

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 989

By: Robinson

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations and public health; amending 59 O.S. 1991, Sections 353.1, as amended by Section 2, Chapter 199, O.S.L. 1993, 355, 567.2, 567.3a, 567.7 and 567.8 (59 O.S. Supp. 1993, Section 353.1), which relate to the Oklahoma Pharmacy Act and the Oklahoma Nursing Practice Act and 63 O.S. 1991, Section 2-312, which relates to persons authorized to prescribe, administer and dispense controlled dangerous substances; conforming language; modifying and clarifying certain terms; modifying definitions; authorizing certain advanced practice registered nurses to diagnose, prescribe, dispense and administer certain medicines, devices and treatments within scope of practice; prohibiting certain titles and abbreviations; expanding certain conditions and criteria; stating requirements for certain rules; providing for fees; including advance practice nurse in list of persons authorized to prescribe, administer and dispense controlled dangerous substances; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 353.1, as amended by Section 2, Chapter 199, O.S.L. 1993 (59 O.S. Supp. 1993, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act:

1. "Pharmacy" means a place regularly licensed by the Oklahoma State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed;
2. "Pharmacist" means a person registered by the Oklahoma State Board of Pharmacy to engage in the practice of pharmacy;
3. "Drugs" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the cure,

diagnosis, mitigation, treatment or prevention of disease in humans and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human;

4. "Medicine" means any drug or combination of drugs which has the property of curing, preventing, treating, diagnosing or mitigating diseases, or which is used for that purpose;

5. "Poison" means any substance which when introduced into the system, either directly or by absorption, produces violent, morbid or fatal changes, or which destroys living tissue with which such substance comes into contact;

6. "Chemical" means any medicinal substance, whether simple or compound or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin;

7. "Prescription" means and includes any order for drug or medical supplies written or signed or transmitted by word of mouth, telephone or other means of communication by a legally competent practitioner of medicine, dentistry, osteopathy, optometry certified by the Board of Examiners in Optometry, podiatry, ~~or~~ veterinary medicine, or advanced practice nurses recognized by the Board of Nursing, licensed by law to prescribe such drugs and medical supplies intended to be filled, compounded, or dispensed by a pharmacist;

8. "Filled prescription" means a packaged prescription medication to which a label has been affixed, which shall contain such information as is required by the Oklahoma Pharmacy Act;

9. "Nonprescription drugs" means medicines or drugs which are sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government. Such items shall also include medical and dental supplies, and bottled or nonbulk chemicals which are sold or offered for sale to the general public, if such articles or preparations meet the requirements of the Federal Food, Drug and Cosmetic Act;

10. "Hospital" means any institution licensed by this state for the care and treatment of patients;

11. "Person" means every individual, copartnership, corporation or association, unless the context otherwise requires;

12. "Board" or "State Board" means the Oklahoma State Board of Pharmacy;

13. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient;

14. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver, or supply;

15. "Wholesaler" or "Distributor" means a person engaged in the business of distributing dangerous drugs or medicines at wholesale to pharmacies, hospitals, practitioners, government agencies, or other lawful drug outlets permitted to sell or use drugs or medicines;

16. "Dangerous drug", "legend drug" or "prescription drug" means a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) "Caution: Federal law prohibits dispensing without prescription", or (ii) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian", or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only;

17. "Manufacturer" means a person engaged in the manufacturing of drugs;

18. "Practice of pharmacy" means:

- a. the interpretation and evaluation of prescription orders,
- b. the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices,
- c. the participation in drug selection and drug utilization reviews,

- d. the proper and safe storage of drugs and devices and the maintenance of proper records thereof,
- e. the responsibility for advising by counseling and providing information, where professionally necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices,
- f. the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy, and
- g. the provision of those acts or services that are necessary to provide pharmaceutical care;

19. "Drug outlet" means all pharmacies, wholesalers, manufacturers, or wherever dangerous drugs are stored, and facilities which are engaged in dispensing, delivery or distribution of dangerous drugs;

20. "Manufacturing" means the production, preparation, propagation, compounding, conversion, or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. The term "manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners or other persons;

