An Act

ENROLLED SENATE
BILL NO. 956

By: Griffin of the Senate

and

Caldwell of the House

An Act relating to pharmacy; amending 59 O.S. 2011, Section 353.1, as last amended by Section 1, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2017, Section 353.1), which relates to definitions; modifying and adding definitions; amending 59 O.S. 2011, Section 353.1a, which relates to advanced practice registered nurses; clarifying dispensing authority of pharmacists; amending 59 O.S. 2011, Section 353.5, as amended by Section 3, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.5), which relates to Board officers; specifying powers and duties of the Executive Director; amending 59 O.S. 2011, Section 353.7, as amended by Section 5, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.7), which relates to powers and duties of the Board; modifying powers of the Board; amending Section 14, Chapter 230, O.S.L. 2015, (59 O.S. Supp. 2017, Section 353.20.1), which relates to prescriptions; clarifying prescription label requirements; providing exception; amending 59 O.S. 2011, Section 353.24, as last amended by Section 1, Chapter 234, O.S.L. 2017 (59 O.S. Supp. 2017, Section 353.24), which relates to unlawful acts; modifying exceptions; amending 59 O.S. 2011, Section 353.26, as last amended by Section 6, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2017, Section 353.26), which relates to revocation or suspension of certificate, license or permit; modifying penalties; amending Section 19, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.29.2), which relates to prescriptions for ocular abnormalities; specifying dispensing authority of pharmacists; updating requirements; amending 59 O.S. 2011, Section 353.30,

which relates to use of agreements; broadening who may order immunizations and therapeutic injections; authorizing certain pharmacies to accept prescription drugs for purpose of resale or redistribution under certain conditions; specifying protocols to accept or return prescription drugs; mandating redistribution procedures; providing exemptions; amending 59 O.S. 2011, Section 367.8, which relates to maintenance of controlled dangerous substances; broadening drugs which a pharmacy may maintain at certain facilities; amending Section 3, Chapter 277, O.S.L. 2015 (63 O.S. Supp. 2017, Section 1-293), which relates to epinephrine auto-injector prescriptions; modifying a requirement for certain certificates; amending Section 2, Chapter 322, O.S.L. 2013 (63 O.S. Supp. 2017, Section 1-2506.2), which relates to prescription of opiate antagonists; granting immunity to providers for certain actions; repealing 59 O.S. 2011, Section 353.6, as amended by Section 4, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.6), which relates to meetings of applicants for licensing; providing for codification; and providing an effective date.

SUBJECT: Pharmacy

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 285, O.S.L. 2016 (59 O.S. Supp. 2017, Section 353.1), is amended to read as follows:

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

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

2. "Act" means the Oklahoma Pharmacy Act;

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

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

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

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

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

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

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

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

a. for human use subject to 21 U.S.C. 353(b)(1), or

b. is labeled "Prescription Only", or labeled with the following statement: "Caution: Federal law restricts this drug except for use by or on the order of a licensed veterinarian".

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

12. "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or a patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispense includes sell, distribute, leave with, give away, dispose of, deliver or supply;

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

14. "Distribute" or "distribution" means the sale, purchase, trade, delivery, handling, storage, or receipt of a product, and does not include the dispensing of a product pursuant to a prescription executed in accordance with 21 U.S.C. 353(b)(1) or the dispensing of a product approved under 21 U.S.C. 360b(b); <u>provided, taking actual physical possession of a product or title shall not be required;</u>

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

16. "Drug outlet" means all manufacturers, repackagers, outsourcing facilities, wholesale distributors, third-party

logistics providers, pharmacies, and all other facilities which are engaged in dispensing, delivery, distribution or storage of dangerous drugs;

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

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

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

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

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

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

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

b. a co-licensed partner of the person described in subparagraph a that obtains the product directly from

a person described in this subparagraph or subparagraph a, ~~or~~

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

d. a person who contracts with another to manufacture a product;

23. "Manufacturing" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. The term "manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by licensed pharmacies, licensed practitioners or other persons;

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

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

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

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

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

29. "Nonprescription drugs" means medicines or drugs which are sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government. Such items shall also include medical and dental supplies and bottled or nonbulk chemicals which are sold or offered for sale to the general public if such articles or preparations meet the requirements of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A., Section 321 et seq.;

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

a. is engaged in the compounding of sterile drugs,

b. has elected to register as an outsourcing facility, and

c. complies with all requirements of 21 U.S.C. 353b;

