

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1472

By: Yen

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5  
6 AS INTRODUCED

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

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

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

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

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

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

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

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

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

22           b. patient-specific filled prescriptions for drugs which  
23           require special handling written by a prescriber may  
24

1           be delivered or shipped to the prescriber's clinic for  
2           administration or pick-up at the prescriber's office,

3       c. patient-specific filled prescriptions, including  
4       sterile compounded drugs, may be delivered or shipped  
5       to a prescriber's clinic where they shall be  
6       administered,

7       d. patient-specific filled prescriptions for patients  
8       under Medicare and/or Medicaid for End Stage Renal  
9       Disease (ESRD) may be delivered or shipped to a  
10       prescriber's clinic for administration or final  
11       delivery to the patient, or

12       e. patient-specific filled prescriptions for  
13       radiopharmaceuticals may be delivered or shipped to a  
14       prescriber's clinic for administration or pick-up.

15           However, nothing in this paragraph shall prevent a pharmacist or  
16           an employee of the pharmacy from personally receiving a prescription  
17           or delivering a legally filled prescription to a residence, office  
18           or place of employment of the patient for whom the prescription was  
19           written. Provided further, the provisions of this paragraph shall  
20           not apply to any Department of Mental Health and Substance Abuse  
21           Services employee or any person whose facility contracts with the  
22           Department of Mental Health and Substances Abuse Services whose  
23           possession of any dangerous drug, as defined in Section 353.1 of  
24           this title, is for the purpose of delivery of a mental health

1 consumer's medicine to the consumer's home or residence. Nothing in  
2 this paragraph shall prevent veterinary prescription drugs from  
3 being shipped directly from an Oklahoma licensed wholesaler or  
4 distributor registered with the Oklahoma Board of Veterinary Medical  
5 Examiners to a client; provided, such drugs may be dispensed only on  
6 prescription of a licensed veterinarian and only when an existing  
7 veterinary-client-patient relationship exists;

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

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

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

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

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

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

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

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

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

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

3 12. Violate a Board order or agreed order;

4 13. Compromise the security of licensure examination materials;

5 or

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

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

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

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

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

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

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

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

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

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

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