

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1150 By: Standridge of the Senate  
3 and  
4 Cox of the House  
5

6  
7 An Act relating to pharmacy; amending 59 O.S. 2011,  
8 Section 353.1, as last amended by Section 1, Chapter  
9 230, O.S.L. 2015 (59 O.S. Supp. 2015, Section 353.1),  
10 which relates to definitions; updating statutory  
11 references; amending 59 O.S. 2011, Section 353.11, as  
12 amended by Section 7, Chapter 230, O.S.L. 2015 (59  
13 O.S. Supp. 2015, Section 353.11), which relates to  
14 license renewal; amending Section 8, Chapter 230,  
15 O.S.L. 2015 (59 O.S. Supp. 2015, Section 353.11a),  
16 which relates to continuing education requirements;  
17 amending 59 O.S. 2011, Section 353.18, as amended by  
18 Section 11, Chapter 230, O.S.L. 2015 (59 O.S. Supp.  
19 2015, Section 353.18), which relates to the sale,  
20 manufacturing, and packaging of dangerous drugs;  
21 amending 59 O.S. 2011, Section 353.24, as amended by  
22 Section 16, Chapter 230, O.S.L. 2015 (59 O.S. Supp.  
23 2015, Section 353.24), which relates to unlawful  
24 acts; amending 59 O.S. 2011, Section 353.26, as  
amended by Section 17, Chapter 230, O.S.L. 2015 (59  
O.S. Supp. 2015, Section 353.26), which relates to  
revocations or suspensions of licenses; clarifying  
language; repealing 59 O.S. 2011, Sections 353.13,  
353.29, 364, and 366, which relate to unlawful acts,  
supportive personnel, renewal certifications, and  
alternative methods of meeting certain requirements;  
and providing an effective date.

22 AUTHOR: Remove Senator Standridge as principal Senate author and  
23 substitute with Senator Yen.

24 Add the following Senate Coauthor: Standridge

1 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
2 and insert

3 "An Act relating to pharmacy; amending 59 O.S. 2011,  
4 Section 353.1, as last amended by Section 1, Chapter  
5 230, O.S.L. 2015 (59 O.S. Supp. 2015, Section  
6 353.1), which relates to definitions; updating  
7 statutory references; amending 59 O.S. 2011, Section  
8 353.11, as amended by Section 7, Chapter 230, O.S.L.  
9 2015 (59 O.S. Supp. 2015, Section 353.11), which  
10 relates to license renewal; amending Section 8,  
11 Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2015,  
12 Section 353.11a), which relates to continuing  
13 education requirements; amending 59 O.S. 2011,  
14 Section 353.18, as amended by Section 11, Chapter  
15 230, O.S.L. 2015 (59 O.S. Supp. 2015, Section  
16 353.18), which relates to the sale, manufacturing  
17 and packaging of dangerous drugs; amending 59 O.S.  
18 2011, Section 353.24, as amended by Section 16,  
19 Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2015,  
20 Section 353.24), which relates to unlawful acts;  
21 amending 59 O.S. 2011, Section 353.26, as amended by  
22 Section 17, Chapter 230, O.S.L. 2015 (59 O.S. Supp.  
23 2015, Section 353.26), which relates to revocations  
24 or suspensions of licenses; clarifying language;  
amending Sections 1 and 4, Chapter 263, O.S.L. 2014  
(59 O.S. Supp. 2015, Sections 357 and 360), which  
relate to pharmacy benefit plans; defining terms;  
modifying prohibited acts; modifying administrative  
appeals procedure; modifying requirements for  
certain contracts; repealing 59 O.S. 2011, Sections  
353.13, 353.29, 364 and 366, which relate to  
unlawful acts, supportive personnel, renewal  
certifications and alternative methods of meeting  
certain requirements; and providing an effective  
date.

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

1 SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.1, as  
2 last amended by Section 1, Chapter 230, O.S.L. 2015 (59 O.S. Supp.  
3 2015, Section 353.1), is amended to read as follows:

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

- 5 1. "Accredited program" means those seminars, classes,  
6 meetings, work projects, and other educational courses approved by  
7 the Board for purposes of continuing professional education;
- 8 2. "Act" means the Oklahoma Pharmacy Act;
- 9 3. "Administer" means the direct application of a drug, whether  
10 by injection, inhalation, ingestion or any other means, to the body  
11 of a patient;
- 12 4. "Assistant pharmacist" means any person presently licensed  
13 as an assistant pharmacist in the State of Oklahoma by the Board  
14 pursuant to Section 353.10 of this title and for the purposes of the  
15 Oklahoma Pharmacy Act shall be considered the same as a pharmacist,  
16 except where otherwise specified;
- 17 5. "Board" or "State Board" means the State Board of Pharmacy;
- 18 6. "Certify" or "certification of a prescription" means the  
19 review of a filled prescription by a licensed pharmacist or a  
20 licensed practitioner with dispensing authority to confirm that the  
21 medication, labeling and packaging of the filled prescription are  
22 accurate and meet all requirements prescribed by state and federal  
23 law. For the purposes of this paragraph, "licensed practitioner"  
24 shall not include optometrists with dispensing authority;

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

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

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

14       10. "Dangerous drug", "legend drug", "prescription drug" or "Rx  
15 Only" means a drug:

- 16           a. for human use subject to 21 U.S.C. 353(b)(1) ~~†~~ or
- 17           b. is labeled "Prescription Only", or labeled with the  
18                following statement: "Caution: Federal law restricts  
19                this drug except for use by or on the order of a  
20                licensed veterinarian".