21. "Assistant pharmacist" means any person presently licensed as an assistant pharmacist in the State of Oklahoma by the Board pursuant to Section 353.10 of this title and for the purposes of this act shall be considered the same as a pharmacist, except where otherwise specified;

22. "Packager" means any person, firm, or corporation, except a pharmacy, who transfers dangerous drugs including but not limited to compressed medical gases from one container to another of any type;

23. "Continuing professional education" means professional, pharmaceutical education in the general areas of the socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the diseased state;

24. "Accredited program" means those seminars, classes, meetings, work projects and other educational courses approved by the Board for purposes of continuing professional education; and

25. "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or device:

- a. as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or
- b. for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing.

Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 355, is amended to read as follows:

Section 355. As used in this act:

1. "Dangerous drugs" means any drug intended for use by man which, because of its toxicity or other potentiality for harmful effects, or the method of its use, or the collateral measures necessary for its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drugs. This shall include all drugs upon which the manufacturer or distributor has, in compliance with federal law and regulations, placed the following: "Caution - Federal Law prohibits dispensing without prescription";

2. "Licensed practitioner" means a physician, dentist, podiatrist, osteopathic physician, veterinarian, or optometrist licensed to practice and authorized to prescribe medication within the scope of his or her practice or advanced practice nurses

recognized by the Board of Nursing to prescribe, distribute or administer medicines, devices, or treatments within their scope of practice; and

3. "Professional samples" means complimentary drugs packaged in accordance with federal and state statutes and regulations and provided to a licensed practitioner free of charge by manufacturers or distributors and distributed free of charge in such package by the licensed practitioner to his or her patients.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 567.2, is amended to read as follows:

Section 567.2 The purpose of ~~this act~~ the Oklahoma Nursing Practice Act is to safeguard the public health and welfare by requiring any person who practices or offers to practice registered nursing or practical nursing in this state to be a registered nurse or a licensed practical nurse, and to submit sufficient evidence that he or she is qualified so to practice and shall be licensed as hereinafter provided. It shall be unlawful for any person to practice or offer to practice registered nursing, practical nursing or to practice or offer to practice as an advanced ~~practitioner~~ practice nurse, or use any title, abbreviation, sign or device to indicate that he or she is a licensed registered nurse, or is a licensed practical nurse or an advanced ~~practitioner~~ practice nurse unless he or she has been duly licensed and registered and recognized as meeting the qualifications as provided for in this act.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 567.3a, is amended to read as follows:

Section 567.3a As used in ~~this act~~ the Oklahoma Nursing Practice Act:

1. "Board" means the Oklahoma Board of Nursing;

2. "The practice of nursing" means the performance of services provided for purposes of nursing diagnosis and treatment of human responses to actual or potential health problems consistent with educational preparation. Knowledge and skill are the basis for assessment, analysis, planning, intervention, and evaluation used in the promotion and maintenance of health and

nursing management of illness, injury, infirmity, restoration or optimal function, or death with dignity. Practice is based on understanding the human condition across lifespan and understanding the relationship of the individual within the environment. This practice includes execution of the medical regime including the administration of medications and treatments prescribed by any person authorized by state law to so prescribe;

3. "Registered nursing" means the practice of the full scope of nursing which includes, but is not limited to:

- a. assessing the health status of individuals, families and groups,
- b. analyzing assessment data to determine nursing care needs,
- c. establishing goals to meet identified health care needs,
- d. planning a strategy of care,
- e. establishing priorities of nursing intervention to implement the strategy of care,
- f. implementing the strategy of care,
- g. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with this act,
- h. providing safe and effective nursing care rendered directly or indirectly,
- i. evaluating responses to interventions,
- j. teaching the principles and practice of nursing,
- k. managing and supervising the practice of nursing,
- l. collaborating with other health professionals in the management of health care, and
- m. performing additional nursing functions in accordance with knowledge and skills acquired beyond basic nursing preparation;

4. "Licensed practical nursing" means the practice of nursing under the supervision or direction of a registered nurse, licensed physician or dentist. This directed scope of nursing practice includes, but is not limited to:

