

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3733

By: Lowe (Jason)

AS INTRODUCED

An Act relating to pharmacies; amending 59 O.S. 2021, Section 353.24, which relates to unlawful acts in the Oklahoma Pharmacy Act; prohibiting oral disclosure of medical information to third-parties; 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  
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- 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 (IHS) or  
8 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  
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1 being shipped directly from an Oklahoma licensed wholesaler or  
2 distributor registered with the Oklahoma Board of Veterinary Medical  
3 Examiners to a client; provided, such drugs may be dispensed only on  
4 prescription of a licensed veterinarian and only when an existing  
5 veterinary-client-patient relationship exists. Nothing in this  
6 paragraph shall prevent dialysate and peritoneal dialysis devices  
7 from being shipped directly from an Oklahoma licensed manufacturer,  
8 wholesaler or distributor to an ESRD patient or patient's designee,  
9 consistent with subsection F of Section 353.18 of this title;

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

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

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

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

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

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

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

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

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

4       12. Violate a Board order or agreed order;

5       13. Compromise the security of licensure examination materials;

6 ~~or~~

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

9       15. Disclose medical information, orally, to a customer other  
10 than the patient prescribed the medication.

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  
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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 SECTION 2. This act shall become effective November 1, 2024.

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