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

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

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

34. "Pharmacy" means a place regularly licensed by the Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed or such place where pharmacists

practice the profession of pharmacy, or a pharmacy operated by the Oklahoma Department of Veterans Affairs;

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

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

37. "Practice of pharmacy" means:

a. the interpretation and evaluation of prescription orders,

b. the compounding, dispensing, administering and labeling of drugs and devices, except labeling by a manufacturer, repackager or distributor of nonprescription drugs and commercially packaged legend 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,~~ prescriber,

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

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

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

47. "Wholesale distributor", including "virtual wholesale distributor" means a person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or repackager engaged in wholesale distribution as defined by 21 U.S.C. 353(e)(4) as amended by the Drug Supply Chain Security Act;

48. "County jail" means a facility operated by a county for the physical detention and correction of persons charged with, or convicted of, criminal offenses or ordinance violations or persons found guilty of civil or criminal contempt;

49. "State correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the Department of Corrections;

50. "Unit dose package" means a package that contains a single dose drug with the name, strength, control number, and expiration date of that drug on the label; and

51. "Unit of issue package" means a package that provides multiple doses of the same drug, but each drug is individually separated and includes the name, lot number, and expiration date.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 353.1a, is amended to read as follows:

Section 353.1a. A. Prescribing authority shall be allowed, under the medical direction of a supervising physician, for an advanced practice nurse recognized by the Oklahoma Board of Nursing in one of the following categories: advanced registered nurse practitioners, clinical nurse specialists, or certified nurse-midwives. The advanced practice nurse may write or sign, or transmit by word of mouth, telephone or other means of communication an order for drugs or medical supplies that is intended to be filled, compounded, or dispensed by a pharmacist. The supervising physician and the advanced practice nurse shall be identified at the time of origination of the prescription and the name of the advanced practice nurse shall be printed on the prescription label.

B. Pharmacists may dispense prescriptions for non-controlled prescription drugs authorized by an advanced practice nurse or physician assistant, not located in Oklahoma, provided that they are licensed in the state in which they are actively prescribing.

C. Pharmacists may only dispense prescriptions for controlled dangerous substances prescribed by an advanced practice nurse or physician assistant licensed in the State of Oklahoma and supervised by an Oklahoma-licensed practitioner.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 353.5, as amended by Section 3, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.5), is amended to read as follows:

Section 353.5. A. The State Board of Pharmacy shall annually elect a president and vice-president of the Board. The president and vice-president shall serve for a term of one (1) year and shall perform the duties prescribed by the Board.

B. Each member of the Board shall receive necessary travel expenses incurred in the discharge of official duties pursuant to the State Travel Reimbursement Act.

C. The Board shall employ an Executive Director who is a licensed pharmacist in this state. The Executive Director shall serve as the Chief Administrative Officer for the agency, the Chief Executive Officer of the Board, and may serve as the Chief Inspector if certified as a peace officer. The Executive Director shall perform such duties as required by the Board. The Executive Director of the Board shall receive an annual salary to be fixed by the Board.

D. The Executive Director shall:

1. Deposit funds with the State Treasurer to be expended in the manner and for the purposes provided by law; and

2. Report to the Board at each meeting, presenting an accurate monthly account as to the funds of the Board and make available written and acknowledged claims for all disbursements made.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 353.7, as amended by Section 5, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.7), is amended to read as follows:

Section 353.7. The State Board of Pharmacy shall have the power and duty to:

1. Regulate the practice of pharmacy;

2. Regulate the sale and distribution of drugs, medicines, chemicals and poisons;

3. Regulate the dispensing of drugs and medicines in all places where drugs and medicines are compounded and/or dispensed;

4. Examine and issue appropriate certificates of licensure as Doctor of Pharmacy to all applicants whom the Board deems qualified under the provisions of the Oklahoma Pharmacy Act;

5. Issue licenses to manufacturers, repackagers, outsourcing facilities, wholesale distributors, third-party logistics providers, pharmacies, and other dispensers, medical gas suppliers, and medical gas distributors;

6. Issue sterile compounding and drug supplier permits for pharmacies at the fee set by the Board, with the expiration date of such permits to coincide with the pharmacy license annual expiration date;

7. Prescribe minimum standards with respect to floor space and other physical characteristics of pharmacies and hospital drug rooms as may be reasonably necessary for the maintenance of professional surroundings and for the protection of the safety and welfare of the public, and to refuse the issuance of new or renewal licenses for failure to comply with such standards. Minimum standards for hospital drug rooms shall be consistent with the State Department of Health, Hospital Standards, as defined in OAC 310:667;