- a. contributing to the assessment of the health status of individuals and groups,
- b. participating in the development and modification of the plan of care,
- c. implementing the appropriate aspects of the plan of care,
- d. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with this act,
- e. providing safe and effective nursing care rendered directly or indirectly,
- f. participating in the evaluation of responses to interventions,
- g. teaching basic nursing skills and related principles, and
- h. performing additional nursing procedures in accordance with knowledge and skills acquired through education beyond nursing preparation;

5. "Advanced ~~practitioner~~ practice nurse" means a licensed registered nurse who:

- a. has successfully completed a formal program of study approved by the Board which is designed to prepare registered nurses to perform in an expanded role in the delivery of health care,
- b. is nationally certified by an appropriate certifying body, recognized by the Board, and
- c. has received a certificate of recognition from the Board.

The term advanced ~~practitioner~~ practice nurse shall include advanced registered nurse practitioners, clinical nurse specialists, nurse midwives and certified registered nurse anesthetists-;

6. "Advanced registered nurse practitioner" means a licensed registered nurse who has met the requirements of paragraph 5 of this section. The advanced registered nurse practitioner performs in an expanded role in the delivery of health care that is:

- a. consistent with advanced educational preparation as a nurse practitioner in an area of specialty,
- b. functions within the advanced registered nurse practitioner scope of practice denoted for the area of specialization, and
- c. is in accord with the standards for advanced nurse practitioners as identified by the certifying body and approved by the Board.

An advanced registered nurse practitioner in accordance with their scope of practice shall be eligible to obtain recognition as authorized by the Board to diagnose, prescribe, distribute, and administer medicines, devices, or treatments as defined by the rules promulgated by the Board. This authorization shall not include dispensing drugs, but shall not preclude the dispensing of professional samples to patients.

The advanced registered nurse practitioner accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by scope of practice/role definition statements for their specialty area.

Any person who is recognized by the Board as an advanced registered nurse practitioner and wishes to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "Advanced Registered Nurse Practitioner" and to the abbreviation "ARNP". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner;

7. "Clinical nurse specialist" means a licensed registered nurse who holds:

- a. a master's degree in nursing with clinical specialization preparation to function in an expanded role,
- b. specialty certification from a national certifying organization recognized by the Board,
- c. a certificate of recognition from the Board, and

- d. any nurse holding a specialty certification as a clinical nurse specialist valid on January 1, 1994, granted by a national certifying organization recognized by the Board, shall be deemed to be a clinical nurse specialist under the provisions of this act.

In the expanded role, the clinical nurse specialist performs at an advanced practice level which shall include but not be limited to:

- a. practicing as an expert clinician in the provision of direct nursing care to a selected population of patients or clients in any setting, including private practice,
- b. managing the care of patients or clients with complex nursing problems, ~~and~~
- c. enhancing patient or client care by integrating the competencies of clinical practice, education, consultation, and research, and
- d. referring patients or clients to other services.

A clinical nurse specialist in accordance with their scope of practice shall be eligible to obtain recognition as authorized by the Board to diagnose, prescribe, distribute, and administer medicines, devices, or treatments as defined by the rules promulgated by the Board in accordance with their scope of practice. This authorization shall not include dispensing drugs, but shall not preclude the dispensing of professional samples to patients.

The clinical nurse specialist accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by scope of practice/role definition statements for their specialty area.

Any person who is recognized by the Board as a clinical nurse specialist shall have the right to use the title "Clinical Nurse Specialist" and abbreviation "CNS". No other person shall assume such title or use such abbreviation or any other words, letters,

signs, or figures to indicate that the person using the same is a clinical nurse specialist;

8. "Nurse-midwife" means a qualified registered nurse who has received a certificate of recognition from the Oklahoma Board of Nursing who possesses evidence of certification according to the requirements of the American College of Nurse-Midwives, and has the right to use the title Certified Nurse-Midwife and the abbreviation "CNM". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a certified nurse-midwife.

A certified nurse-midwife in accordance with their scope of practice shall be eligible to obtain recognition as authorized by the Board to diagnose, prescribe, distribute, and administer medicines, devices, or treatments as defined by the rules promulgated by the Board. This authorization shall not include the dispensing of drugs, but shall not preclude the dispensing of professional samples to patients.

