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AS AMENDED

By: Echols, McDugle, Roe and
Fugate of the House

and

Garvin of the Senate

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[ Oklahoma Pharmacy Act - unlawful acts by licensees
- restrictions or conditions imposed by pharmacy
benefits manager - effective date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2021, Section 353.24, is

Section 353.24 A. It shall be unlawful for any licensee or

1. Forge or increase the quantity of drug in any prescription,
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 as otherwise provided by the State Board of Pharmacy;

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

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

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

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

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

23 d. patient-specific filled prescriptions for patients
24 with end-stage renal disease (ESRD) may be delivered

- 1 or shipped to a prescriber's clinic for administration
2 or final delivery to the patient,
- 3 e. patient-specific filled prescriptions for
4 radiopharmaceuticals may be delivered or shipped to a
5 prescriber's clinic for administration or pick-up, or
- 6 f. patient-specific filled prescriptions may be delivered
7 or shipped by an Indian Health Services (IHS) or
8 federally recognized tribal health organization
9 operating under the IHS in the delivery of the
10 prescriptions to a pharmacy operated by the IHS or a
11 federally recognized tribal health organization for
12 pick-up by an IHS or tribal patient.

13 However, nothing in this paragraph shall prevent a pharmacist or
14 an employee of the pharmacy from personally receiving a prescription
15 or delivering a legally filled prescription to a residence, office
16 or place of employment of the patient for whom the prescription was
17 written. Provided further, the provisions of this paragraph shall
18 not apply to any Department of Mental Health and Substance Abuse
19 Services employee or any person whose facility contracts with the
20 Department of Mental Health and Substance Abuse Services whose
21 possession of any dangerous drug, as defined in Section 353.1 of
22 this title, is for the purpose of delivery of a mental health
23 consumer's medicine to the consumer's home or residence. Nothing in
24 this paragraph shall prevent veterinary prescription drugs from

1 being shipped directly from an Oklahoma licensed wholesaler or
2 distributor registered with the Oklahoma Board of Veterinary Medical
3 Examiners 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. Nothing in this
6 paragraph shall prevent dialysate and peritoneal dialysis devices
7 from being shipped directly from an Oklahoma licensed manufacturer,
8 wholesaler or distributor to an ESRD patient or patient's designee,
9 consistent with subsection F of Section 353.18 of this title;

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

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

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

22 8. Possess dangerous drugs without a valid prescription or a
23 valid license to possess such drugs; provided, however, this
24 provision shall not apply to any Department of Mental Health and

1 Substance Abuse Services employee or any person whose facility
2 contracts with the Department of Mental Health and Substance Abuse
3 Services whose possession of any dangerous drug, as defined in
4 Section 353.1 of this title, is for the purpose of delivery of a
5 mental health consumer's medicine to the consumer's home or
6 residence;

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

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

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

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

23 b. A second violation of this section shall constitute a
24 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. Dialysate and peritoneal dialysis devices supplied pursuant to the provisions of subsection F of Section 353.18 of this title shall not be required to be certified by a pharmacist prior to being supplied by a manufacturer, wholesaler or distributor.

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

1 purchaser, any like drug, medicine, chemical or pharmaceutical
2 preparation.

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

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

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

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

14 3. It shall be unlawful for a pharmacy benefits manager to
15 impose restrictions or conditions on a pharmacy related to drug
16 purchase sources or timing of drug purchases for payment of billed
17 claims for drug products.

18 SECTION 2. This act shall become effective November 1, 2022.

19 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
20 April 11, 2022 - DO PASS AS AMENDED

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