

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 2039

By: Wallace of the House

and

Standridge of the Senate

7 An Act relating to pharmacies; amending 59 O.S. 2011,
8 Section 353.24, as last amended by Section 5, Chapter
9 285, O.S.L. 2016 (59 O.S. Supp. 2016, Section
10 353.24), *** providing quantity limitations;
11 providing for codification; and providing an
12 effective date.

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

14 "An Act relating to pharmacies; amending 59 O.S.
15 2011, Section 353.24, as last amended by Section 5,
16 Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2016, Section
17 353.24), which relates to the Oklahoma Pharmacy Act;
18 clarifying terms; amending Section 6, Chapter 154,
19 O.S.L. 2014 (63 O.S. Supp. 2016, Section 2-312.2),
20 which relates to the sale or dispensation of
21 naloxone; authorizing pharmacist to prescribe and
22 dispense naloxone; providing that no dispensing
23 protocol shall be required; authorizing pharmacists
24 to exercise professional judgment in dispensing
refill medications in certain circumstances;
excluding certain medications; providing quantity
limitations; providing for codification; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.24, as
2 last amended by Section 5, Chapter 285, O.S.L. 2016 (59 O.S. Supp.
3 2016, 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. No person, firm or business establishment shall offer to the
18 public, in any manner, their services as a "pick-up station" or
19 intermediary for the purpose of having prescriptions filled or
20 delivered, whether for profit or gratuitously. Nor may the owner of
21 any pharmacy or drug store authorize any person, firm or business
22 establishment to 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~~ whom the prescriber has
2 individually determined and documented do not have a
3 permanent or 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~~ Substance Abuse Services
4 whose possession of any dangerous drug, as defined in Section 353.1
5 of 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~~
6 Substance Abuse Services whose possession of any dangerous drug, as
7 defined in Section 353.1 of this title, is for the purpose of
8 delivery of a mental health consumer's medicine to the consumer's
9 home or 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, federal
13 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 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 2. AMENDATORY Section 6, Chapter 154, O.S.L.
16 2014 (63 O.S. Supp. 2016, Section 2-312.2), is amended to read as
17 follows:

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

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

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

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

16 SECTION 4. This act shall become effective November 1, 2017."
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