

Author: Wilson

STATE OF OKLAHOMA

1 1st Session of the 53rd Legislature (2011)

2 SENATE BILL 39 By: Wilson

3 AS INTRODUCED

4 An Act relating to the dispensation of contraceptive
5 drugs; requiring pharmacies to dispense certain drugs
6 and devices in certain manner; clarifying right of
7 pharmacy to refuse to dispense a drug or device in
8 certain circumstances; requiring pharmacies to
9 provide options in certain circumstances; directing
10 pharmacies to deliver certain services in specified
11 manner; requiring pharmacies to display certain
12 notice; providing text of certain notice; requiring
13 inclusion of certain information; defining term;
14 permitting certain person to file a complaint;
15 directing the Oklahoma State Board of Pharmacy to
16 make certain investigation and determination;
17 authorizing the Board to impose sanctions in certain
18 circumstances; permitting certain persons to commence
19 civil action in specified circumstance; permitting
20 the Oklahoma Attorney General to commence civil
21 action in certain circumstance; providing for
22 codification; and providing an effective date.

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

24 SECTION 1. NEW LAW A new section of law to be

1 codified in the Oklahoma Statutes as Section 369.1 of Title 59,
2 unless there is created a duplication in numbering, reads as
3 follows:

4 A. Upon receipt of a valid and lawful prescription, a
5 licensed pharmacy shall dispense any prescription contraceptive
6 drug or device in stock without delay, consistent with the normal
7 time frame for filling any other prescription.

8 B. Nothing in this section shall prohibit a licensed
9 pharmacy from refusing to dispense a prescription contraceptive
10 drug or device in accordance with standard pharmacy practice if:

11 1. There is a valid medical concern that such drug or
12 device will cause problems due to therapeutic duplications, drug-
13 disease contraindications, drug interactions, including serious
14 interactions with prescription or over-the-counter medications,
15 incorrect dosage or duration of drug treatment, drug-allergy
16 interactions, drug abuse, or drug misuse; or

17 2. The customer is unable to pay for the drug or device.

18 C. When a customer requests a prescription contraceptive
19 drug or device not in stock, the pharmacy shall offer the customer
20 the following options and perform the customer's chosen option in
21 a timely fashion:

22 1. The pharmacy will obtain the drug or device under
23 standard procedures for expedited ordering of any prescription
24 drug or device not in stock and promptly notify the customer when
25 the pharmacy receives the drug or device; or

26 2. The pharmacy will locate a pharmacy of the customer's
27 choice or the nearest pharmacy that has the drug or device in

1 stock and transfer the customer's prescription to that pharmacy
2 under standard procedures for transferring prescriptions.

3 D. Every licensed pharmacy shall ensure that it does not
4 intimidate, threaten, or harass any person requesting a
5 contraceptive drug or device in the delivery of services pursuant
6 to this section.

7 SECTION 2. NEW LAW A new section of law to be
8 codified in the Oklahoma Statutes as Section 369.2 of Title 59,
9 unless there is created a duplication in numbering, reads as
10 follows:

11 A. A licensed pharmacy shall fulfill all lawful requests
12 for contraceptive drugs approved for over-the-counter use in a
13 timely fashion.

14 B. When a customer lawfully requests contraceptive drugs
15 approved for over-the-counter use and that drug is not in stock,
16 the pharmacy shall offer the customer the following options and
17 perform the customer's chosen option in a timely fashion:

18 1. The pharmacy will obtain the contraceptive drug under
19 the pharmacy's standard procedures for expedited ordering of any
20 over-the-counter drug not in stock and notify the customer when
21 the pharmacy receives the contraceptive drug or device; or

22 2. The pharmacy will locate a pharmacy of the customer's
23 choice or the nearest pharmacy that has the contraceptive drug in
24 stock and refer the customer to that pharmacy.

25 C. Every licensed pharmacy shall ensure that it does not
26 intimidate, threaten, or harass its customers in the delivery of
27 services pursuant to this section.

