

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1472

By: Yen of the Senate

and

Cox of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Pharmacy Act;
11 amending 59 O.S. 2011, Section 353.24, as amended by
12 Section 16, Chapter 230, O.S.L. 2015 (59 O.S. Supp.
13 2015, Section 353.24), which relates to unlawful
14 acts; removing restrictions relating to the receipt
15 and filling of certain orders; prohibiting certain
16 entities from certain actions relating to the filling
17 and delivering of prescriptions; providing certain
18 exceptions; clarifying language; and providing an
19 effective date.

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

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

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

1. Forge or increase the quantity of drug in any prescription,
or to present a prescription bearing forged, fictitious or altered

1 information or to possess any drug secured by such forged,
2 fictitious or altered prescription;

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

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

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

19 a. patient-specific filled prescriptions may be delivered
20 or shipped to a prescriber's clinic for pick-up by
21 those patients who the prescriber has individually
22 determined and documented do not have a permanent or
23 secure mailing address,

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- 1 b. patient-specific filled prescriptions for drugs which
2 require special handling written by a prescriber may
3 be delivered or shipped to the prescriber's clinic for
4 administration or pick-up at the prescriber's office,
- 5 c. patient-specific filled prescriptions, including
6 sterile compounded drugs, may be delivered or shipped
7 to a prescriber's clinic where they shall be
8 administered,
- 9 d. patient-specific filled prescriptions for patients
10 under Medicare and/or Medicaid for End Stage Renal
11 Disease (ESRD) may be delivered or shipped to a
12 prescriber's clinic for administration or final
13 delivery to the patient, or
- 14 e. patient-specific filled prescriptions for
15 radiopharmaceuticals may be delivered or shipped to a
16 prescriber's clinic for administration or pick-up.

17 However, nothing in this paragraph shall prevent a pharmacist or
18 an employee of the pharmacy from personally receiving a prescription
19 or delivering a legally filled prescription to a residence, office
20 or place of employment of the patient for whom the prescription was
21 written, or other location of the patient's choice as permitted by
22 federal law. Drugs requiring special administration by a health
23 care professional shall be sent to a patient's home or location of
24 choice at the discretion of the prescriber. Provided further, the

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

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

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

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

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

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

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

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

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

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

11 12. Violate a Board order or agreed order;

12 13. Compromise the security of licensure examination materials;

13 or

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

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

20 2. It shall be unlawful for any person to institute or manage a
21 pharmacy unless such person is a licensed pharmacist or has placed a
22 licensed pharmacist in charge of such pharmacy.

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

1 4. No pharmacist being requested to sell, furnish or compound
2 any drug, medicine, chemical or other pharmaceutical preparation, by
3 prescription or otherwise, shall substitute or cause to be
4 substituted for it, without authority of the prescriber or
5 purchaser, any like drug, medicine, chemical or pharmaceutical
6 preparation.

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

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

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

16 2. It shall be unlawful for a wholesale distributor to purchase
17 drugs from a pharmacy.

18 SECTION 2. This act shall become effective November 1, 2016.

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