

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 227

By: Standridge

AS INTRODUCED

An Act relating to the practice of pharmacy; amending 59 O.S. 2021, Section 353.24, which relates to unlawful acts; prohibiting certain acts by wholesale distributor except under certain conditions; updating statutory language; and providing an effective date.

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 Board  
15 or such representatives thereof from entering and inspecting any and  
16 all places, including premises, vehicles, equipment, contents, and  
17 records, where drugs, medicine, chemicals or poisons are stored,  
18 sold, vended, given away, compounded, dispensed, repackaged,  
19 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.

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

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

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

23           4. No pharmacist being requested to sell, furnish or compound  
24 any drug, medicine, chemical or other pharmaceutical preparation, by

1 prescription or otherwise, shall substitute or cause to be  
2 substituted for it, without authority of the prescriber or  
3 purchaser, any like drug, medicine, chemical or pharmaceutical  
4 preparation.

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

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

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

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

16 D. Unless the pharmacy is in violation of applicable state or  
17 federal laws or is in violation of terms of the contract with the  
18 wholesale distributor including but not limited to financial terms,  
19 or unless the drug is under a method of distribution or allocation  
20 by the wholesale distributor or manufacturer or is under a supply  
21 constraint, it shall be unlawful for a wholesale distributor to:

22 1. Prevent a licensed pharmacy under contract with the  
23 wholesale distributor from purchasing drugs that the wholesale  
24 distributor sells; or

1        2. Restrict the amount of a particular drug to a licensed  
2 pharmacy under contract with the wholesale distributor.

3        SECTION 2. This act shall become effective November 1, 2023.  
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