ENROLLED HOUSE
BILL NO. 1213

By: Anthony, Benson and Boyd (Laura) of the House

and

Littlefield of the Senate

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 353, 353.1, 353.3, 353.5, 353.6, 353.7, 353.9, 353.10, 353.11, 353.12, 353.13, 353.17, 353.18, 353.20, 353.22, 353.24, 353.25, 353.26, 354, 364 and 366, which relate to the Oklahoma Pharmacy Act; providing purpose; modifying definitions; modifying Board membership and qualifications; providing for appointments, successors and terms of office; providing for powers and duties of Executive Director; authorizing travel reimbursement; clarifying language; deleting certain reports; removing obsolete language; removing certain type of courses acceptable; removing certain fees; modifying certain requirements and restrictions for assistant pharmacists; modifying procedures for licensure and renewal thereof; modifying certain display requirements; authorizing certain fees; requiring certain inspections; removing certain requirements; modifying construction of act; making certain actions unlawful; requiring certain equipment; adding to list of unlawful conduct; modifying certain powers of the Board; modifying certain procedures; authorizing use of supportive personnel; requiring certain recordings; providing for dispensing of certain compounds; providing for prescriptions and labeling; making certain actions perjury; repealing 59 O.S. 1991, Sections 353.2, 353.4, 353.8, 353.14, 353.15, 353.16, 353.19, 353.21, 353.23, 353.27, 361, 362, 363 and 365, which relate to various powers and duties of the Board of Pharmacy and certain restrictions and requirements for pharmacists; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 353, is amended to read as follows:

Section 353. A. Sections ~~353.1~~ 353 through ~~354~~ 366 of Title 59 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Pharmacy Act".

B. It is the purpose of the Oklahoma Pharmacy Act to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of

pharmacy and of the registration of drug outlets engaged in the manufacture, production, sale and distribution of dangerous drugs, medication, devices and such other materials as may be used in the diagnosis and treatment of injury, illness and disease.

C. In recognition of and consistent with the decisions of the appellate courts of this state, the practice of pharmacy is hereby declared to be a profession.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 353.1, is amended to read as follows:

Section 353.1 For the purposes of ~~Sections 353.1 et seq. of this title~~ 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 ~~prepare, compound and dispense drugs, medicines, chemicals and poisons.~~ 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 ~~man~~ humans and all substances and preparations, other than food, intended to affect the structure or any function of the body of ~~man.~~ 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. ~~a.~~ "Prescription" means and includes any order for drug or medical supplies written or signed or transmitted by word of mouth, telephone~~, telegraph,~~ or other means of communication by a legally competent practitioner of medicine, dentistry, osteopathy, optometry certified by the Board of Examiners in Optometry ~~to administer ocular pharmaceutical agents as authorized by Sections 581 and 584 of this title~~, podiatry, or veterinary medicine, licensed by law to prescribe ~~and administer~~ such drugs and medical supplies intended to be filled, compounded, or dispensed by a pharmacist~~. Such prescription received by other than written communication shall be promptly recorded in writing by the pharmacist. The record made by the pharmacist shall constitute the original prescription to be filed by the pharmacist.~~

~~b. For purposes of Sections 353.1 et seq. of this title, pharmacists may dispense ocular topical pharmaceutical agents for qualified optometrist certified by the Board of Examiners in Optometry to use such ocular topical pharmaceutical agents. Nothing in this subsection shall provide for optometrists to be authorized in any way to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes any controlled dangerous substance as defined in paragraph 8 of Section 2-101 of Title 63 of the Oklahoma Statutes. All prescriptions issued by~~

~~certified optometrists shall include the certification number of the optometrist as assigned by the Board of Examiners in Optometry. The Board of Examiners in Optometry shall provide an annual list of all certified optometrists directly to each pharmacy licensed by the Oklahoma State Board of Pharmacy. Any additions or deletions in certification shall be mailed to all pharmacies in this state within thirty (30) days of such change.~~;

~~c.~~ 8. "Filled prescription" means a packaged prescription medication to which a label has been affixed, which ~~label includes the name and address of the pharmacy of origin, date of filling, name of patient, name of prescriber, directions for administration and prescription number. When directed by the prescriber, such label shall legibly state, in addition to any other information, the trade or generic name, and the quantity and strength, not meaning ingredients, of the drug therein contained. This requirement shall not apply to compounded prescriptions or medicines and drugs supplied or delivered directly to patients for consumption on the premises while admitted to any hospital or mental institution.~~ shall contain such information as is required by the Oklahoma Pharmacy Act;

~~8. "Patent or proprietary medicines"~~ 9. "Nonprescription drugs" means ~~and includes packaged~~ medicines~~,~~ or drugs~~, medical and dental supplies, and bottled or nonbulk chemicals identified by and sold pursuant to a trademark, trade name or other trade symbol, privately owned or registered in the United States Patent Office,~~ 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.~~ 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;

~~9.~~ 10. "Hospital" means any institution licensed by this state for the care and treatment of ~~the sick and injured approved and licensed by this state.~~ patients;

~~10. Masculine words shall include the feminine and neuter, and the singular includes the plural.~~

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

12. "~~The~~ Board" or "~~The~~ 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. ~~A~~ "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 ~~drugs" shall mean~~ drug", "legend drug" or "prescription drug" means ~~and include any~~ a 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 pursuant to 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".~~ 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 ~~and includes~~ a person~~, except a pharmacy, who prepares, derives, produces, compounds, or repackages any drug.~~ 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 3. AMENDATORY 59 O.S. 1991, Section 353.3, is amended to read as follows:

Section 353.3 A. The Board of Pharmacy shall consist of ~~five (5)~~ six (6) persons ~~who have been~~, five who shall be licensed as pharmacists by this state and one who shall be a lay person.

