

1 **SENATE FLOOR VERSION**

2 February 24, 2020

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1502

6 By: Standridge

7 An Act relating to pharmacy; amending 59 O.S. 2011,  
8 Section 353.7, as last amended by Section 4, Chapter  
9 106, O.S.L. 2018 (59 O.S. Supp. 2019, Section 353.7),  
10 which relates to powers and duties of the State Board  
11 of Pharmacy; authorizing certain inspections;  
12 amending Section 12, Chapter 230, O.S.L. 2015 (59  
13 O.S. Supp. 2019, Section 353.18A), which relates to  
14 pharmacy technicians; establishing certain pharmacy  
15 technician-to-pharmacist ratio; excluding certain  
16 pharmacy technicians from certain ratio; requiring  
17 certain supervision and training; defining term;  
18 updating statutory language; and providing an  
19 effective date.

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

21 SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.7, as  
22 last amended by Section 4, Chapter 106, O.S.L. 2018 (59 O.S. Supp.  
23 2019, Section 353.7), is amended to read as follows:

24 Section 353.7. The State Board of Pharmacy shall have the power  
and duty to:

1. Regulate the practice of pharmacy;

2. Regulate the sale and distribution of drugs, medicines,  
chemicals and poisons;

- 1           3. Regulate the dispensing of drugs and medicines in all places  
2 where drugs and medicines are compounded and/or dispensed;
- 3           4. Examine and issue appropriate certificates of licensure as  
4 Doctor of Pharmacy to all applicants whom the Board deems qualified  
5 under the provisions of the Oklahoma Pharmacy Act;
- 6           5. Issue licenses to manufacturers, repackagers, outsourcing  
7 facilities, wholesale distributors, third-party logistics providers,  
8 pharmacies, and other dispensers, medical gas suppliers, and medical  
9 gas distributors;
- 10          6. Issue sterile compounding and drug supplier permits for  
11 pharmacies at the fee set by the Board, with the expiration date of  
12 such permits to coincide with the pharmacy license annual expiration  
13 date;
- 14          7. Prescribe minimum standards with respect to floor space and  
15 other physical characteristics of pharmacies and hospital drug rooms  
16 as may be reasonably necessary for the maintenance of professional  
17 surroundings and for the protection of the safety and welfare of the  
18 public, and to refuse the issuance of new or renewal licenses for  
19 failure to comply with such standards. Minimum standards for  
20 hospital drug rooms shall be consistent with the State Department of  
21 Health, Hospital Standards, as defined in OAC 310:667;
- 22          8. Authorize its inspectors, compliance officers, and duly  
23 authorized representatives to enter and inspect any and all places,  
24 including premises, vehicles, equipment, contents and records, where

1 drugs, medicines, chemicals, or poisons are stored, sold, vended,  
2 given away, compounded, dispensed, manufactured, repackaged or  
3 transported;

4 9. For good cause, inspect a pharmacy that is licensed by the  
5 Board but is not located within this state at the pharmacy's expense  
6 by one or more inspectors, compliance officers or duly authorized  
7 representatives employed by or approved by the Board including, but  
8 not limited to, an inspector obtained through the National  
9 Association of Boards of Pharmacy;

10 10. Employ the number of inspectors and pharmacist compliance  
11 officers necessary in the investigation of criminal activity or  
12 preparation of administrative actions at an annual salary to be  
13 fixed by the Board, and to authorize necessary expenses. Any  
14 inspector certified as a peace officer by the Council of Enforcement  
15 Education and Training shall have statewide jurisdiction to perform  
16 the duties authorized by this section. In addition, the inspectors  
17 shall be considered peace officers and shall have the same powers  
18 and authority as that granted to peace officers. In addition, such  
19 inspectors or pharmacist compliance officers shall have the  
20 authority to take and copy records and the duty to confiscate all  
21 drugs, medicines, chemicals or poisons found to be stored, sold,  
22 vended, given away, compounded, dispensed or manufactured contrary  
23 to the provisions of the Oklahoma Pharmacy Act;

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1       ~~10.~~ 11. Investigate complaints, subpoena witnesses and records,  
2 initiate prosecution, and hold hearings;

3       ~~11.~~ 12. Administer oaths in all manners pertaining to the  
4 affairs of the Board and to take evidence and compel the attendance  
5 of witnesses on questions pertaining to the enforcement of the  
6 Oklahoma Pharmacy Act;

7       ~~12.~~ 13. Reprimand, place on probation, suspend, revoke  
8 permanently and levy fines not to exceed Three Thousand Dollars  
9 (\$3,000.00) for each count for which any person charged with  
10 violating the Oklahoma Pharmacy Act or Oklahoma Board of Pharmacy  
11 administrative rules has been convicted in Board hearings. The  
12 Board also may take other disciplinary action. The Board may impose  
13 as part of any disciplinary action the payment of costs expended by  
14 the Board for any legal fees and costs, including, but not limited  
15 to, staff time, salary and travel expense, witness fees and attorney  
16 fees. The Board may also require additional continuing education,  
17 including attendance at a live continuing education program, and may  
18 require participation in a rehabilitation program for the impaired.  
19 The Board may take such actions singly or in combination, as the  
20 nature of the violation requires;

