

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB718 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Marcus McEntire \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 PROPOSED  
4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 718

By: McCortney of the Senate

and

McEntire of the House

7  
8  
9 PROPOSED COMMITTEE SUBSTITUTE

10 An Act relating to pharmacy; amending 59 O.S. 2011,  
11 Section 353.18, as last amended by Section 4, Chapter  
12 285, O.S.L. 2016 (59 O.S. Supp. 2020, Section  
13 353.18), which relates to the sale, manufacturing or  
14 packaging of dangerous drugs; providing licensure  
15 exception; providing exception to pharmacy  
16 requirements for facilities distributing or  
17 dispensing dialysate or devices necessary for  
18 peritoneal dialysis; amending 59 O.S. 2011, Section  
19 353.24, as last amended by Section 6, Chapter 106,  
20 O.S.L. 2018 (59 O.S. Supp. 2020, Section 353.24),  
21 which relates to unlawful acts; providing certain  
22 construction; providing certification exception; and  
23 providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.18, as  
last amended by Section 4, Chapter 285, O.S.L. 2016 (59 O.S. Supp.  
2020, Section 353.18), is amended to read as follows:

Section 353.18 A. 1. It shall be unlawful for any person,  
including, but not limited to, Internet, website or online

1 pharmacies, to sell at retail or to offer for sale, dangerous drugs,  
2 medicines, chemicals or poisons for the treatment of disease,  
3 excluding agricultural chemicals and drugs, or to accept  
4 prescriptions for same, without first procuring a license from the  
5 State Board of Pharmacy. This licensure requirement applies whether  
6 such sale, offer for sale or acceptance of prescriptions occurs in  
7 this state, or such sale, offer for sale, or acceptance of  
8 ~~prescription~~ prescriptions occurs out of state and the dangerous  
9 drug, medicine, chemical or poison is to be delivered, distributed  
10 or dispensed to patients or customers in this state. This licensure  
11 requirement shall not apply to the distribution or dispensing of  
12 dialysate or peritoneal dialysis devices to patients with end-stage  
13 renal disease (ESRD) consistent with subsection F of this section.

14 2. A pharmacy license shall be issued to such person as the  
15 Board shall deem qualified upon evidence satisfactory to the Board  
16 that:

- 17 a. the place for which the license is sought will be  
18 conducted in full compliance with the law and the  
19 rules of the Board,
- 20 b. the location and physical characteristics of the place  
21 are reasonably consistent with the maintenance of  
22 professional surroundings and constitute no known  
23 danger to the public health and safety,

24

1 c. the place will be under the management and control of  
2 a licensed pharmacist or pharmacist-in-charge who  
3 shall be licensed as a pharmacist in Oklahoma, and

4 d. a licensed pharmacist shall be present and on duty at  
5 all business hours; provided, however, the provisions  
6 of this subparagraph shall not apply to hospital drug  
7 rooms.

8 3. a. An application for an initial or renewal license  
9 issued pursuant to the provisions of this subsection  
10 shall:

11 (1) be submitted to the Board in writing,

12 (2) contain the name or names of persons owning the  
13 pharmacy, and

14 (3) provide other such information deemed relevant by  
15 the Board.

16 b. An application for an initial or renewal license shall  
17 be accompanied by a licensing fee not to exceed Three  
18 Hundred Dollars (\$300.00) for each period of one (1)  
19 year. Prior to opening for business, all applicants  
20 for an initial license or permit shall be inspected.  
21 An initial licensure applicant shall pay an inspection  
22 fee not to exceed Two Hundred Dollars (\$200.00);  
23 provided, however, that no charge shall be made for  
24 the licensing of any Federal Veterans Hospital in the

1 State of Oklahoma. Non-resident pharmacies shall  
2 reimburse the Board for any actual expenses incurred  
3 for inspections.

4 c. A license issued pursuant to the provisions of this  
5 subsection shall be valid for a period set by the  
6 Board and shall contain the name of the licensee and  
7 the address of the place at which such business shall  
8 be conducted.