8. Authorize its inspectors, compliance officers, and duly authorized representatives to enter and inspect any and all places, including premises, vehicles, equipment, contents and records, where drugs, medicines, chemicals, or poisons are stored, sold, vended, given away, compounded, dispensed, manufactured, repackaged or transported;

9. Employ the number of inspectors and pharmacist compliance officers necessary ~~to carry out the provisions of the Oklahoma Pharmacy Act~~ in the investigation of criminal activity or preparation of administrative actions at an annual salary to be fixed by the Board, and to authorize necessary expenses. ~~Such~~ Any inspector certified as a peace officer by the Council of Enforcement Education and Training shall have statewide jurisdiction to perform the duties authorized by this section. In addition, the inspectors shall be considered peace officers and shall have the same powers and authority as that granted to peace officers ~~by the laws of this state for the purpose of enforcing the Oklahoma Pharmacy Act~~. In addition, such inspectors or pharmacist compliance officers shall

have the authority to take and copy records and the duty to confiscate all drugs, medicines, chemicals or poisons found to be stored, sold, vended, given away, compounded, dispensed or manufactured contrary to the provisions of the Oklahoma Pharmacy Act;

10. Investigate complaints, subpoena witnesses and records, initiate prosecution, and hold hearings;

11. Administer oaths in all manners pertaining to the affairs of the Board and to take evidence and compel the attendance of witnesses on questions pertaining to the enforcement of the Oklahoma Pharmacy Act;

12. Reprimand, place on probation, suspend, revoke permanently ~~or take other disciplinary action~~ and~~/or~~ levy fines not to exceed Three Thousand Dollars ($3,000.00) for each count for which any ~~holder of a certificate, license or permit~~ person charged with violating the Oklahoma Pharmacy Act or Oklahoma Board of Pharmacy administrative rules has been convicted in Board hearings. The Board also may take other disciplinary action. The Board may impose as part of any disciplinary action the payment of costs expended by the Board for any legal fees and costs, including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees. The Board may also require additional continuing education, including attendance at a live continuing education program, and may require participation in a rehabilitation program for the impaired. The Board may take such actions singly or in combination, as the nature of the violation requires;

13. Adopt and establish rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy. Such rules shall be subject to amendment or repeal by the Board as the need may arise;

14. Make and publish rules such as may be necessary for carrying out and enforcing the provisions of the Oklahoma Pharmacy Act, Oklahoma drug laws and rules, federal drug laws and regulations, and make such other rules as in its discretion may be necessary to protect the health, safety, and welfare of the public;

15. Establish and collect appropriate fees for licenses, permits, inspections, and services provided; and such fees shall be nonrefundable. Such fees shall be promulgated to implement the provisions of the Oklahoma Pharmacy Act under the provisions of the Administrative Procedures Act;

16. Regulate:

a. personnel working in a pharmacy, such as interns and supportive personnel, including technicians, and issue pharmacy technician permits and intern licenses,

b. interns, preceptors and training areas through which the training of applicants occurs for licensure as a pharmacist, and

c. such persons regarding all aspects relating to the handling of drugs, medicines, chemicals, and poisons;

17. Acquire by purchase, lease, gift, solicitation of gift or by any other manner, and to maintain, use and operate or to contract for the maintenance, use and operation of or lease of any and all property of any kind, real, personal or mixed or any interest therein unless otherwise provided by the Oklahoma Pharmacy Act; provided, all contracts for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes; ~~and~~

18. Perform other such duties, exercise other such powers and employ such personnel as the provisions and enforcement of the Oklahoma Pharmacy Act may require; and

19. Approve pilot projects designed to utilize new or expanded technology or processes and provide patients with better pharmacy products or provide pharmacy services in a more safe and efficient manner. Such approvals may include provisions granting exemptions to any rule adopted by the Board.

SECTION 5. AMENDATORY Section 14, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.20.1), is amended to read as follows:

Section 353.20.1. A. Prescriptions received by other than written communication shall be promptly recorded in writing by the pharmacist. The record made by the pharmacist shall constitute the original prescription to be filled by the pharmacist.

