

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 687

By: David

AS INTRODUCED

An Act relating to pharmacy; amending 59 O.S. 2011, Section 353.24, as last amended by Section 5, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2016, Section 353.24), permitting certain reception or delivery of prescriptions; directing promulgation of rules; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.24, as last amended by Section 5, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2016, 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

1 pursuant to the Utilization of Unused Prescription Medications Act
2 or as otherwise provided by the State Board of Pharmacy;

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

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

- 12 a. patient-specific filled prescriptions may be delivered
13 or shipped to a prescriber's clinic for pick-up by
14 those patients ~~who~~ whom the prescriber has
15 individually determined and documented do not have a
16 permanent or secure mailing address,
- 17 b. patient-specific filled prescriptions for drugs which
18 require special handling written by a prescriber may
19 be delivered or shipped to the prescriber's clinic for
20 administration or pick-up at the prescriber's office,
- 21 c. patient-specific filled prescriptions, including
22 sterile compounded drugs, may be delivered or shipped
23 to a prescriber's clinic where they shall be
24 administered,

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

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

9 However, nothing in this paragraph shall prevent a pharmacist or
10 an employee of the pharmacy from personally receiving a prescription
11 or delivering a legally filled prescription to a residence, office
12 or place of employment of the patient for whom the prescription was
13 written or a facility where pharmacy services are received by the
14 patient. The State Board of Pharmacy shall promulgate rules
15 requiring a facility where pharmacy services are received to
16 maintain records of any prescriptions delivered to the facility.

17 Provided further, the provisions of this paragraph shall not apply
18 to any Department of Mental Health and Substance Abuse Services
19 employee or any person whose facility contracts with the Department
20 of Mental Health and Substances Abuse Services whose possession of
21 any dangerous drug, as defined in Section 353.1 of this title, is
22 for the purpose of delivery of a mental health consumer's medicine
23 to the consumer's home or residence. Nothing in this paragraph
24 shall prevent veterinary prescription drugs from being shipped

1 directly from an Oklahoma licensed wholesaler or distributor
2 registered with the Oklahoma Board of Veterinary Medical Examiners
3 to a client; provided, such drugs may be dispensed only on
4 prescription of a licensed veterinarian and only when an existing
5 veterinary-client-patient relationship exists;

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

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

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

18 8. Possess dangerous drugs without a valid prescription or a
19 valid license to possess such drugs; provided, however, this
20 provision shall not apply to any Department of Mental Health and
21 Substance Abuse Services employee or any person whose facility
22 contracts with the Department of Mental Health and Substances Abuse
23 Services whose possession of any dangerous drug, as defined in
24 Section 353.1 of this title, is for the purpose of delivery of a

1 mental health consumer's medicine to the consumer's home or
2 residence;

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

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

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

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

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

24 12. Violate a Board order or agreed order;

1 13. Compromise the security of licensure examination materials;

2 or

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

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

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

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

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

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

23 6. No person shall subvert the authority of the pharmacist-in-
24 charge of the pharmacy by impeding the management of the

1 prescription department to act in compliance with federal and state
2 law.

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

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

7 SECTION 2. This act shall become effective November 1, 2017.

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