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

23       12. "Dispense" or "dispensing" means the interpretation,  
24 evaluation, and implementation of a prescription drug order,

1 including the preparation and delivery of a drug or device to a  
2 patient or a patient's agent in a suitable container appropriately  
3 labeled for subsequent administration to, or use by, a patient.  
4 Dispense includes sell, distribute, leave with, give away, dispose  
5 of, deliver or supply;

6 13. "Dispenser" means a retail pharmacy, hospital pharmacy, a  
7 group of chain pharmacies under common ownership and control that do  
8 not act as a wholesale distributor, or any other person authorized  
9 by law to dispense or administer prescription drugs, and the  
10 affiliated warehouses or distributions of such entities under common  
11 ownership and control that do not act as a wholesale distributor.  
12 For the purposes of this paragraph, "dispenser" does not mean a  
13 person who dispenses only products to be used in animals in  
14 accordance with 21 U.S.C. 360b(a) (5);

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

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

1        16. "Drug outlet" means all manufacturers, repackagers,  
2 outsourcing facilities, wholesale distributors, third-party  
3 logistics providers, pharmacies, and all other facilities which are  
4 engaged in dispensing, delivery, distribution or storage of  
5 dangerous drugs;

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

14        18. "Drug sample" means a unit of a prescription drug packaged  
15 under the authority and responsibility of the manufacturer that is  
16 not intended to be sold and is intended to promote the sale of the  
17 drug;

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

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

24

1        21. "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        22. "Manufacturer" or "virtual manufacturer" means with respect  
6 to a product:

7            a. a person that holds an application approved under 21  
8            U.S.C. 355 or a license issued under 42 U.S.C. 262 for  
9            such product, or if such product is not the subject of  
10           an approved application or license, the person who  
11           manufactured the product,

12           b. a co-licensed partner of the person described in  
13           subparagraph a that obtains the product directly from  
14           a person described in this subparagraph or  
15           subparagraph a, or

16           c. an affiliate of a person described in subparagraph a  
17           or b who receives the product directly from a person  
18           described in this subparagraph or in subparagraph a or  
19           b;

20        23. "Manufacturing" means the production, preparation,  
21 propagation, compounding, conversion or processing of a device or a  
22 drug, either directly or indirectly by extraction from substances of  
23 natural origin or independently by means of chemical or biological  
24 synthesis and includes any packaging or repackaging of the

1 substances or labeling or relabeling of its container, and the  
2 promotion and marketing of such drugs or devices. The term  
3 "manufacturing" also includes the preparation and promotion of  
4 commercially available products from bulk compounds for resale by  
5 licensed pharmacies, licensed practitioners or other persons;

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

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

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

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

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

21 29. "Nonprescription drugs" means medicines or drugs which are  
22 sold without a prescription and which are prepackaged for use by the  
23 consumer and labeled in accordance with the requirements of the  
24 statutes and regulations of this state and the federal government.



1 Such items shall also include medical and dental supplies and  
2 bottled or nonbulk chemicals which are sold or offered for sale to  
3 the general public if such articles or preparations meet the  
4 requirements of the Federal Food, Drug and Cosmetic Act, 21  
5 U.S.C.A., Section 321 et seq.;

6 30. "Outsourcing facility", including "virtual outsourcing  
7 facility" means a facility at one geographic location or address  
8 that:

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

13 31. "Package" means the smallest individual saleable unit of  
14 product for distribution by a manufacturer or repackager that is  
15 intended by the manufacturer for ultimate sale to the dispenser of  
16 such product. For the purposes of this paragraph, "individual  
17 saleable unit" means the smallest container of a product introduced  
18 into commerce by the manufacturer or repackager that is intended by  
19 the manufacturer or repackager for individual sale to a dispenser;

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

23 33. "Pharmacist-in-charge" or "PIC" means the pharmacist  
24 licensed in this state responsible for the management control of a

1 pharmacy and all other aspects of the practice of pharmacy in a  
2 licensed pharmacy as defined by Section 353.18 of this title;

3 34. "Pharmacy" means a place regularly licensed by the Board of  
4 Pharmacy in which prescriptions, drugs, medicines, chemicals and  
5 poisons are compounded or dispensed or such place where pharmacists  
6 practice the profession of pharmacy, or a pharmacy operated by the  
7 Oklahoma Department of Veterans Affairs;

8 35. "Pharmacy technician", "technician", "Rx tech", or "tech"  
9 means a person issued a Technician permit by the State Board of  
10 Pharmacy to assist the pharmacist and perform nonjudgmental,  
11 technical, manipulative, non-discretionary functions in the  
12 prescription department under the immediate and direct supervision  
13 of a pharmacist;

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

18 37. "Practice of pharmacy" means:

- 19 a. the interpretation and evaluation of prescription  
20 orders,  
21 b. the compounding, dispensing, administering and  
22 labeling of drugs and devices, except labeling by a  
23 manufacturer, repackager or distributor of  
24

1 nonprescription drugs and commercially packaged legend  
2 drugs and devices,

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

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

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

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

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

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

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

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

- 1 a. by a licensed practitioner,
- 2 b. under the supervision of an Oklahoma licensed
- 3 practitioner, an Oklahoma licensed advanced practice
- 4 registered nurse or an Oklahoma licensed physician
- 5 assistant, or
- 6 c. by an Oklahoma licensed wholesaler or distributor as
- 7 authorized in Section ~~353.29~~ 353.29.1 of this title;

8 41. "Product" means a prescription drug in a finished dosage

9 form for administration to a patient without substantial further

10 manufacturing, such as capsules, tablets, and lyophilized products

11 before reconstitution. "Product" does not include blood components

12 intended for transfusion, radioactive drugs or biologics and medical

13 gas;

14 42. "Repackager", including "virtual repackager", means a

15 person who owns or operates an establishment that repacks and

16 relabels a product or package for further sale or distribution

17 without further transaction;

18 43. "Sterile drug" means a drug that is intended for parental

19 administration, an ophthalmic or oral inhalation drug in aqueous

20 format, or a drug that is required to be sterile under state and

21 federal law;

22 44. "Supervising physician" means an individual holding a

23 current license to practice as a physician from the State Board of

24 Medical Licensure and Supervision, pursuant to the provisions of the

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

10 45. "Supportive personnel" means technicians and auxiliary  
11 supportive persons who are regularly paid employees of a pharmacy  
12 who work and perform tasks in the pharmacy as authorized by Section  
13 ~~353.19~~ 353.18A of this title;

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

23 47. "Wholesale distributor", including "virtual wholesale  
24 distributor" means a person other than a manufacturer, a

1 manufacturer's co-licensed partner, a third-party logistics  
2 provider, or repackager engaged in wholesale distribution as defined  
3 by 21 U.S.C. 353(e) (4) as amended by the Drug Supply Chain Security  
4 Act.