B. A filled prescription label shall include the name and address of the pharmacy of origin, date of filling, name of patient, name of prescriber, directions for administration, and prescription number. The symptom or purpose for which the drug is prescribed may appear on the label if provided by the practitioner and requested by the patient or the patient's authorized representative. If the symptom or purpose for which a drug is prescribed is not provided by the practitioner, the pharmacist may fill the prescription without contacting the practitioner, patient, or patient's representative. Filled prescriptions issued for veterinarian drugs shall be labeled according to rules promulgated by the Oklahoma State Board of Veterinary Medical Examiners. The label shall also include the trade or generic name, prescribed quantity, and prescription strength of the drug therein contained, except when otherwise directed by the prescriber. This requirement shall not apply to prescriptions or medicines and drugs supplied or delivered directly to patients for consumption on the premises of any hospital or mental institution. This requirement shall not apply to dialysate sold, dispensed or delivered in their original, sealed packaging upon receipt of a prescriber's order.

C. No prescription shall be written in any characters, figures, or ciphers other than in the English or Latin language generally in use among medical and pharmaceutical practitioners.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 353.24, as last amended by Section 1, Chapter 234, O.S.L. 2017 (59 O.S. Supp. 2017, 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 information or to possess any drug secured by such forged, fictitious or altered prescription;

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

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

4. No person, firm or business establishment shall offer to the public, in any manner, their services as a "pick-up station" or intermediary for the purpose of having prescriptions filled or delivered, whether for profit or gratuitously. Nor may the owner of any pharmacy or drug store authorize any person, firm or business establishment to act for them in this manner with these exceptions:

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

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

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

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

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

f. patient-specific filled prescriptions may be delivered or shipped by an Indian Health Services (IHS) or federally recognized tribal health organization operating under the IHS in the delivery of the prescriptions to a pharmacy operated by the IHS or a federally recognized tribal health organization for pickup by an IHS or tribal patient.

However, nothing in this paragraph shall prevent a pharmacist or an employee of the pharmacy from personally receiving a prescription or delivering a legally filled prescription to a residence, office or place of employment of the patient for whom the prescription was written. Provided further, the provisions of this paragraph shall not apply to any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substance Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of this title, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence. Nothing in this paragraph shall prevent veterinary prescription drugs from being shipped directly from an Oklahoma licensed wholesaler or distributor registered with the Oklahoma Board of Veterinary Medical Examiners to a client; provided, such drugs may be dispensed only on prescription of a licensed veterinarian and only when an existing veterinary-client-patient relationship exists;

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

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

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

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

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

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

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

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

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

12. Violate a Board order or agreed order;

13. Compromise the security of licensure examination materials; or

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

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

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

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

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

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

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

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

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

SECTION 7. AMENDATORY 59 O.S. 2011, Section 353.26, as last amended by Section 6, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2017, Section 353.26), is amended to read as follows:

Section 353.26. A. The State Board of Pharmacy may reprimand, place on probation, suspend, revoke permanently and levy fines not to exceed Three Thousand Dollars ($3,000.00) per count and take other disciplinary action against any person who:

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

~~a.~~ violates Violates any provision of the Oklahoma Pharmacy Act or any other applicable state or federal law~~,~~;

~~b. violates~~

2. Violates any of the provisions of the Uniform Controlled Dangerous Substances Act~~,~~;

~~c. has~~

3. Has been convicted of a felony or has pleaded guilty or no contest to a felony~~,~~;

~~d. engages~~

4. Engages in the practice of pharmacy while incapacitated or abuses intoxicating liquors or other chemical substances~~,~~;

~~e. conducts~~

5. Conducts himself or herself in a manner likely to lower public esteem for the profession of pharmacy~~,~~;

~~f. has~~

6. Has been disciplined by another State Board of Pharmacy or by another state or federal entity~~,~~;

~~g. has~~

7. Has been legally adjudged to be not mentally competent~~,~~; or

~~h. exercises~~

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

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

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

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

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

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

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

D. A person, other than a pharmacy technician, whose license or permit has been suspended by the Board or by operation of law shall pay a reinstatement fee not to exceed One Hundred Fifty Dollars ($150.00) as a condition of reinstatement of the license.

SECTION 8. AMENDATORY Section 19, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.29.2), is amended to read as follows:

Section 353.29.2. A. Pharmacists may dispense prescriptions for dangerous drugs ~~and~~ for the treatment of ocular abnormalities, provided that such prescriptions are written by optometrists who are certified by the state in which they are actively practicing. Prescriptions for dangerous drugs issued by licensed optometrists shall include the optometrist's license number.