The certified nurse-midwife accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by scope of practice/role definition statements for their specialty area;

9. "Nurse-midwifery practice" means providing management of care of normal newborns and women, antepartally, intrapartally, postpartally and gynecologically, occurring within a health care system which provides for medical consultation, medical management or referral, and is in accord with the standards for nurse-midwifery practice as defined by the American College of Nurse-Midwives; ~~and~~

10. "Certified registered nurse anesthetist" means any person who holds a license to practice as a registered nurse in this state and who:

- a. has successfully completed the educational program of a school of nurse anesthetists accredited by the American Association of Nurse Anesthetists,

- b. is certified by the American Association of Nurse Anesthetists as a Certified Registered Nurse Anesthetist within one (1) year following completion of such educational program, and continues to maintain such certification current,
- c. administers anesthesia under the supervision of a medical doctor, an osteopathic physician or a dentist licensed in this state and under conditions in which timely onsite consultation by such doctor, osteopath or dentist is available, and
- d. has received a certificate of recognition from the Board.

Any person who is recognized by the Board as a certified registered nurse anesthetist shall have the right to use both the title "Certified Registered Nurse Anesthetist" and the abbreviation "C.R.N.A." "CRNA". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a certified registered nurse anesthetist.

A certified registered nurse anesthetist in accordance with their scope of practice shall be eligible to obtain recognition as authorized by the Board to diagnose, prescribe, distribute, and administer medicines, devices, or treatments as defined by the rules promulgated by the Board. This authorization shall not include dispensing drugs, but shall not preclude the dispensing of professional samples to patients.

The certified registered nurse anesthetist accepts responsibility, accountability, and obligation to practice in accordance with usual and customary advanced practice nursing standards and functions as defined by scope of practice/role definition statements for their area of specialty.

This paragraph shall not prohibit the administration of local or topical anesthetics as now permitted by law. Provided further, nothing in this paragraph shall limit the authority of the Board of Governors of Registered Dentists to establish the

qualifications for dentists who direct the administration of anesthesia.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.4a of Title 59, unless there is created a duplication in numbering, reads as follows:

The rules regarding prescriptive authority recognition promulgated by the Oklahoma Board of Nursing pursuant to paragraphs 6 through 10 of Section 567.3a of Title 59 of the Oklahoma Statutes shall:

1. Define the mechanism for the advanced practice nurse to demonstrate appropriate referral, consultation, or collaboration between the advanced practice nurse and licensed physicians or other appropriate members of the healing arts;
2. Define minimal requirements for initial and renewal application for prescriptive authority;
3. Define the method for communicating authority to prescribe or termination of same to the Board of Pharmacy and all recognized pharmacists;
4. Define terminology used in such rules;
5. Define the parameters for the prescribing practices of the advanced practice nurse;
6. Define the methods for termination of prescriptive authority for advanced practice nurses; and
7. Develop and approve an exclusionary formulary that shall list drugs not available to be prescribed by advanced practice nurses. Special instructions or restrictions may be identified for certain categories of controlled dangerous substances.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 567.7, is amended to read as follows:

Section 567.7 A. Licenses issued under this act shall be renewed every two (2) years according to a schedule published by the Board.

B. Licensees who apply for reinstatement of their license must meet such requirements as the Oklahoma Board of Nursing may prescribe in its rules and regulations.

C. Any licensee who desires to retire temporarily from the practice of nursing in this state shall send a written notice to that effect to the Board. It shall be the duty of the Board to place the name of such licensee upon the nonpracticing list. During the period of temporary retirement the licensee shall not practice nursing nor be subject to the payment of any renewal fees. When the licensees desire to resume practice, they must meet such requirements as the Board may prescribe in its rules ~~and regulations~~.

D. Initial applications to practice as a registered nurse shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs not to exceed One Hundred Twenty-five Dollars (\$125.00). Initial applications for a license to practice as a licensed practical nurse shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs not to exceed Eighty-five Dollars (\$85.00).

E. The Board is authorized to fix the biennial renewal license fee for the registered nurse and licensed practical nurse which shall not exceed Sixty Dollars (\$60.00).

