

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3609

By: Echols

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9 COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 amending 59 O.S. 2021, Section 353.24, which relates
12 to the Oklahoma Pharmacy Act; modifying provisions
13 related to unlawful acts by licensees or other
14 persons; providing certain restrictions or conditions
15 imposed by pharmacy benefits manager to be unlawful;
16 and providing an effective date.

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

18 SECTION 1. AMENDATORY 59 O.S. 2021, Section 353.24, is
19 amended to read as follows:

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

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

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

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

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

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

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

23 c. patient-specific filled prescriptions, including
24 sterile compounded drugs, may be delivered or shipped

1 to a prescriber's clinic where they shall be
2 administered,

3 d. patient-specific filled prescriptions for patients
4 with end-stage renal disease (ESRD) may be delivered
5 or shipped to a prescriber's clinic for administration
6 or final delivery to the patient,

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

10 f. patient-specific filled prescriptions may be delivered
11 or shipped by an Indian Health Services (IHS) or
12 federally recognized tribal health organization
13 operating under the IHS in the delivery of the
14 prescriptions to a pharmacy operated by the IHS or a
15 federally recognized tribal health organization for
16 pick-up by an IHS or tribal patient.

17 However, nothing in this paragraph shall prevent a pharmacist or
18 an employee of the pharmacy from personally receiving a prescription
19 or delivering a legally filled prescription to a residence, office
20 or place of employment of the patient for whom the prescription was
21 written. Provided further, the provisions of this paragraph shall
22 not apply to any Department of Mental Health and Substance Abuse
23 Services employee or any person whose facility contracts with the
24 Department of Mental Health and Substance Abuse Services whose

1 possession of any dangerous drug, as defined in Section 353.1 of
2 this title, is for the purpose of delivery of a mental health
3 consumer's medicine to the consumer's home or residence. Nothing in
4 this paragraph shall prevent veterinary prescription drugs from
5 being shipped directly from an Oklahoma licensed wholesaler or
6 distributor registered with the Oklahoma Board of Veterinary Medical
7 Examiners to a client; provided, such drugs may be dispensed only on
8 prescription of a licensed veterinarian and only when an existing
9 veterinary-client-patient relationship exists. Nothing in this
10 paragraph shall prevent dialysate and peritoneal dialysis devices
11 from being shipped directly from an Oklahoma licensed manufacturer,
12 wholesaler or distributor to an ESRD patient or patient's designee,
13 consistent with subsection F of Section 353.18 of this title;

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

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

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

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

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

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

19 11. Possess, sell, offer for sale, barter or give away any
20 quantity of dangerous drugs not listed as a scheduled drug pursuant
21 to Sections 2-201 through 2-212 of Title 63 of the Oklahoma Statutes
22 when obtained by prescription bearing forged, fictitious or altered
23 information.
24

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

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

11 12. Violate a Board order or agreed order;

12 13. Compromise the security of licensure examination materials;

13 or

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

16 B. 1. It shall be unlawful for any person other than a
17 licensed pharmacist or physician to certify a prescription before
18 delivery to the patient or the patient's representative or
19 caregiver. Dialysate and peritoneal dialysis devices supplied
20 pursuant to the provisions of subsection F of Section 353.18 of this
21 title shall not be required to be certified by a pharmacist prior to
22 being supplied by a manufacturer, wholesaler or distributor.

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

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

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

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

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

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

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

23 3. It shall be unlawful for a pharmacy benefits manager to
24 impose restrictions or conditions on a pharmacy related to drug

1 purchase sources or timing of drug purchases for payment of billed
2 claims for drug products.

3 SECTION 2. This act shall become effective November 1, 2022.
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5 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/03/2022 - DO PASS,
6 As Amended.
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