B. Pharmacists may dispense prescriptions for controlled dangerous substances specified in Section 581 of ~~Title 59 of the~~

~~Oklahoma Statutes~~ this title for the treatment of ocular abnormalities, provided that such prescriptions are written by optometrists licensed by the Oklahoma State Board of Examiners in Optometry. Prescriptions for controlled dangerous substances issued by licensed optometrists shall include the optometrist's license number and the optometrist's identification number issued by the United States Drug Enforcement Administration. ~~Prescriptions for controlled dangerous substances shall include the optometrist's license and the optometrist's identification number issued by the United States Drug Enforcement Administration.~~

SECTION 9. AMENDATORY 59 O.S. 2011, Section 353.30, is amended to read as follows:

Section 353.30. A. The use of agreements in the practice of pharmacy shall be acceptable within the rules promulgated by the State Board of Pharmacy and in consultation with the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners.

B. The Board shall develop and prepare permanent rules relating to training requirements and administration of immunizations and therapeutic injections in consultation within the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners.

C. A pharmacist who has completed a requisite course of training as approved by the Board in consultation with the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners may administer immunizations and therapeutic injections on orders from ~~an osteopathic physician or allopathic physician~~ a licensed prescriber.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 367.5.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A pharmacy operated by the Department of Corrections or under contract with the Department of Corrections or a county jail may accept for the purpose of resale or redispensing a prescription drug that has been dispensed and has left the control of the pharmacist if the prescription drug is being returned by a state

correctional facility or a county jail that has a licensed physician's assistant, a registered professional nurse, or a licensed practical nurse, who is responsible for the security, handling, and administration of prescription drugs within that state correctional facility or county jail and if all of the following conditions are met:

1. The pharmacist is satisfied that the conditions under which the prescription drug has been delivered, stored and handled before and during its return were such as to prevent damage, deterioration or contamination that would adversely affect the identity, strength, quality, purity, stability, integrity or effectiveness of the prescription drug;

2. The pharmacist is satisfied that the prescription drug did not leave the control of the registered professional nurse or licensed practical nurse responsible for the security, handling, and administration of that prescription drug and that the prescription drug did not come into the physical possession of the individual for whom it was prescribed;

3. The pharmacist is satisfied that the labeling and packaging of the prescription drug are accurate, have not been altered, defaced or tampered with, and include the identity, strength, expiration date and lot number of the prescription drug; and

4. The prescription drug was dispensed in a unit dose package or unit of issue package.

B. A pharmacy operated by the Department of Corrections or under contract with the Department of Corrections or a county jail shall not accept or return prescription drugs as provided under this section until the pharmacist in charge develops a written set of protocols for accepting, returning to stock, repackaging, labeling and redispensing prescription drugs. The written protocols shall be maintained on the premises and shall be readily accessible to each pharmacist on duty and available for review by the Board. The written protocols shall include, but not be limited to:

1. Methods to ensure that damage, deterioration or contamination has not occurred during the delivery, handling, storage and return of the prescription drugs which would adversely

affect the identity, strength, quality, purity, stability, integrity or effectiveness of those prescription drugs or otherwise render those drugs unfit for distribution;

2. Methods for accepting, returning to stock, repackaging, labeling and redispensing the prescription drugs returned pursuant to this section; and

3. A uniform system of recording and tracking prescription drugs that are returned to stock, repackaged, labeled, and redistributed pursuant to this section.

C. If the integrity of a prescription drug and its package is maintained, a prescription drug returned pursuant to this section shall be returned to stock and redistributed as follows:

1. A prescription drug that was originally dispensed in the manufacturer's unit dose package or unit of issue package and is returned in that same package may be returned to stock, repackaged and redispensed as needed;

2. A prescription drug that is repackaged into a unit dose package or a unit of issue package by the pharmacy, dispensed and returned to that pharmacy in that unit dose package or unit of issue package may be returned to stock, but it shall not be repackaged. A unit dose package or unit of issue package prepared by the pharmacist and returned to stock shall only be redispensed in that same unit dose package or unit of issue package. A pharmacist shall not add unit dose package drugs to a partially used unit of issue package.

D. This section does not apply to any of the following:

1. A controlled dangerous substance;

2. A prescription drug that is dispensed as part of customized adherence medication packaging;

3. A prescription drug that is not dispensed as a unit dose package or a unit of issue package; or

4. A prescription drug that is not properly labeled with the identity, strength, lot number and expiration date.

SECTION 11. AMENDATORY 59 O.S. 2011, Section 367.8, is amended to read as follows:

Section 367.8. A. A pharmacy may maintain ~~controlled dangerous substances~~ drugs in an emergency medication kit used at a facility. The ~~controlled dangerous substances~~ drugs may be used only for the emergency medication needs of a resident at the facility. A pharmacy may maintain drugs in an emergency medication kit for any facility.