F. The Board shall by rules or regulations establish the fees for reexamination of any applicant who fails an examination but such fees shall not exceed the amounts specified herein for licensure.

G. Initial applications and renewal applications for recognition for advanced practice shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs of One Hundred Dollars (\$100.00) for initial application and Sixty Dollars (\$60.00) for biennial renewal.

H. Initial application and renewal applications for recognition for prescriptive authority for advanced practice nurses shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs of One Hundred Dollars (\$100.00) for initial application and Sixty Dollars (\$60.00) for biennial renewal.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 567.8, is amended to read as follows:

Section 567.8 A. The Oklahoma Board of Nursing shall have power to deny, revoke or suspend any license to practice registered nursing, or licensed practical nursing, or recognition for practice as an advanced ~~practitioner~~ practice nurse or to otherwise discipline a licensee upon proof that the person, (1) is guilty of fraud or deceit in procuring or attempting to procure a license to practice registered nursing, or licensed practical nursing or advanced practice nursing, or (2) is guilty of a felony or of any offense that shall constitute a felony under the laws of this state, or (3) is unfit or incompetent by reason of negligence, or (4) is habitually intemperate or addicted to habit-forming drugs, or (5) exhibits actual or potential inability to practice nursing with sufficient knowledge or reasonable skills and safety due to impairment caused by illness, use of alcohol, drugs, chemicals or any other substance, or as a result of any mental or physical condition, or (6) has been adjudicated as mentally incompetent, mentally ill, chemically dependent or dangerous to the public or has been committed by a court of competent jurisdiction, within or without this state, or (7) is guilty of unprofessional conduct as defined in the rules and regulations, or (8) is guilty of any deliberate act that jeopardizes a patient's life, health or safety as defined in the rules and regulations, or (9) violated a rule adopted by the Board, an order of the Board, or a state or federal law relating to the practice of registered, practical or advanced practice nursing, or a state or federal narcotics or controlled dangerous substance law, or (10) has had disciplinary actions taken against the individual's registered or practical nursing license, or any health-related license, in this or any state, territory or country.

B. Any person who supplies the Board information in good faith shall not be liable in any way for damages with respect to giving such information.

C. The Board may cause to be investigated all reported violations of the Oklahoma Nursing Practice Act.

D. All individual proceedings before the Board shall be conducted in accordance with the Oklahoma Administrative Procedures Act.

E. At a hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his or her behalf, to cross-examine witnesses and to have subpoenas issued by the Board. If the accused is found guilty of the charges the Board may refuse to issue a renewal of license to the applicant, revoke or suspend a license, or otherwise discipline a licensee.

F. Persons who have their license revoked may not apply for reinstatement during the time period set by the Board, which shall not exceed five (5) years. The Board on its own motion may at any time reconsider its action.

G. Any person whose license is revoked or who applies for renewal of registration and who is rejected by the Board, shall have the right to appeal from such action to the district court of the county of his or her residence.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 2-312, is amended to read as follows:

Section 2-312. A. A physician, podiatrist or a dentist who has complied with the registration requirements of Section 2-101 et seq. of this title in good faith and in the course of his professional practice only may prescribe and administer controlled dangerous substances, or he may cause the same to be administered by medical or paramedical personnel acting under his direction and supervision, and only may dispense controlled dangerous substances pursuant to the provisions of Sections ~~4 through 6~~ 355, 355.1 and 355.2 of ~~this act~~ Title 59 of the Oklahoma Statutes.

B. A veterinarian who has complied with the registration requirements of Section 2-101 et seq. of this title in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled dangerous substances and he may cause them to be

administered by an assistant or orderly under his direction and supervision.

C. An advanced practice nurse who is recognized by the Oklahoma Board of Nursing to diagnose, prescribe, distribute, and administer medicines, devices, and treatments and has complied with the registration requirements of Section 2-101 et seq. of this title in good faith and in the course of professional practice only may prescribe and administer controlled dangerous substances, or may cause the same to be administered by appropriate nursing personnel acting under the direction and supervision of the advanced practice nurse.

SECTION 9. This act shall become effective September 1, 1994.

44-2-2136

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