9 4. A retail pharmacy that prepares sterile drugs shall obtain a  
10 pharmacy license, and shall also obtain a sterile compounding permit  
11 at a fee set by the Board, not to exceed Seventy-five Dollars  
12 (\$75.00). Such pharmacy shall meet requirements set by the Board by  
13 rule for sterile compounding permits.

14 5. An outsourcing facility desiring to dispense prescriptions  
15 to patients must additionally license and meet the requirements of a  
16 pharmacy.

17 B. 1. It shall be unlawful for any person to manufacture,  
18 repackage, distribute, outsource, warehouse or be a third-party  
19 logistics provider of any dangerous drugs, medicines, medical gases,  
20 chemicals, or poisons for the treatment of disease, excluding  
21 agricultural chemicals, without first procuring a license from the  
22 Board. It shall be unlawful to sell or offer for sale at retail or  
23 wholesale dangerous drugs, medicines, medical gases, chemicals or  
24 poisons without first procuring a license from the Board. This

1 licensure requirement shall apply when the manufacturing,  
2 repackaging, distributing, outsourcing, warehousing, or provision of  
3 third-party logistics occurs in this state or out of state for  
4 delivery, distribution, or dispensing to patients or customers in  
5 this state.

6 2. A license shall be issued to such person as the Board shall  
7 deem qualified upon satisfactory evidence to the Board that:

8 a. the place for which the license is sought will be  
9 conducted in full compliance with the laws of this  
10 state and the administrative rules of the Board,

11 b. the location and physical characteristics of the place  
12 of business are reasonably consistent with the  
13 maintenance of professional surroundings and  
14 constitute no known danger to public health and  
15 safety,

16 c. the place shall be under the management and control of  
17 such persons as may be approved by the Board after a  
18 review and determination of the persons'  
19 qualifications, and

20 d. an outsourcing facility shall designate in writing on  
21 a Board-approved form a person to serve as the  
22 pharmacist-in-charge who is a pharmacist licensed by  
23 the Board.

24

1       3.   a.   An application for an initial or renewal license  
2           issued pursuant to the provisions of this subsection  
3           shall:

4           (1)   be submitted to the Board in writing,

5           (2)   contain the name or names of the owners or the  
6           applicants, and

7           (3)   provide such other information deemed relevant by  
8           the Board.

9       b.   An application for an initial or renewal license shall  
10       be accompanied by a licensing fee not to exceed Three  
11       Hundred Dollars (\$300.00) for each period of one (1)  
12       year. Prior to opening for business, all applicants  
13       for initial or renewal license shall be inspected. An  
14       initial licensure applicant shall pay an inspection  
15       fee not to exceed Two Hundred Dollars (\$200.00). Non-  
16       resident applicants shall reimburse the Board for any  
17       actual expenses incurred for inspections.

18       c.   A license issued pursuant to the provisions of this  
19       subsection shall contain the name of the licensee and  
20       the address of the place at which such business shall  
21       be conducted and shall be valid for a period of time  
22       set by the Board.

23       C.   A licensee or permit holder who, pursuant to the provisions  
24       of this section, fails to complete an application for a renewal

1 license or permit by the fifteenth day after the expiration of the  
2 license or permit shall pay a late fee to be fixed by the Board.

3 D. 1. The Board shall promulgate rules regarding the issuance  
4 and renewal of licenses and permits pursuant to the Oklahoma  
5 Pharmacy Act which shall include, but need not be limited to,  
6 provisions for new or renewal application requirements for its  
7 licensees and permit holders. Requirements for new and renewal  
8 applications may include, but need not be limited to, the following:

- 9 a. type of ownership, whether individual, partnership,  
10 limited liability company or corporation,
- 11 b. names and addresses of principal owners or officers  
12 and their Social Security numbers, including  
13 applicant's full name, all trade or business names  
14 used, full business address, telephone numbers, and  
15 email addresses,
- 16 c. names of designated representatives and facility  
17 managers and their Social Security numbers and dates  
18 of birth,
- 19 d. evidence of a criminal background check and  
20 fingerprinting of the applicant, if a person, and all  
21 of the applicant's designated representatives and  
22 facility managers,
- 23 e. a copy of the license from the applicant's home state,  
24 and if applicable, from the federal government,



- 1 f. bond requirements, and  
2 g. any other information deemed by the Board to be  
3 necessary to protect the public health and safety.