B. The State Board of Pharmacy shall promulgate rules relating to emergency medication kits, including, but not limited to:

1. The amount and type of ~~controlled dangerous substances~~ drugs that may be maintained in an emergency medication kit;

2. Procedures regarding the use of drugs from an emergency medication kit;

3. Recordkeeping requirements; and

4. Security requirements.

C. As used in this section, "facility" means a facility as defined by the Nursing Home Care Act or an assisted living center as defined by the Continuum of Care and Assisted Living Act.

SECTION 12. AMENDATORY Section 3, Chapter 277, O.S.L. 2015 (63 O.S. Supp. 2017, Section 1-293), is amended to read as follows:

Section 1-293. A. A licensed practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity; provided, however, such prescriptions shall only be filled by pharmacists licensed in this state by the State Board of Pharmacy.

B. An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. Such epinephrine auto-injectors shall be stored in a location readily accessible in an emergency and in accordance with the epinephrine auto-injector's instructions for use and any additional requirements that may be established by the Board of Pharmacy. An authorized entity shall designate employees or agents who have completed the training required by this act to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

C. An employee or agent of an authorized entity, or other individual, who has completed the training required by this act may, on the premises of or in connection with the authorized entity, use epinephrine auto-injectors prescribed pursuant to this act to:

1. Provide an epinephrine auto-injector to any individual who the employee, agent or other individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; and

2. Administer an epinephrine auto-injector to any individual who the employee, agent or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

D. An employee, agent or other individual described in subsection C of this section must complete an anaphylaxis training program prior to providing or administering an epinephrine auto-injector made available by an authorized entity. Such training shall be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or other entity or an individual approved by the Board of Pharmacy. The entity conducting training shall issue a certificate~~, on a form developed and approved by the Board,~~ to each person who successfully completes the anaphylaxis training program. Training may be conducted online or in person and, at a minimum, shall cover:

1. Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

2. Standards and procedures for the storage and administration of an epinephrine auto-injector; and

3. Emergency follow-up procedures.

E. An authorized entity that possesses and makes available epinephrine auto-injectors and its employees, agents, and other trained individuals; an individual who uses an epinephrine auto-injector made available pursuant to the provisions of this act; a licensed practitioner that prescribes epinephrine auto-injectors to an authorized entity; and an individual or entity that conducts the training described in subsection D of this section shall not be liable for any injuries or related damages that result from the administration of, self-administration of or failure to administer an epinephrine auto-injector in accordance with this section that may constitute ordinary negligence.

1. This immunity shall not apply to acts or omissions constituting gross, willful or wanton negligence. The administration of an epinephrine auto-injector in accordance with this section is not the practice of medicine. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under the Good Samaritan Act.

2. An entity located in this state shall not be liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent would not have been liable for such injuries or related damages had the provision or administration occurred within this state.

F. The Board of Pharmacy, the State Board of Medical Licensure and Supervision, and the State Board of Osteopathic Examiners shall promulgate any rules necessary to implement the provisions of this act.

SECTION 13. AMENDATORY Section 2, Chapter 322, O.S.L. 2013 (63 O.S. Supp. 2017, Section 1-2506.2), is amended to read as follows:

Section 1-2506.2. A. Upon request, a provider may prescribe an opiate antagonist to an individual for use by that individual when encountering a family member exhibiting signs of an opiate overdose.

B. When an opiate antagonist is prescribed in accordance with subsection A of this section, the provider shall provide:

1. Information on how to spot symptoms of an overdose;

2. Instruction in basic resuscitation techniques;

3. Instruction on proper naloxone administration; and

4. The importance of calling 911 for help.

C. Any family member administering an opiate antagonist in a manner consistent with addressing opiate overdose shall be covered under the Good Samaritan Act.

D. Any provider prescribing or administering an opiate antagonist in a manner consistent with addressing opiate overdose shall be covered under the Good Samaritan Act.

SECTION 14. REPEALER 59 O.S. 2011, Section 353.6, as amended by Section 4, Chapter 230, O.S.L. 2015 (59 O.S. Supp. 2017, Section 353.6), is hereby repealed.

SECTION 15. This act shall become effective November 1, 2018.

Passed the Senate the 6th day of March, 2018.

_____
Presiding Officer of the Senate

Passed the House of Representatives the 18th day of April, 2018.

_____
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____