

# An Act

ENROLLED HOUSE  
BILL NO. 2039

By: Wallace of the House

and

Standridge of the Senate

An Act relating to pharmacies; amending 59 O.S. 2011, Section 353.24, as last amended by Section 5, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2016, Section 353.24), which relates to the Oklahoma Pharmacy Act; clarifying terms; amending Section 6, Chapter 154, O.S.L. 2014 (63 O.S. Supp. 2016, Section 2-312.2), which relates to the sale or dispensation of naloxone; authorizing pharmacist to prescribe and dispense naloxone; providing that no dispensing protocol shall be required; authorizing pharmacists to exercise professional judgment in dispensing refill medications in certain circumstances; excluding certain medications; providing quantity limitations; providing for codification; and providing an effective date.

SUBJECT: Pharmacists

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 353.24, as last amended by Section 5, Chapter 285, O.S.L. 2016 (59 O.S. Supp. 2016, 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;

3. Sell, offer for sale, barter or give away any drugs damaged by fire, water, or other causes without first obtaining the written approval of the Board or the State Department of Health;

4. No person, firm or business establishment shall offer to the public, in any manner, their services as a "pick-up station" or intermediary for the purpose of having prescriptions filled or delivered, whether for profit or gratuitously. Nor may the owner of any pharmacy or drug store authorize any person, firm or business establishment to act for them in this manner with these exceptions:

- a. patient-specific filled prescriptions may be delivered or shipped to a prescriber's clinic for pick-up by those patients ~~who~~ whom the prescriber has individually determined and documented do not have a permanent or secure mailing address,
- b. patient-specific filled prescriptions for drugs which require special handling written by a prescriber may be delivered or shipped to the prescriber's clinic for administration or pick-up at the prescriber's office,
- c. patient-specific filled prescriptions, including sterile compounded drugs, may be delivered or shipped to a prescriber's clinic where they shall be administered,
- d. patient-specific filled prescriptions for patients under Medicare and/or Medicaid for End Stage Renal Disease (ESRD) may be delivered or shipped to a prescriber's clinic for administration or final delivery to the patient, or
- e. patient-specific filled prescriptions for radiopharmaceuticals may be delivered or shipped to a prescriber's clinic for administration or pick-up.

However, nothing in this paragraph shall prevent a pharmacist or an employee of the pharmacy from personally receiving a prescription or delivering a legally filled prescription to a residence, office or place of employment of the patient for whom the prescription was written. Provided further, the provisions of this paragraph shall not apply to any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and ~~Substances~~ Substance Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of this title, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence. Nothing in this paragraph shall prevent veterinary prescription drugs from being shipped directly from an Oklahoma licensed wholesaler or distributor registered with the Oklahoma Board of Veterinary Medical Examiners to a client; provided, such drugs may be dispensed only on prescription of a licensed veterinarian and only when an existing veterinary-client-patient relationship exists;

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

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

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

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

9. Fail to establish and maintain effective controls against the diversion of drugs for any other purpose than legitimate

medical, scientific or industrial uses as provided by state, federal and local law;

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

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

- a. A first violation of this section shall constitute a misdemeanor and upon conviction shall be punishable by imprisonment in the county jail for a term not more than one (1) year and a fine in an amount not more than One Thousand Dollars (\$1,000.00).
- b. A second violation of this section shall constitute a felony and upon conviction shall be punishable by imprisonment in the Department of Corrections for a term not exceeding five (5) years and a fine in an amount not more than Two Thousand Dollars (\$2,000.00);

12. Violate a Board order or agreed order;

13. Compromise the security of licensure examination materials;  
or

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

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

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

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

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

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

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

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

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

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

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

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

A. 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.

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

Passed the House of Representatives the 4th day of May, 2017.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 18th day of April, 2017.

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Presiding Officer of the Senate

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: \_\_\_\_\_