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

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

16 2. Every licensed pharmacist who fails to complete a renewal  
17 form and remit the required renewal fee to the Board by the  
18 fifteenth day after the expiration of the license shall pay a late  
19 fee to be fixed by the Board.

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

1 C. In order to regain licensure, the pharmacist shall apply in  
2 writing to the Board requesting reinstatement. The pharmacist shall  
3 pay ~~back~~ all back fees and provide proof of having obtained all  
4 delinquent continuing education plus an additional fifteen (15)  
5 hours of continuing education. The Board may require the pharmacist  
6 to appear before the Board at a regular meeting. The Board may  
7 require evidence of competency through examination or impose other  
8 requirements for reinstatement.

9 SECTION 3. AMENDATORY Section 8, Chapter 230, O.S.L.  
10 2015 (59 O.S. Supp. 2015, Section 353.11a), is amended to read as  
11 follows:

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

18 B. The Board may grant alternate methods of obtaining  
19 continuing education hours to a pharmacist who meets all necessary  
20 requirements for licensure except the continuing education  
21 requirements.

22 C. 1. Any pharmacist who does not meet the requirements for  
23 continuing education may obtain an inactive renewal certificate of  
24 licensure.

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

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

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

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

20           2. A pharmacy license shall be issued to such person as the  
21 Board shall deem qualified upon evidence satisfactory to the Board  
22 that:  
23  
24



- 1 a. the place for which the license is sought will be  
2 conducted in full compliance with the law and the  
3 rules of the Board,  
4 b. the location and physical characteristics of the place  
5 are reasonably consistent with the maintenance of  
6 professional surroundings and constitute no known  
7 danger to the public health and safety,  
8 c. the place will be under the management and control of  
9 a licensed pharmacist or pharmacist-in-charge who  
10 shall be licensed as a pharmacist in Oklahoma, and  
11 d. a licensed pharmacist shall be present and on duty at  
12 all business hours; provided, however, the provisions  
13 of this subparagraph shall not apply to hospital drug  
14 rooms.

15 3. a. An application for an initial or renewal license  
16 issued pursuant to the provisions of this subsection  
17 shall:

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

19 (2) contain the name or names of persons owning the  
20 pharmacy, and

21 (3) provide other such information deemed relevant by  
22 the Board.

23 b. An application for an initial or renewal license shall  
24 be accompanied by a licensing fee not to exceed Three

1           Hundred Dollars (\$300.00) for each period of one (1)  
2           year. Prior to opening for business, all applicants  
3           for an initial license or permit shall be inspected.  
4           An initial licensure applicant shall pay an inspection  
5           fee not to exceed Two Hundred Dollars (\$200.00);  
6           provided, however, that no charge shall be made for  
7           the licensing of any Federal Veterans Hospital in the  
8           State of Oklahoma. Non-resident pharmacies shall  
9           reimburse the Board for any actual expenses incurred  
10          for inspections.

11          c. A license issued pursuant to the provisions of this  
12          subsection shall be valid for a period set by the  
13          Board and shall contain the name of the licensee and  
14          the address of the place at which such business shall  
15          be conducted.

16          4. A retail pharmacy that prepares sterile drugs shall obtain a  
17          pharmacy license, and shall also obtain a sterile compounding permit  
18          at a fee set by the Board, not to exceed Seventy-five Dollars  
19          (\$75.00). Such pharmacy shall meet requirements set by the Board by  
20          rule for sterile compounding permits.

21          5. An outsourcing facility desiring to dispense prescriptions  
22          to patients must additionally license and meet the requirements of a  
23          pharmacy.

1 B. 1. It shall be unlawful for any person to manufacture,  
2 repackage, distribute, outsource, warehouse or ~~have an outsourcing~~  
3 ~~facility, be a~~ third-party logistics provider, ~~or warehouse of~~ any  
4 dangerous drugs, medicines, medical gases, chemicals, or poisons for  
5 the treatment of disease, excluding agricultural chemicals ~~and~~  
6 ~~drugs, or to sell or offer to sale at retail or wholesale medical~~  
7 ~~gases~~ without first procuring a license from the Board. It shall be  
8 unlawful to sell or offer for sale at retail or wholesale dangerous  
9 drugs, medicines, medical gases, chemicals or poisons without first  
10 procuring a license from the Board. This licensure requirement  
11 shall apply when the manufacturing, repackaging, distributing,  
12 outsourcing, warehousing, outsourcing facility or third-party  
13 ~~logistics provider or facility sale or offer to sell~~ or provision of  
14 third-party logistics occurs in this state or ~~when such dangerous~~  
15 ~~drugs, medicines, chemicals or poisons are sold or offered to be~~  
16 ~~sold~~ out of state for delivery, distribution, or dispensing to  
17 patients or customers in this state.

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

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

1 maintenance of professional surroundings and  
2 constitute no known danger to public health and  
3 safety,

4 c. the place shall be under the management and control of  
5 such persons as may be approved by the Board after a  
6 review and determination of the persons'

7 qualifications, and

8 d. an outsourcing facility shall designate in writing on  
9 a Board-approved form a person to serve as the  
10 pharmacist-in-charge who is a pharmacist licensed by  
11 the Board<sub>7.</sub>

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

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

16 (2) contain the name or names of the owners or the  
17 applicants, and

18 (3) provide such other information deemed relevant by  
19 the Board<sub>7.</sub>

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

1 initial licensure applicant shall pay an inspection  
2 fee not to exceed Two Hundred Dollars (\$200.00). Non-  
3 resident applicants shall reimburse the Board for any  
4 actual expenses incurred for inspections.

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

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

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

- 20 a. type of ownership, whether individual, partnership,  
21 limited liability company or corporation,  
22 b. names and addresses of principal owners or officers  
23 and their Social Security numbers, including  
24 applicant's full name, all trade or business names

1 used, full business address, telephone numbers, and  
2 email addresses,

3 c. names of designated representatives and facility  
4 managers and their Social Security numbers and dates  
5 of birth,

6 d. evidence of a criminal background check and  
7 fingerprinting of the applicant, if a person, and all  
8 of the applicant's designated representatives and  
9 facility managers,

10 e. a copy of the license from the applicant's home state,  
11 and if applicable, from the federal government,

12 f. bond requirements, and

13 g. any other information deemed by the Board to be  
14 necessary to protect the public health and safety.