1 SECTION 3. NEW LAW A new section of law to be
2 codified in the Oklahoma Statutes as Section 369.3 of Title 59,
3 unless there is created a duplication in numbering, reads as
4 follows:

5 Every licensed pharmacy shall conspicuously display the
6 following notice on 8.5 inch by 11 inch paper in an area at which
7 the pharmacy receives prescriptions:

8 "IF YOU USE PRESCRIPTION CONTRACEPTIVE DRUGS OR DEVICES,
9 KNOW YOUR RIGHTS

10 If this pharmacy dispenses prescription contraceptive drugs
11 or devices, then you have the following rights under Oklahoma law:

12 Upon receipt of a valid or lawful prescription, this
13 pharmacy must dispense your prescription contraceptive drug or
14 device without delay and consistent with the normal time frame for
15 filling any other prescription.

16 When your prescription contraceptive drug or device is out
17 of stock, the pharmacy, in a timely fashion, must:

- 18 1. Order your drug or device and notify you when the
19 pharmacy receives the drug or device, or
20 2. Transfer your prescription to a pharmacy of your choice
21 or to the nearest pharmacy.

22 You may instruct the pharmacy to return the prescription
23 order to you at any time prior to dispensing.

24 A pharmacy is not required to dispense a prescription
25 contraceptive drug or device if there is a valid concern that such
26 drug or device will cause problems due to therapeutic

27 duplications, drug-disease contraindications, drug interactions,

4

1 including serious interactions with prescription or over-the-
2 counter medications, incorrect dosage or duration of the drug
3 treatment, drug-allergy interactions, drug abuse or misuse, or if
4 the customer is unable to pay for the drug or device.

5 IF YOU USE CONTRACEPTIVE DRUGS APPROVED FOR OVER-THE-COUNTER
6 USE, KNOW YOUR RIGHTS

7 The pharmacy must dispense contraceptive drugs approved for
8 over-the-counter use in a timely manner.

9 When contraceptive drugs approved for over-the-counter use
10 are out of stock, the pharmacy, in a timely fashion, must:

11 1. Order the drug and notify you when the pharmacy receives
12 the drug, or

13 2. Locate and refer you to a pharmacy of your choice or the
14 nearest pharmacy which has the drug in stock.

15 You are entitled to request multiple packages of
16 contraceptive drugs approved for over-the-counter use.

17 IF YOU BELIEVE YOUR RIGHTS HAVE BEEN VIOLATED, CONTACT THE
18 OKLAHOMA STATE BOARD OF PHARMACY"

19 1. The notice described in this section shall also include
20 a current phone number and/or website by which a person may
21 inquire about rights or file a complaint.

22 2. For the purposes of this act, "conspicuously" means so
23 displayed or presented that a reasonable person ought to have
24 noticed it. Whether a notice is conspicuous or not is a decision
25 for the court.

26 SECTION 4. NEW LAW A new section of law to be

27 codified in the Oklahoma Statutes as Section 369.4 of Title 59,

1 unless there is created a duplication in numbering, reads as
2 follows:

3 A. Any person who believes that a violation of this act has
4 occurred may file a complaint with the Oklahoma State Board of
5 Pharmacy. Within thirty (30) days of receiving a complaint, the
6 Board shall investigate the complaint and determine whether a
7 violation has occurred. If the Board determines that a violation
8 has occurred, the Board may impose administrative fines or deny,
9 suspend, revoke, or refuse to renew licensure of the pharmacy.

10 B. Any person who has been injured by a violation of this
11 act may commence a civil action for compensatory and punitive
12 damages, as well as the costs of suit and reasonable fees for
13 attorneys and expert witnesses. With respect to compensatory
14 damages, the plaintiff may elect, at any time prior to the
15 rendering of final judgment, to recover, in lieu of actual
16 damages, an award of statutory damages in the amount of Five
17 Thousand Dollars (\$5,000.00).

18 C. If the Oklahoma Attorney General has reasonable cause to
19 believe that any person or group of persons is being, has been, or
20 may be injured by conduct constituting a violation of this act,
21 the Oklahoma Attorney General may commence a civil action in the
22 name of the state as *parens patriae* on behalf of natural persons
23 residing in the state. In such an action, the court may award
24 appropriate relief, including compensatory damages and civil
25 penalties.

26 SECTION 5. This act shall become effective November 1,
27 2011.

6

1 53-1-80 JM 12/14/2010 11:02:02 AM

2 Req. No. *Req. No.*\Page 1

3 Req. No. 80Page 1