

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1885

By: Bullard

AS INTRODUCED

An Act relating to the practice of pharmacy; amending 59 O.S. 2021, Section 353.24, which relates to unlawful acts; making certain acts unlawful; providing penalties; updating statutory language; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2021, 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;

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
25

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~~ Service (IHS)
8 or 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~~ State Board of Veterinary
3 Medical Examiners to a client; provided, such drugs may be dispensed
4 only on prescription of a licensed veterinarian and only when an
5 existing veterinary-client-patient relationship exists. Nothing in
6 this paragraph shall prevent dialysate and peritoneal dialysis
7 devices from being shipped directly from an Oklahoma licensed
8 manufacturer, wholesaler or distributor to an ESRD patient or
9 patient's designee, consistent with subsection F of Section 353.18
10 of this title;

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

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

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

23 8. Possess dangerous drugs without a valid prescription or a
24 valid license to possess such drugs; provided, however, this

1 provision shall not apply to any Department of Mental Health and
2 Substance Abuse Services employee or any person whose facility
3 contracts with the Department of Mental Health and Substance Abuse
4 Services whose possession of any dangerous drug, as defined in
5 Section 353.1 of this title, is for the purpose of delivery of a
6 mental health consumer's medicine to the consumer's home or
7 residence;

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

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

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

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

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

6 12. Violate a Board order or agreed order;

7 13. Compromise the security of licensure examination materials;

8 or

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

11 15. Knowingly deliver directly to a patient within this state
12 via common carrier, mail, carrier services, or any other delivery
13 service any medicine, drug, or any other substance to be used for
14 the purpose of inducing an abortion in violation of Section 861 of
15 Title 21 of the Oklahoma Statutes. In addition to such other
16 penalties as may be prescribed by law:

17 a. a licensee or other person found to be in violation of
18 this paragraph shall, upon conviction, be guilty of a
19 felony, and

20 b. the Board shall immediately revoke the license of a
21 licensee found to be in violation of this paragraph.

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

1 caregiver. Dialysate and peritoneal dialysis devices supplied
2 pursuant to the provisions of subsection F of Section 353.18 of this
3 title shall not be required to be certified by a pharmacist prior to
4 being supplied by a manufacturer, wholesaler or distributor.

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

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

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

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

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

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

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

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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