacy from personally receiving a prescription or
17 delivering a legally filled prescription to a residence, office or
18 place of employment of the patient for whom the prescription was
19 written or a facility where medical care or pharmacy services are
20 received by the patient. Provided further, the provisions of this
21 paragraph shall not apply to any Department of Mental Health and
22 Substance Abuse Services employee or any person whose facility
23 contracts with the Department of Mental Health and Substances Abuse
24 Services whose possession of any dangerous drug, as defined in

1 Section 353.1 of this title, is for the purpose of delivery of a
2 mental health consumer's medicine to the consumer's home or
3 residence. Nothing in this paragraph shall prevent veterinary
4 prescription drugs from being shipped directly from an Oklahoma
5 licensed wholesaler or distributor to a client; provided, such drugs
6 may be dispensed only on prescription of a licensed veterinarian and
7 only when an existing veterinary-client-patient relationship exists;

8 5. Sell, offer for sale or barter or buy any professional
9 samples except through a program pursuant to the Utilization of
10 Unused Prescription Medications Act;

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

17 7. Interfere, refuse to participate in, impede or otherwise
18 obstruct any inspection, investigation or disciplinary proceeding
19 authorized by the Oklahoma Pharmacy Act;

20 8. Possess dangerous drugs without a valid prescription or a
21 valid license to possess such drugs; provided, however, this
22 provision shall not apply to any Department of Mental Health and
23 Substance Abuse Services employee or any person whose facility
24 contracts with the Department of Mental Health and Substances Abuse

1 Services whose possession of any dangerous drug, as defined in
2 Section 353.1 of this title, is for the purpose of delivery of a
3 mental health consumer's medicine to the consumer's home or
4 residence;

5 9. Fail to establish and maintain effective controls against
6 the diversion of drugs for any other purpose than legitimate
7 medical, scientific or industrial uses as provided by state, and
8 federal, and local law;

9 10. Fail to have a written drug diversion detection and
10 prevention policy;

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

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

21 b. A second violation of this section shall constitute a
22 felony and upon conviction shall be punishable by
23 imprisonment in the Department of Corrections for a
24

1 term not exceeding five (5) years and a fine in an
2 amount not more than Two Thousand Dollars (\$2,000.00);

3 12. Violate a Board order or agreed order;

4 13. Compromise the security of licensure examination materials;

5 or

6 14. Fail to notify the Board, in writing, within ten (10) days
7 of a licensee or permit holder's address change.

8 B. 1. It shall be unlawful for any person other than a
9 licensed pharmacist or physician to certify a prescription before
10 delivery to the patient or the patient's representative or
11 caregiver.

12 2. It shall be unlawful for any person to institute or manage a
13 pharmacy unless such person is a licensed pharmacist or has placed a
14 licensed pharmacist in charge of such pharmacy,

15 3. No licensed pharmacist shall manage, supervise or be in
16 charge of more than one pharmacy.

17 4. No pharmacist being requested to sell, furnish or compound
18 any drug, medicine, chemical or other pharmaceutical preparation, by
19 prescription or otherwise, shall substitute or cause to be
20 substituted for it, without authority of the prescriber ~~of~~ or
21 purchaser, any like drug, medicine, chemical or pharmaceutical
22 preparation.

1 5. No pharmacy, pharmacist-in-charge or other person shall
2 permit the practice of pharmacy except by a licensed pharmacist or
3 assistant pharmacist.

4 6. No person shall subvert the authority of the pharmacist-in-
5 charge of the pharmacy by impeding the management of the
6 prescription department to act in compliance with federal and state
7 law.

8 C. 1. It shall be unlawful for a pharmacy to resell dangerous
9 drugs to any wholesale distributor.

10 2. It shall be unlawful for a wholesale distributor to purchase
11 drugs from a pharmacy.

12 SECTION 6. AMENDATORY 59 O.S. 2011, Section 353.26, as
13 amended by Section 17, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2015,
14 Section 353.26), is amended to read as follows:

15 Section 353.26. A. The State Board of Pharmacy may:

16 1. Revoke permanently or suspend any certificate, license or
17 permit issued pursuant to the Oklahoma Pharmacy Act or reprimand or
18 place on probation any holder of a certificate, license, or permit
19 who:

20 a. violates any provision of the Oklahoma Pharmacy Act or
21 any other applicable state or federal law,

22 b. violates any of the provisions of the Uniform
23 Controlled Dangerous Substances Act,
24

- c. has been convicted of a felony or has pleaded guilty or no contest to a felony,
- d. engages in the practice of pharmacy while incapacitated or abuses intoxicating liquors or other chemical substances,
- e. conducts himself or herself in a manner likely to lower public esteem for the profession of pharmacy,
- f. has been disciplined by another State Board of Pharmacy or by another state or federal entity,
- g. has been legally adjudged to be not mentally competent, or
- h. exercises conduct and habits inconsistent with the rules of professional conduct established by the Board; and

2. Levy administrative fines not to exceed Three Thousand Dollars (\$3,000.00) for each count of which any holder of a certificate, license, or permit has been convicted in Board hearings.

B. 1. The Board, its employees, or other agents of the Board shall keep confidential information obtained during an investigation into violations of the Oklahoma Pharmacy Act; provided, however, such information may be introduced by the state in administrative proceedings before the Board and the information then becomes a public record.

1 To ensure the confidentiality of such information obtained
2 during the investigation but not introduced in administrative
3 proceedings, this information shall not be deemed to be a record as
4 that term is defined in the Oklahoma Open Records Act, nor shall the
5 information be subject to subpoena or discovery in any civil or
6 criminal proceedings, except that the Board may give such
7 information to law enforcement and other state agencies as necessary
8 and appropriate in the discharge of the duties of that agency and
9 only under circumstances that ensure against unauthorized access to
10 the information.