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

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

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

1 Section 353.24 A. It shall be unlawful for any licensee or  
2 other person to:

3 1. Forge or increase the quantity of drug in any prescription,  
4 or to present a prescription bearing forged, fictitious or altered  
5 information or to possess any drug secured by such forged,  
6 fictitious or altered prescription;

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

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

14 4. ~~Enter into any arrangement whereby prescription orders are~~  
15 ~~received, or prescriptions are delivered at a place other than the~~  
16 ~~pharmacy in which they are filled, compounded or dispensed. No~~  
17 person, firm or business establishment shall offer to the public, in  
18 any manner, their services as a "pick-up station" or intermediary  
19 for the purpose of having prescriptions filled or delivered, whether  
20 for profit or gratuitously. Nor may the owner of any pharmacy or  
21 drug store authorize any person, firm or business establishment to  
22 act for them in this manner with these exceptions:

23 a. patient-specific filled prescriptions may be delivered  
24 or shipped to a prescriber's clinic for pick-up by

1 those patients who the prescriber has individually  
2 determined and documented do not have a permanent or  
3 secure mailing address,

4 b. patient-specific filled prescriptions for drugs which  
5 require special handling written by a prescriber may  
6 be delivered or shipped to the prescriber's clinic for  
7 administration or pick-up at the prescriber's office,

8 c. patient-specific filled prescriptions, including  
9 sterile compounded drugs, may be delivered or shipped  
10 to a prescriber's clinic where they shall be  
11 administered,

12 d. patient-specific filled prescriptions for patients  
13 under Medicare and/or Medicaid for End Stage Renal  
14 Disease (ESRD) may be delivered or shipped to a  
15 prescriber's clinic for administration or final  
16 delivery to the patient, or

17 e. patient-specific filled prescriptions for  
18 radiopharmaceuticals may be delivered or shipped to a  
19 prescriber's clinic for administration or pick-up.

20 However, nothing in this paragraph shall prevent a pharmacist or  
21 an employee of the pharmacy from personally receiving a prescription  
22 or delivering a legally filled prescription to a residence, office  
23 or place of employment of the patient for whom the prescription was  
24 written. Provided further, the provisions of this paragraph shall



1 not apply to any Department of Mental Health and Substance Abuse  
2 Services employee or any person whose facility contracts with the  
3 Department of Mental Health and Substances Abuse Services whose  
4 possession of any dangerous drug, as defined in Section 353.1 of  
5 this title, is for the purpose of delivery of a mental health  
6 consumer's medicine to the consumer's home or residence. Nothing in  
7 this paragraph shall prevent veterinary prescription drugs from  
8 being shipped directly from an Oklahoma licensed wholesaler or  
9 distributor registered with the Oklahoma Board of Veterinary Medical  
10 Examiners to a client; provided, such drugs may be dispensed only on  
11 prescription of a licensed veterinarian and only when an existing  
12 veterinary-client-patient relationship exists;

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

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

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

1           8. Possess dangerous drugs without a valid prescription or a  
2 valid license to possess such drugs; provided, however, this  
3 provision shall not apply to any Department of Mental Health and  
4 Substance Abuse Services employee or any person whose facility  
5 contracts with the Department of Mental Health and Substances Abuse  
6 Services whose possession of any dangerous drug, as defined in  
7 Section 353.1 of this title, is for the purpose of delivery of a  
8 mental health consumer's medicine to the consumer's home or  
9 residence;

10           9. Fail to establish and maintain effective controls against  
11 the diversion of drugs for any other purpose than legitimate  
12 medical, scientific or industrial uses as provided by state, ~~and~~  
13 federal, and local law;

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

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

21           a. A first violation of this section shall constitute a  
22 misdemeanor and upon conviction shall be punishable by  
23 imprisonment in the county jail for a term not more  
24

1 than one (1) year and a fine in an amount not more  
2 than One Thousand Dollars (\$1,000.00).

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

8 12. Violate a Board order or agreed order;

9 13. Compromise the security of licensure examination materials;

10 or

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

13 B. 1. It shall be unlawful for any person other than a  
14 licensed pharmacist or physician to certify a prescription before  
15 delivery to the patient or the patient's representative or  
16 caregiver.

17 2. It shall be unlawful for any person to institute or manage a  
18 pharmacy unless such person is a licensed pharmacist or has placed a  
19 licensed pharmacist in charge of such pharmacy7.

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

22 4. No pharmacist being requested to sell, furnish or compound  
23 any drug, medicine, chemical or other pharmaceutical preparation, by  
24 prescription or otherwise, shall substitute or cause to be

1 substituted for it, without authority of the prescriber ~~of~~ or  
2 purchaser, any like drug, medicine, chemical or pharmaceutical  
3 preparation.

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

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

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

13 2. It shall be unlawful for a wholesale distributor to purchase  
14 drugs from a pharmacy.

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

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

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

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

- b. violates any of the provisions of the Uniform Controlled Dangerous Substances Act,
- 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

1 proceedings before the Board and the information then becomes a  
2 public record.

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

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

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

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

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

17 3. The Board's order shall constitute a judgment and may be  
18 entered on the judgment docket of the district court in a county in  
19 which the respondent has property and ~~execution~~ may be executed  
20 thereon in the same manner as any other judgment of a court of  
21 record, unless the fine is paid within thirty (30) days after the  
22 appeal time has run.

23 D. A person, other than a pharmacy technician, whose license or  
24 permit has been suspended by the Board or by operation of law shall

1 pay a reinstatement fee not to exceed One Hundred Fifty Dollars  
2 (\$150.00) as a condition of reinstatement of the license.

