

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.

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

22 SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.1, as
23 last amended by Section 1, Chapter 230, O.S.L. 2015 (59 O.S. Supp.
24 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,

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

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

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

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

- a. by a licensed practitioner,

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

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

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

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

44. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, pursuant to the provisions of the 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.

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

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

- (1) be submitted to the Board in writing,
- (2) contain the name or names of persons owning the pharmacy, and
- (3) provide other such information deemed relevant by the Board.

b. An application for an initial or renewal license shall 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.
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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;

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
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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

8

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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