11 2. The respondent may acquire information obtained during an
12 investigation, unless the disclosure of the information is otherwise
13 prohibited, except for the investigative report, if the respondent
14 signs a protective order whereby the respondent agrees to use the
15 information solely for the purpose of defense in the Board
16 proceeding and in any appeal therefrom and agrees not to otherwise
17 disclose the information.

18 C. 1. The Board shall mail by certified mail to respondent at
19 the last address provided by respondent to the Board, postmarked at
20 least ten (10) days before the hearing, the sworn complaint filed
21 with its Executive Director against respondent and notice of the
22 date and place of a hearing thereon. Alternatively, at least ten
23 (10) days before the hearing, the Board may serve respondent
24 personally by any person appointed to make service by the Executive

1 Director of the Board and in any manner authorized by the law of
2 this state for the personal service of summonses in proceedings in a
3 state court. Such service shall be effective upon the personal
4 service or mailing of the complaint and notice, and shall constitute
5 good service. If the Board finds that the allegations of the
6 complaint are supported by the evidence rendered at the hearing, the
7 Board is hereby authorized and empowered to, by written order,
8 revoke permanently or suspend for a designated period, the
9 certificate, license or permit of the respondent and/or reprimand,
10 place on probation and/or fine the respondent.

11 2. A person whose certificate, license, or permit has been
12 revoked or suspended or who has been reprimanded or placed on
13 probation or fined may appeal such Board order pursuant to the
14 Administrative Procedures Act.

15 3. The Board's order shall constitute a judgment and may be
16 entered on the judgment docket of the district court in a county in
17 which the respondent has property and ~~execution~~ may be executed
18 thereon in the same manner as any other judgment of a court of
19 record, unless the fine is paid within thirty days after the appeal
20 time has run.

21 D. A person, other than a pharmacy technician, whose license or
22 permit has been suspended by the Board or by operation of law shall
23 pay a reinstatement fee not to exceed One Hundred Fifty Dollars
24 (\$150.00) as a condition of reinstatement of the license.

1 SECTION 7. AMENDATORY Section 6, Chapter 154, O.S.L.
2 2014 (63 O.S. Supp. 2015, Section 2-312.2), is amended to read as
3 follows:

4 Section 2-312.2. Naloxone, also known as Narcan, or any of its
5 generic equivalents may be dispensed or sold by a pharmacy without a
6 prescription; provided, however, it shall be dispensed or sold only
7 by, or under the supervision of, a licensed pharmacist. Naloxone
8 may be prescribed and dispensed by a licensed pharmacist; provided,
9 however, it shall be dispensed only by, or under the supervision of,
10 a licensed pharmacist. No dispensing protocol shall be required.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 353.20.2 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. Unless the prescriber has specified on the prescription that
15 dispensing a prescription for a maintenance medication in an initial
16 amount followed by periodic refills is medically necessary, a
17 pharmacist may exercise his or her professional judgment to dispense
18 varying quantities of medication per fill up to the total number of
19 dosage units as authorized by the prescriber on the original
20 prescription including any refills.

21 B. Subsection A of this section shall not apply to scheduled
22 medications or any medications for which a report is required under
23 the controlled substance database. Dispensing of medication based
24

1 on refills authorized by the physician on the prescription shall be
2 limited to no more than a ninety-day supply of the medication.

3 SECTION 9. REPEALER 59 O.S. 2011, Sections 353.13,
4 353.29, 364 and 366, are hereby repealed.

5 SECTION 10. This act shall become effective November 1, 2016."
6 Passed the Senate the 20th day of April, 2016.

7
8 _____
9 Presiding Officer of the Senate

10 Passed the House of Representatives the ____ day of _____,
11 2016.

12
13 _____
14 Presiding Officer of the House
15 of Representatives

16
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1 ENGROSSED HOUSE
2 BILL NO. 2773

By: Derby of the House

and

Crain of the Senate

3
4
5
6
7 An Act relating to public health and safety; amending
8 Section 6, Chapter 154, O.S.L. 2014 (63 O.S. Supp.
9 2015, Section 2-312.2), which relates to the sale or
10 dispensation of naloxone; providing that no
11 dispensing protocol shall be required; authorizing
12 pharmacists to exercise professional judgment in
13 dispensing refill medications in certain
14 circumstances; excluding certain medications;
15 providing quantity limitations; providing for
16 codification; and providing an effective date.

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

18 SECTION 1. AMENDATORY Section 6, Chapter 154, O.S.L.
19 2014 (63 O.S. Supp. 2015, Section 2-312.2), is amended to read as
20 follows:

21 Section 2-312.2 Naloxone, also known as Narcan, or any of its
22 generic equivalents may be dispensed or sold by a pharmacy without a
23 prescription; provided, however, it shall be dispensed or sold only
24 by, or under the supervision of, a licensed pharmacist. No
dispensing protocol shall be required.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 353.20.2 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Unless the prescriber has specified on the prescription that
5 dispensing a prescription for a maintenance medication in an initial
6 amount followed by periodic refills is medically necessary, a
7 pharmacist may exercise his or her professional judgment to dispense
8 varying quantities of medication per fill up to the total number of
9 dosage units as authorized by the prescriber on the original
10 prescription including any refills.

11 B. Subsection A of this section shall not apply to scheduled
12 medications or any medications for which a report is required under
13 the controlled substance database. Dispensing of medication based
14 on refills authorized by the physician on the prescription shall be
15 limited to no more than a ninety-day supply of the medication.

16 SECTION 3. This act shall become effective November 1, 2016.
17
18
19
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23
24

1 Passed the House of Representatives the 10th day of March, 2016.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2016.

6
7
8 _____
9 Presiding Officer of the Senate