3 SECTION 7. AMENDATORY Section 1, Chapter 263, O.S.L.  
4 2014 (59 O.S. Supp. 2015, Section 357), is amended to read as  
5 follows:

6 Section 357. As used in this act:

7 1. "Covered entity" means a nonprofit hospital or medical  
8 service organization, insurer, health coverage plan or health  
9 maintenance organization; a health program administered by the state  
10 in the capacity of provider of health coverage; or an employer,  
11 labor union, or other entity organized in the state that provides  
12 health coverage to covered individuals who are employed or reside in  
13 the state. This term does not include a health plan that provides  
14 coverage only for accidental injury, specified disease, hospital  
15 indemnity, disability income, or other limited benefit health  
16 insurance policies and contracts that do not include prescription  
17 drug coverage;

18 2. "Covered individual" means a member, participant, enrollee,  
19 contract holder or policy holder or beneficiary of a covered entity  
20 who is provided health coverage by the covered entity. A covered  
21 individual includes any dependent or other person provided health  
22 coverage through a policy, contract or plan for a covered  
23 individual;

24 3. "Department" means the Oklahoma Insurance Department;



1 4. "Maximum allowable cost" or "MAC" means the list of drug  
2 products delineating the maximum per-unit reimbursement for  
3 multiple-source prescription drugs, medical product or device;

4 5. "Multisource drug product reimbursement" (reimbursement)  
5 means the total amount paid to a pharmacy inclusive of any reduction  
6 in payment to the pharmacy, excluding prescription dispense fees;

7 6. "Pharmacy benefits management" means a service provided to  
8 covered entities to facilitate the provision of prescription drug  
9 benefits to covered individuals within the state, including  
10 negotiating pricing and other terms with drug manufacturers and  
11 providers. Pharmacy benefits management may include any or all of  
12 the following services:

- 13 a. claims processing, retail network management and  
14 payment of claims to pharmacies for prescription drugs  
15 dispensed to covered individuals,
- 16 b. clinical formulary development and management  
17 services,
- 18 c. rebate contracting and administration,
- 19 d. certain patient compliance, therapeutic intervention  
20 and generic substitution programs, or
- 21 e. disease management programs;

22 ~~6.~~ 7. "Pharmacy benefits manager" or "PBM" means a person,  
23 business or other entity that performs pharmacy benefits management.  
24 The term includes a person or entity acting for a PBM in a

1 contractual or employment relationship in the performance of  
2 pharmacy benefits management for a managed care company, nonprofit  
3 hospital, medical service organization, insurance company, third-  
4 party payor, or a health program administered by an agency of this  
5 state;

6 ~~7.~~ 8. "Plan sponsor" means the employers, insurance companies,  
7 unions and health maintenance organizations or any other entity  
8 responsible for establishing, maintaining, or administering a health  
9 benefit plan on behalf of covered individuals; and

10 ~~8.~~ 9. "Provider" means a pharmacy licensed by the State Board  
11 of Pharmacy, or an agent or representative of a pharmacy, including,  
12 but not limited to, the pharmacy's contracting agent, which  
13 dispenses prescription drugs or devices to covered individuals.

14 SECTION 8. AMENDATORY Section 4, Chapter 263, O.S.L.  
15 2014 (59 O.S. Supp. 2015, Section 360), is amended to read as  
16 follows:

17 Section 360. A. The pharmacy benefits manager shall, with  
18 respect to contracts between a pharmacy benefits manager and a  
19 provider:

20 1. Include in such contracts the sources utilized to determine  
21 the maximum allowable cost (MAC) pricing of the pharmacy, update  
22 ~~maximum allowable cost~~ MAC pricing at least every seven (7) calendar  
23 days, and establish a process for providers to readily access the  
24 MAC list specific to that provider;

1           2. In order to place a drug on the MAC list, ensure that the  
2 drug is listed as "A" or "B" rated in the most recent version of the  
3 FDA's Approved Drug Products with Therapeutic Equivalence  
4 Evaluations, also known as the Orange Book, or has an "NR" or "NA"  
5 rating or a similar rating by a nationally recognized reference, and  
6 the drug is generally available for purchase by pharmacies in the  
7 state from national or regional wholesalers and is not obsolete;

8           3. Ensure dispensing fees are not included in the calculation  
9 of MAC price reimbursement to pharmacy providers;

10          4. Provide a reasonable administration appeals procedure to  
11 allow a provider or a provider's representative to contest ~~maximum~~  
12 ~~allowable cost rates~~ reimbursement amounts within ten (10) business  
13 days of ~~prescription claim~~ the final adjusted payment date. The  
14 pharmacy benefits manager must respond to a provider or provider's  
15 representative who has contested a ~~maximum allowable cost rate~~  
16 reimbursement amount through this procedure within ten (10) business  
17 days. If a price update is warranted, the pharmacy benefits manager  
18 shall make the change in the ~~MAC~~ reimbursement amount, permit the  
19 challenging pharmacy to reverse and rebill the claim in question,  
20 and make the ~~MAC~~ reimbursement amount change effective for each  
21 similarly contracted Oklahoma provider; and

22          5. If the ~~MAC~~ reimbursement appeal is denied, the PBM shall  
23 provide the reason for the denial, including the National Drug Code  
24 number from national or regional wholesalers where the drug is

1 generally available for purchase by pharmacies in the state at or  
2 below the PBM's ~~Maximum Allowable Cost~~ reimbursement.

3 B. The pharmacy benefits manager may not place a drug on a  
4 ~~maximum allowable cost~~ MAC list, unless there are at least two  
5 therapeutically equivalent, multiple-source drugs, or at least one  
6 generic drug available from only one manufacturer, generally  
7 available for purchase by network pharmacies from national or  
8 regional wholesalers.

9 C. The pharmacy benefits manager shall not require  
10 accreditation or licensing of providers other than by the State  
11 Board of Pharmacy or other state or federal government entity.

12 SECTION 9. REPEALER 59 O.S. 2011, Sections 353.13,  
13 353.29, 364 and 366, are hereby repealed.

14 SECTION 10. This act shall become effective November 1, 2016."

15 Passed the House of Representatives the 19th day of April, 2016.

16

17

18 \_\_\_\_\_  
19 Presiding Officer of the House of  
Representatives

20 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2016.