21       ~~13.~~ 14. Adopt and establish rules of professional conduct  
22 appropriate to the establishment and maintenance of a high standard  
23 of integrity and dignity in the profession of pharmacy. Such rules  
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1 shall be subject to amendment or repeal by the Board as the need may  
2 arise;

3 ~~14.~~ 15. Make and publish rules such as may be necessary for  
4 carrying out and enforcing the provisions of the Oklahoma Pharmacy  
5 Act, Oklahoma drug laws and rules, federal drug laws and  
6 regulations, and make such other rules as in its discretion may be  
7 necessary to protect the health, safety, and welfare of the public;

8 ~~15.~~ 16. Establish and collect appropriate fees for licenses,  
9 permits, inspections, and services provided; and such fees shall be  
10 nonrefundable. Such fees shall be promulgated to implement the  
11 provisions of the Oklahoma Pharmacy Act under the provisions of the  
12 Administrative Procedures Act;

13 ~~16.~~ 17. Regulate:

14 a. personnel working in a pharmacy, such as interns and  
15 supportive personnel, including technicians, and issue  
16 pharmacy technician permits and intern licenses,

17 b. interns, preceptors and training areas through which  
18 the training of applicants occurs for licensure as a  
19 pharmacist, and

20 c. such persons regarding all aspects relating to the  
21 handling of drugs, medicines, chemicals, and poisons;

22 ~~17.~~ 18. Acquire by purchase, lease, gift, solicitation of gift  
23 or by any other manner, and to maintain, use and operate or to  
24 contract for the maintenance, use and operation of or lease of any

1 and all property of any kind, real, personal or mixed or any  
2 interest therein unless otherwise provided by the Oklahoma Pharmacy  
3 Act; provided, all contracts for real property shall be subject to  
4 the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

5 ~~18.~~ 19. Perform other such duties, exercise other such powers  
6 and employ such personnel as the provisions and enforcement of the  
7 Oklahoma Pharmacy Act may require; and

8 ~~19.~~ 20. Approve pilot projects designed to utilize new or  
9 expanded technology or processes and provide patients with better  
10 pharmacy products or provide pharmacy services in a more safe and  
11 efficient manner. Such approvals may include provisions granting  
12 exemptions to any rule adopted by the Board.

13 SECTION 2. AMENDATORY Section 12, Chapter 230, O.S.L.  
14 2015 (59 O.S. Supp. 2019, Section 353.18A), is amended to read as  
15 follows:

16 Section 353.18A. A. Supportive personnel may perform certain  
17 tasks in the practice of pharmacy if such personnel perform the  
18 tasks in compliance with rules promulgated by the State Board of  
19 Pharmacy.

20 B. 1. No person shall serve as a pharmacy technician without  
21 first procuring a permit from the Board.

22 2. An application for an initial or renewal pharmacy technician  
23 permit issued pursuant to the provisions of this subsection shall be  
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1 submitted to the Board and provide any other information deemed  
2 relevant by the Board.

3 3. An application for an initial or renewal permit shall be  
4 accompanied by a permit fee not to exceed ~~Seventy Five~~ Seventy-five  
5 Dollars (\$75.00) for each period of one (1) year. A permit issued  
6 pursuant to this subsection shall be valid for a period to be  
7 determined by the Board.

8 4. Every permitted pharmacy technician who fails to complete a  
9 renewal form and remit the required renewal fee to the Board by the  
10 fifteenth day after the expiration of the permit shall pay a late  
11 fee to be fixed by the Board.

12 5. A pharmacy technician permit shall be cancelled thirty (30)  
13 days after expiration.

14 6. A person may obtain reinstatement of a cancelled pharmacy  
15 technician permit by making application, paying a reinstatement fee,  
16 and satisfactorily completing other requirements set by the Board.

17 C. A pharmacy licensed exclusively as a hospital pharmacy that  
18 does not conduct retail business shall maintain a pharmacy  
19 technician-to-pharmacist ratio of not more than four pharmacy  
20 technicians to one supervising pharmacist.

21 D. A licensed pharmacy that conducts significant compounding  
22 may utilize up to two pharmacy technicians specifically trained in  
23 the art of pharmacy compounding who shall not be counted for the  
24 purposes of the pharmacy technician-to-pharmacist ratio of two

1 pharmacy technicians to one supervising pharmacist as established by  
2 Board rule. Every pharmacy technician shall be supervised at all  
3 times by a licensed pharmacist. The additional pharmacy technician  
4 or technicians may only perform tasks related to compounding and  
5 shall have completed not less than fifteen (15) hours of training as  
6 a compounding technician. As used in this subsection, "significant  
7 compounding" means activity which equals at least ten percent (10%)  
8 of net profit of the pharmacy.

9 SECTION 3. This act shall become effective November 1, 2020.

10 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
11 February 24, 2020 - DO PASS AS AMENDED  
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