4 2. The Board shall be authorized to use an outside agency, such  
5 as the National Association of Boards of Pharmacy (NABP) or the  
6 Verified-Accredited Wholesale Distributors (VAWD), to accredit  
7 wholesale distributors and repackagers.

8 E. The Oklahoma Pharmacy Act shall not be construed to prevent  
9 the sale of nonprescription drugs in original manufacturer packages  
10 by any merchant or dealer.

11 F. The Oklahoma Pharmacy Act shall not be construed to apply to  
12 a facility engaged in the distribution or dispensing to patients of  
13 dialysate or peritoneal dialysis devices necessary to perform home  
14 peritoneal dialysis, provided the following criteria are met:

15 1. The dialysate is comprised of dextrose or icodextrin;

16 2. The dialysate or peritoneal dialysis devices are approved or  
17 cleared by the United States Food and Drug Administration;

18 3. The dialysate or peritoneal dialysis devices are lawfully  
19 held by a manufacturer, or the manufacturer's agent, who is properly  
20 licensed by the Board as a manufacturer, wholesaler or distributor;

21 4. The dialysate or peritoneal dialysis devices are held and  
22 delivered in their original, sealed packaging from the manufacturing  
23 facility;

1       5. The dialysate or peritoneal dialysis devices are delivered  
2 only upon receipt of a physician's prescription by a licensed  
3 pharmacy, and the transmittal of an order from the licensed pharmacy  
4 to the manufacturer or the manufacturer's agent; and

5       6. The manufacturer or agent of the manufacturer delivers the  
6 dialysate or peritoneal dialysis devices directly to:

7           a. a patient with ESRD or the patient's designee for the  
8           patient's self-administration of the dialysis therapy,  
9           or

10          b. a health care provider or institution for  
11          administration or delivery of the dialysis therapy to  
12          the patient with ESRD.

13       SECTION 2.        AMENDATORY        59 O.S. 2011, Section 353.24, as  
14 last amended by Section 6, Chapter 106, O.S.L. 2018 (59 O.S. Supp.  
15 2020, Section 353.24), is amended to read as follows:

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

18       1. Forge or increase the quantity of drug in any prescription,  
19 or to present a prescription bearing forged, fictitious or altered  
20 information or to possess any drug secured by such forged,  
21 fictitious or altered prescription;

22       2. Sell, offer for sale, barter or give away any unused  
23 quantity of drugs obtained by prescription, except through a program  
24

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 whom the prescriber has individually  
15 determined and documented do not have a permanent or  
16 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           with ~~End Stage Renal Disease~~ end-stage renal disease  
3           (ESRD) may be delivered or shipped to a prescriber's  
4           clinic for administration or final delivery to the  
5           patient,
- 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, or
- 9           f.    patient-specific filled prescriptions may be delivered  
10          or shipped by an Indian Health Services (IHS) or  
11          federally recognized tribal health organization  
12          operating under the IHS in the delivery of the  
13          prescriptions to a pharmacy operated by the IHS or a  
14          federally recognized tribal health organization for  
15          pick-up by an IHS or tribal patient.

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

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

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

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

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

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

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

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

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

21           a. A first violation of this section shall constitute a  
22 misdemeanor and upon conviction shall be punishable by  
23 imprisonment in the county jail for a term not more  
24

1 than one (1) year and a fine in an amount not more  
2 than One Thousand Dollars (\$1,000.00).

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

8 12. Violate a Board order or agreed order;

9 13. Compromise the security of licensure examination materials;

10 or

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

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

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

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

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

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

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

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

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

18 SECTION 3. This act shall become effective November 1, 2021.

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20 58-1-8077 AB 04/06/21

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