21

22

23 \_\_\_\_\_  
Presiding Officer of the Senate

24

1 ENGROSSED SENATE  
2 BILL NO. 1150

By: Standridge of the Senate

3 and

4 Cox of the House

5  
6 An Act relating to pharmacy; amending 59 O.S. 2011,  
7 Section 353.1, as last amended by Section 1, Chapter  
8 230, O.S.L. 2015 (59 O.S. Supp. 2015, Section 353.1),  
9 which relates to definitions; updating statutory  
10 references; amending 59 O.S. 2011, Section 353.11, as  
11 amended by Section 7, Chapter 230, O.S.L. 2015 (59  
12 O.S. Supp. 2015, Section 353.11), which relates to  
13 license renewal; amending Section 8, Chapter 230,  
14 O.S.L. 2015 (59 O.S. Supp. 2015, Section 353.11a),  
15 which relates to continuing education requirements;  
16 amending 59 O.S. 2011, Section 353.18, as amended by  
17 Section 11, Chapter 230, O.S.L. 2015 (59 O.S. Supp.  
18 2015, Section 353.18), which relates to the sale,  
19 manufacturing, and packaging of dangerous drugs;  
20 amending 59 O.S. 2011, Section 353.24, as amended by  
21 Section 16, Chapter 230, O.S.L. 2015 (59 O.S. Supp.  
22 2015, Section 353.24), which relates to unlawful  
23 acts; amending 59 O.S. 2011, Section 353.26, as  
24 amended by Section 17, Chapter 230, O.S.L. 2015 (59  
O.S. Supp. 2015, Section 353.26), which relates to  
revocations or suspensions of licenses; clarifying  
language; repealing 59 O.S. 2011, Sections 353.13,  
353.29, 364, and 366, which relate to unlawful acts,  
supportive personnel, renewal certifications, and  
alternative methods of meeting certain requirements;  
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, 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:

1 Section 353.1. For the purposes of the Oklahoma Pharmacy Act:

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

5 2. "Act" means the Oklahoma Pharmacy Act;

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

9 4. "Assistant pharmacist" means any person presently licensed  
10 as an assistant pharmacist in the State of Oklahoma by the Board  
11 pursuant to Section 353.10 of this title and for the purposes of the  
12 Oklahoma Pharmacy Act shall be considered the same as a pharmacist,  
13 except where otherwise specified;

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

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

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

1 8. "Compounding" means the combining, admixing, mixing,  
2 diluting, pooling, reconstituting or otherwise altering of a drug or  
3 bulk drug substance to create a drug. Compounding includes the  
4 preparation of drugs or devices in anticipation of prescription drug  
5 orders based on routine, regularly observed prescribing patterns;

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

11 10. "Dangerous drug", "legend drug", "prescription drug" or "Rx  
12 Only" means a drug:

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

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

20 12. "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 13. "Dispenser" means a retail pharmacy, hospital pharmacy, a  
4 group of chain pharmacies under common ownership and control that do  
5 not act as a wholesale distributor, or any other person authorized  
6 by law to dispense or administer prescription drugs, and the  
7 affiliated warehouses or distributions of such entities under common  
8 ownership and control that do not act as a wholesale distributor.  
9 For the purposes of this paragraph, "dispenser" does not mean a  
10 person who dispenses only products to be used in animals in  
11 accordance with 21 U.S.C. 360b(a) (5);

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

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

22 16. "Drug outlet" means all manufacturers, repackagers,  
23 outsourcing facilities, wholesale distributors, third-party  
24 logistics providers, pharmacies, and all other facilities which are



1 engaged in dispensing, delivery, distribution or storage of  
2 dangerous drugs;

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

11 18. "Drug sample" means a unit of a prescription drug packaged  
12 under the authority and responsibility of the manufacturer that is  
13 not intended to be sold and is intended to promote the sale of the  
14 drug;

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

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

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

1        22. "Manufacturer" or "virtual manufacturer" means with respect  
2 to a product:

3            a. a person that holds an application approved under 21  
4            U.S.C. 355 or a license issued under 42 U.S.C. 262 for  
5            such product, or if such product is not the subject of  
6            an approved application or license, the person who  
7            manufactured the product,

8            b. a co-licensed partner of the person described in  
9            subparagraph a that obtains the product directly from  
10           a person described in this subparagraph or  
11           subparagraph a, or

12           c. an affiliate of a person described in subparagraph a  
13           or b who receives the product directly from a person  
14           described in this subparagraph or in subparagraph a or  
15           b;

16        23. "Manufacturing" means the production, preparation,  
17 propagation, compounding, conversion or processing of a device or a  
18 drug, either directly or indirectly by extraction from substances of  
19 natural origin or independently by means of chemical or biological  
20 synthesis and includes any packaging or repackaging of the  
21 substances or labeling or relabeling of its container, and the  
22 promotion and marketing of such drugs or devices. The term  
23 "manufacturing" also includes the preparation and promotion of  
24

1 commercially available products from bulk compounds for resale by  
2 licensed pharmacies, licensed practitioners or other persons;

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

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

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

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

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

18 29. "Nonprescription drugs" means medicines or drugs which are  
19 sold without a prescription and which are prepackaged for use by the  
20 consumer and labeled in accordance with the requirements of the  
21 statutes and regulations of this state and the federal government.  
22 Such items shall also include medical and dental supplies and  
23 bottled or nonbulk chemicals which are sold or offered for sale to  
24 the general public if such articles or preparations meet the

1 requirements of the Federal Food, Drug and Cosmetic Act, 21  
2 U.S.C.A., Section 321 et seq.;

3 30. "Outsourcing facility", including "virtual outsourcing  
4 facility" means a facility at one geographic location or address  
5 that:

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

10 31. "Package" means the smallest individual saleable unit of  
11 product for distribution by a manufacturer or repackager that is  
12 intended by the manufacturer for ultimate sale to the dispenser of  
13 such product. For the purposes of this paragraph, "individual  
14 saleable unit" means the smallest container of a product introduced  
15 into commerce by the manufacturer or repackager that is intended by  
16 the manufacturer or repackager for individual sale to a dispenser;

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

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

24

1        34. "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 such place where pharmacists  
4 practice the profession of pharmacy, or a pharmacy operated by the  
5 Oklahoma Department of Veterans Affairs;

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

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

16        37. "Practice of pharmacy" means:

- 17        a. the interpretation and evaluation of prescription  
18            orders,
- 19        b. the compounding, dispensing, administering and  
20            labeling of drugs and devices, except labeling by a  
21            manufacturer, repackager or distributor of  
22            nonprescription drugs and commercially packaged legend  
23            drugs and devices,

