

# An Act

ENROLLED SENATE  
BILL NO. 1019

By: Hicks and Simpson of the  
Senate

and

Marti of the House

An Act relating to pharmacy; amending Section 3, Chapter 234, O.S.L. 2017 (59 O.S. Supp. 2018, Section 353.20.2), which relates to prescription refills; providing exception to applicability of section; authorizing pharmacist to dispense certain medications or devices under certain conditions; providing certain standard of care; excluding pharmacist from certain civil and criminal liability; stating exception to certain liability; providing for formulary; clarifying applicability of the Pharmacy Audit Integrity Act; and providing an effective date.

SUBJECT: Prescription refills

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

SECTION 1. AMENDATORY Section 3, Chapter 234, O.S.L. 2017 (59 O.S. Supp. 2018, Section 353.20.2), is amended to read as follows:

Section 353.20.2. A. ~~Unless~~ Except as provided in subsection C of this section, unless the prescriber has specified on the prescription that dispensing a prescription for a maintenance medication in an initial amount followed by periodic refills is medically necessary, a pharmacist may exercise his or her professional judgment to dispense varying quantities of medication

per fill-up to the total number of dosage units as authorized by the prescriber on the original prescription including any refills.

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

C. 1. A pharmacist may dispense without a prescription one or more devices or medications as medically necessary to prevent the death of or serious harm to the health of a patient if the following conditions are met:

- a. the pharmacy which the pharmacist owns or at which the pharmacist is employed has a current record of a prescription for the medication or device prescribed in the name of the patient who is requesting it, but the prescription has expired and a refill requires authorization from the licensed practitioner who issued the prescription and neither the patient nor the pharmacist was able to obtain the refill after reasonable attempts were made to obtain such refill and the pharmacist documents such attempts on a form prescribed by the State Board of Pharmacy,
- b. the failure of the pharmacist to dispense the medication or device reasonably could result in the death of or serious harm to the health of the patient,
- c. the device or medication is listed on the formulary described in paragraph 4 of this subsection,
- d. the patient has been on a consistent medication therapy as demonstrated by records maintained by the pharmacy, and
- e. the amount of the medication or device dispensed is for a reasonable amount of time; provided, if the patient or pharmacist is unable to obtain a refill prescription from the patient's licensed practitioner before the amount prescribed to prevent death or

serious harm to the health of the patient is depleted, the pharmacist may dispense an additional amount of the medication or device not more than once in an amount consistent with past prescriptions of the patient.

2. The standard of care required of a pharmacist licensed in this state who is acting in accordance with the provisions of this subsection shall be the level and type of care, skill and diligence that a reasonably competent and skilled pharmacist with a similar background and in the same or similar locality would have provided under the circumstance.

3. Any pharmacist licensed in this state who in good faith dispenses one or more medications or devices to a patient pursuant to the provisions of this subsection shall not be liable for any civil damages or subject to criminal prosecution as a result of any acts or omissions except for committing gross negligence or willful or wanton acts committed in dispensing or failure to dispense the medication or device.

4. The State Board of Pharmacy shall develop and update as necessary an inclusionary formulary of potentially life-saving prescription medications and devices, not to include controlled dangerous substances, for the purposes of this subsection. Such medications and devices shall include but not be limited to:

- a. insulin and any devices or supplies necessary for the administration of insulin,
- b. glucometers and any devices or supplies necessary for the operation of the glucometer, and
- c. rescue inhalers.

5. Dispensing in accordance with this subsection shall be deemed dispensing under a legal prescription for purposes of the Pharmacy Audit Integrity Act, Section 356 et seq. of this title.

SECTION 2. This act shall become effective November 1, 2019.

Passed the Senate the 21st day of February, 2019.

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Presiding Officer of the Senate

Passed the House of Representatives the 16th day of April, 2019.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_