

1 **SENATE FLOOR VERSION**

2 April 10, 2017

3 COMMITTEE SUBSTITUTE
4 ENGROSSED HOUSE
5 BILL NO. 2039

By: Wallace of the House

and

Standridge of the Senate

7
8 COMMITTEE SUBSTITUTE

9 **[pharmacies - Oklahoma Pharmacy Act - sale or**
10 **dispensation of naloxone - codification - effective**
11 **date]**

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

13 SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.24, as
14 last amended by Section 5, Chapter 285, O.S.L. 2016 (59 O.S. Supp.
15 2016, 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
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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. Provided further, the provisions of this paragraph shall
14 not apply to any Department of Mental Health and Substance Abuse
15 Services employee or any person whose facility contracts with the
16 Department of Mental Health and ~~Substances~~ Substance Abuse Services
17 whose possession of any dangerous drug, as defined in Section 353.1
18 of this title, is for the purpose of delivery of a mental health
19 consumer's medicine to the consumer's home or residence. Nothing in
20 this paragraph shall prevent veterinary prescription drugs from
21 being shipped directly from an Oklahoma licensed wholesaler or
22 distributor registered with the Oklahoma Board of Veterinary Medical
23 Examiners to a client; provided, such drugs may be dispensed only on
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1 prescription of a licensed veterinarian and only when an existing
2 veterinary-client-patient relationship exists;

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

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

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

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

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

5 10. Fail to have a written drug diversion detection and
6 prevention policy;

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

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

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

22 12. Violate a Board order or agreed order;

23 13. Compromise the security of licensure examination materials;

24 or

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

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

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

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

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

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

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

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

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

5 SECTION 2. AMENDATORY Section 6, Chapter 154, O.S.L.
6 2014 (63 O.S. Supp. 2016, Section 2-312.2), is amended to read as
7 follows:

8 Section 2-312.2 Naloxone, also known as Narcan, or any of its
9 generic equivalents may be dispensed or sold by a pharmacy without a
10 prescription; provided, however, it shall be dispensed or sold only
11 by, or under the supervision of, a licensed pharmacist. Naloxone
12 may be prescribed and dispensed by a licensed pharmacist; provided,
13 however, it shall be dispensed only by, or under the supervision of,
14 a licensed pharmacist. No dispensing protocol shall be required.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 353.20.2 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 A. Unless the prescriber has specified on the prescription that
19 dispensing a prescription for a maintenance medication in an initial
20 amount followed by periodic refills is medically necessary, a
21 pharmacist may exercise his or her professional judgment to dispense
22 varying quantities of medication per fill-up to the total number of
23 dosage units as authorized by the prescriber on the original
24 prescription including any refills.

1 B. Subsection A of this section shall not apply to scheduled
2 medications or any medications for which a report is required under
3 the controlled substance database. Dispensing of medication based
4 on refills authorized by the physician on the prescription shall be
5 limited to no more than a ninety-day supply of the medication.

6 SECTION 4. This act shall become effective November 1, 2017.

7 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
8 April 10, 2017 - DO PASS AS AMENDED

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