- 1 c. the participation in drug selection and drug  
2 utilization reviews,
- 3 d. the proper and safe storage of drugs and devices and  
4 the maintenance of proper records thereof,
- 5 e. the responsibility for advising by counseling and  
6 providing information, where professionally necessary  
7 or where regulated, of therapeutic values, content,  
8 hazards, and use of drugs and devices,
- 9 f. the offering or performing of those acts, services,  
10 operations or transactions necessary in the conduct,  
11 operation, management and control of a pharmacy, or
- 12 g. the provision of those acts or services that are  
13 necessary to provide pharmaceutical care;

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

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

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

- 23 a. by a licensed practitioner,
- 24

- 1           b.    under the supervision of an Oklahoma licensed  
2                    practitioner, an Oklahoma licensed advanced practice  
3                    registered nurse or an Oklahoma licensed physician  
4                    assistant, or
- 5           c.    by an Oklahoma licensed wholesaler or distributor as  
6                    authorized in Section ~~353.29~~ 353.29.1 of this title;

7           41.    "Product" means a prescription drug in a finished dosage  
8                    form for administration to a patient without substantial further  
9                    manufacturing, such as capsules, tablets, and lyophilized products  
10                   before reconstitution. "Product" does not include blood components  
11                   intended for transfusion, radioactive drugs or biologics and medical  
12                   gas;

13           42.    "Repackager", including "virtual repackager", means a  
14                    person who owns or operates an establishment that repacks and  
15                    relabels a product or package for further sale or distribution  
16                    without further transaction;

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

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

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

9 45. "Supportive personnel" means technicians and auxiliary  
10 supportive persons who are regularly paid employees of a pharmacy  
11 who work and perform tasks in the pharmacy as authorized by Section  
12 ~~353.19~~ 353.18A of this title;

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

22 47. "Wholesale distributor", including "virtual wholesale  
23 distributor" means a person other than a manufacturer, a  
24 manufacturer's co-licensed partner, a third-party logistics



1 provider, or repackager engaged in wholesale distribution as defined  
2 by 21 U.S.C 353(e) (4) as amended by the Drug Supply Chain Security  
3 Act.

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

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

15 2. Every licensed pharmacist who fails to complete a renewal  
16 form and remit the required renewal fee to the Board by the  
17 fifteenth day after the expiration of the license shall pay a late  
18 fee to be fixed by the Board.

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

24

1 C. In order to regain licensure, the pharmacist shall apply in  
2 writing to the Board requesting reinstatement. The pharmacist shall  
3 pay ~~back~~ all back fees and provide proof of having obtained all  
4 delinquent continuing education plus an additional fifteen (15)  
5 hours of continuing education. The Board may require the pharmacist  
6 to appear before the Board at a regular meeting. The Board may  
7 require evidence of competency through examination or impose other  
8 requirements for reinstatement.

9 SECTION 3. AMENDATORY Section 8, Chapter 230, O.S.L.  
10 2015 (59 O.S. Supp. 2015, Section 353.11a), is amended to read as  
11 follows:

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

18 B. The Board may grant alternate methods of obtaining  
19 continuing education hours to a pharmacist who meets all necessary  
20 requirements for licensure except the continuing education  
21 requirements.

22 C. 1. Any pharmacist who does not meet the requirements for  
23 continuing education may obtain an inactive renewal certificate of  
24 licensure.

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

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

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

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

20           2. A pharmacy license shall be issued to such person as the  
21 Board shall deem qualified upon evidence satisfactory to the Board  
22 that:  
23  
24

- 1 a. the place for which the license is sought will be  
2 conducted in full compliance with the law and the  
3 rules of the Board,  
4 b. the location and physical characteristics of the place  
5 are reasonably consistent with the maintenance of  
6 professional surroundings and constitute no known  
7 danger to the public health and safety,  
8 c. the place will be under the management and control of  
9 a licensed pharmacist or pharmacist-in-charge who  
10 shall be licensed as a pharmacist in Oklahoma, and  
11 d. a licensed pharmacist shall be present and on duty at  
12 all business hours; provided, however, the provisions  
13 of this subparagraph shall not apply to hospital drug  
14 rooms.

15 3. a. An application for an initial or renewal license  
16 issued pursuant to the provisions of this subsection  
17 shall:

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

19 (2) contain the name or names of persons owning the  
20 pharmacy, and

21 (3) provide other such information deemed relevant by  
22 the Board.

23 b. An application for an initial or renewal license shall  
24 be accompanied by a licensing fee not to exceed Three

1           Hundred Dollars (\$300.00) for each period of one (1)  
2           year. Prior to opening for business, all applicants  
3           for an initial license or permit shall be inspected.  
4           An initial licensure applicant shall pay an inspection  
5           fee not to exceed Two Hundred Dollars (\$200.00);  
6           provided, however, that no charge shall be made for  
7           the licensing of any Federal Veterans Hospital in the  
8           State of Oklahoma. Non-resident pharmacies shall  
9           reimburse the Board for any actual expenses incurred  
10          for inspections.

11          c. A license issued pursuant to the provisions of this  
12          subsection shall be valid for a period set by the  
13          Board and shall contain the name of the licensee and  
14          the address of the place at which such business shall  
15          be conducted.

16          4. A retail pharmacy that prepares sterile drugs shall obtain a  
17          pharmacy license, and shall also obtain a sterile compounding permit  
18          at a fee set by the Board, not to exceed Seventy-five Dollars  
19          (\$75.00). Such pharmacy shall meet requirements set by the Board by  
20          rule for sterile compounding permits.

21          5. An outsourcing facility desiring to dispense prescriptions  
22          to patients must additionally license and meet the requirements of a  
23          pharmacy.

1 B. 1. It shall be unlawful for any person to manufacture,  
2 repackage, distribute, outsource, warehouse, or ~~have an outsourcing~~  
3 ~~facility,~~ be a third-party logistics provider, ~~or warehouse of~~ any  
4 dangerous drugs, medicines, medical gases, chemicals, or poisons for  
5 the treatment of disease, excluding agricultural chemicals ~~and~~  
6 ~~drugs, or to sell or offer to sale at retail or wholesale medical~~  
7 ~~gases~~ without first procuring a license from the Board. It shall be  
8 unlawful to sell or offer for sale at retail or wholesale dangerous  
9 drugs, medicines, medical gases, chemicals or poisons without first  
10 procuring a license from the Board. This licensure requirement  
11 shall apply when the manufacturing, repackaging, distributing,  
12 outsourcing, warehousing, ~~outsourcing facility or third-party~~  
13 ~~logistics provider or facility sale or offer to sell~~ or provision of  
14 third-party logistics occurs in this state or ~~when such dangerous~~  
15 ~~drugs, medicines, chemicals or poisons are sold or offered to be~~  
16 ~~sold~~ out of state for delivery, distribution, or dispensing to  
17 patients or customers in this state.

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

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

1 maintenance of professional surroundings and  
2 constitute no known danger to public health and  
3 safety,

4 c. the place shall be under the management and control of  
5 such persons as may be approved by the Board after a  
6 review and determination of the persons'

7 qualifications, and

8 d. an outsourcing facility shall designate in writing on  
9 a Board-approved form a person to serve as the  
10 pharmacist-in-charge who is a pharmacist licensed by  
11 the Board,

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

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

16 (2) contain the name or names of the owners or the  
17 applicants, and

18 (3) provide such other information deemed relevant by  
19 the Board,

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

1 inspected. An initial licensure applicant shall pay  
2 an inspection fee not to exceed Two Hundred Dollars  
3 (\$200.00). Non-resident applicants shall reimburse  
4 the Board for any actual expenses incurred for  
5 inspections.

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

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

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

- 21 a. type of ownership, whether individual, partnership,  
22 limited liability company or corporation,
- 23 b. names and addresses of principal owners or officers  
24 and their Social Security numbers, including



1 applicant's full name, all trade or business names  
2 used, full business address, telephone numbers, and  
3 email addresses,

4 c. names of designated representatives and facility  
5 managers and their Social Security numbers and dates  
6 of birth,

7 d. evidence of a criminal background check and  
8 fingerprinting of the applicant, if a person, and all  
9 of the applicant's designated representatives and  
10 facility managers,

11 e. a copy of the license from the applicant's home state,  
12 and if applicable, from the federal government,

13 f. bond requirements, and

14 g. any other information deemed by the Board to be  
15 necessary to protect the public health and safety.

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

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

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

4 Section 353.24. A. It shall be unlawful for any licensee or  
5 other person to:

6 1. Forge or increase the quantity of drug in any prescription,  
7 or to present a prescription bearing forged, fictitious or altered  
8 information or to possess any drug secured by such forged,  
9 fictitious or altered prescription;

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

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

17 4. Enter into any arrangement whereby prescription orders are  
18 received, or prescriptions are delivered at a place other than the  
19 pharmacy in which they are filled, compounded or dispensed.

20 However, nothing in this paragraph shall prevent a pharmacist or an  
21 employee of the pharmacy from personally receiving a prescription or  
22 delivering a legally filled prescription to a residence, office or  
23 place of employment of the patient for whom the prescription was  
24 written. Provided further, the provisions of this paragraph shall

1 not apply to any Department of Mental Health and Substance Abuse  
2 Services employee or any person whose facility contracts with the  
3 Department of Mental Health and Substances Abuse Services whose  
4 possession of any dangerous drug, as defined in Section 353.1 of  
5 this title, is for the purpose of delivery of a mental health  
6 consumer's medicine to the consumer's home or residence. Nothing in  
7 this paragraph shall prevent veterinary prescription drugs from  
8 being shipped directly from an Oklahoma licensed wholesaler or  
9 distributor to a client; provided, such drugs may be dispensed only  
10 on prescription of a licensed veterinarian and only when an existing  
11 veterinary-client-patient relationship exists;

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

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

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

24

1           8. Possess dangerous drugs without a valid prescription or a  
2 valid license to possess such drugs; provided, however, this  
3 provision shall not apply to any Department of Mental Health and  
4 Substance Abuse Services employee or any person whose facility  
5 contracts with the Department of Mental Health and Substances Abuse  
6 Services whose possession of any dangerous drug, as defined in  
7 Section 353.1 of this title, is for the purpose of delivery of a  
8 mental health consumer's medicine to the consumer's home or  
9 residence;

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

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

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

21           a. A first violation of this section shall constitute a  
22 misdemeanor and upon conviction shall be punishable by  
23 imprisonment in the county jail for a term not more  
24

1 than one (1) year and a fine in an amount not more  
2 than One Thousand Dollars (\$1,000.00).

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

8 12. Violate a Board order or agreed order;

9 13. Compromise the security of licensure examination materials;

10 or

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

13 B. 1. It shall be unlawful for any person other than a  
14 licensed pharmacist or physician to certify a prescription before  
15 delivery to the patient or the patient's representative or  
16 caregiver.

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

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

22 4. No pharmacist being requested to sell, furnish or compound  
23 any drug, medicine, chemical or other pharmaceutical preparation, by  
24 prescription or otherwise, shall substitute or cause to be

1 substituted for it, without authority of the prescriber ~~of~~ or  
2 purchaser, any like drug, medicine, chemical or pharmaceutical  
3 preparation.

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

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

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

13 2. It shall be unlawful for a wholesale distributor to purchase  
14 drugs from a pharmacy.

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

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

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

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

- b. violates any of the provisions of the Uniform Controlled Dangerous Substances Act,
- 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

1 proceedings before the Board and the information then becomes a  
2 public record.

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

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

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



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

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

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

23 D. A person, other than a pharmacy technician, whose license or  
24 permit has been suspended by the Board or by operation of law shall

1 pay a reinstatement fee not to exceed One Hundred Fifty Dollars  
2 (\$150.00) as a condition of reinstatement of the license.

3 SECTION 7. REPEALER 59 O.S. 2011, Sections 353.13,  
4 353.29, 364 and 366, are hereby repealed.

5 SECTION 8. This act shall become effective November 1, 2016.  
6 Passed the Senate the 7th day of March, 2016.

7

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\_\_\_\_\_  
Presiding Officer of the Senate

9

10 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
11 2016.

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Presiding Officer of the House  
of Representatives

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