1. The pharmacist members shall be appointed by the Governor by and with the advice and consent of the Senate and shall:

a. be registered ~~not less than five (5) years, who are members of the pharmaceutical association~~ and in good standing in the State of Oklahoma,

b. have been actively engaged in the practice of ~~retail~~ pharmacy within this state for a period of not less than five (5) years~~, who shall be appointed by the Governor, by and with the advice and consent of Senate, from a list of names elected by vote of the members of the pharmaceutical association, voting to be done by mail ballot; Provided: the provisions of this section shall not apply to present members of the Board of Pharmacy~~ immediately prior to serving on the Board.

2. The lay member shall be appointed by the Governor and shall:

a. be a resident of the State of Oklahoma for not less than five (5) years, and

b. not be a pharmacist or be related by blood or marriage within the third degree of consanguinity to a pharmacist.

B. The present members of the board shall continue to serve the remainder of their terms. Successors shall be appointed for a term of five (5) years. The lay member of the Board shall serve a term coterminous with the Governor and shall serve at the pleasure of the Governor. The terms of the members of the Board shall expire on the 30th day of June of the year designated for the expiration of the term for which appointed but shall serve until a qualified successor has been duly appointed. No person shall be appointed to serve more than two consecutive terms. Said appointments shall be made from a list of ten (10) names representative of the pharmacy profession submitted annually by the Executive Director of the Oklahoma Pharmaceutical Association after an election has been held by mail ballot.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 353.5, is amended to read as follows:

Section 353.5 A. The Board shall ~~meet~~ annually ~~in the capitol city of the state and organize by the election of~~ elect a president and vice-president ~~who~~ of the Board. The president and vice-president shall serve for a term of one (1) year and ~~who~~ shall perform the duties prescribed by the Board. The Board shall employ an ~~executive secretary~~ Executive Director who shall perform ~~the~~ such duties ~~of his office under the direction of~~ as required by the Board ~~and shall furnish information to the proper authorities concerning any violation of this act~~.

B. Each member of the Board shall receive necessary travel expenses incurred in the discharge of official duties pursuant to the State Travel Reimbursement Act.

C. The Executive Director of the Board shall receive an annual salary to be fixed by the Board. The Executive Director shall:

1. Deposit funds with the State Treasurer to be expended in the manner and for the purposes provided by law; and

2. Report to the Board each month, presenting an accurate account as to the funds of the Board and make available written and acknowledged claims for all disbursements made.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 353.6, is amended to read as follows:

Section 353.6 Meetings for the examination of applicants for registration and granting of certificates shall be held ~~not less than once nor~~ at least one time but not more than three times each year at a time and place to be fixed by the Board. At least ten (10) days' notice shall be publicly given of the time and place of each meeting at which there is an examination of candidates for registration.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 353.7, is amended to read as follows:

Section 353.7 The State Board of Pharmacy shall have the powers and duties to:

~~(a) To regulate~~ 1. Regulate the practice of pharmacy~~.~~;

~~(b) To regulate~~ 2. Regulate the sale of drugs, medicines, chemicals and poisons~~.~~;

~~(c) To regulate~~ 3. Regulate the dispensing of drugs and medicines in all places where drugs and medicines are compounded or dispensed~~.~~;

~~(d) To enter~~ 4. Enter and inspect, by its members or by its duly authorized representatives, any and all places, including premises, equipment, contents and records, where drugs, medicines, chemicals or poisons are stored, sold, vended, given away, compounded, dispensed or manufactured~~. It shall be unlawful for any persons to refuse to permit or otherwise prevent members of the Board or such representatives from entering such places and making such inspection.~~;

~~(e) To employ~~ 5. Employ the number of inspectors necessary to carry out the provisions of this act at an annual salary to be fixed by the Board, and to authorize necessary expenses. Such inspectors shall have the same powers and authority as that granted to peace officers by the laws of this state for the purpose of enforcing ~~this act~~ the Oklahoma Pharmacy Act. In addition, such inspectors shall have the authority and the duty to confiscate all drugs, medicines, chemicals or poisons found to be stored, sold, vended, given away, compounded, dispensed or manufactured contrary to the provisions of ~~this act.~~ the Oklahoma Pharmacy Act;

~~(f) To prescribe~~ 6. Prescribe minimum standards with respect to floor space and other physical characteristics of pharmacies, as may be reasonably necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the

public; and to refuse the issuance of new or renewal licenses for failure to comply with said standards~~.~~;

~~(g) To examine~~ 7. Examine and issue appropriate certificates of registration as pharmacists to all applicants whom it shall deem qualified to be such under the provisions of ~~this act.~~ the Oklahoma Pharmacy Act;

~~(h) To report annually to the Governor and to the Oklahoma Pharmaceutical Association upon the condition of pharmacy in the State of Oklahoma, which report shall furnish a record of the proceedings of the Board, as well as the names of all persons registered under this act. A copy of such report shall be delivered to the state librarian.~~

~~(i) To investigate~~ 8. Investigate complaints, hold hearings and subpoena witnesses~~.~~ and records;

~~(j) To initiate~~ 9. Initiate prosecution~~.~~;

~~(k) To reprimand~~ 10. Reprimand, place on probation any holder of a certificate, license or permit ~~or~~; suspend or revoke certificates, licenses or permits, ~~or~~ and levy fines not to exceed Five Hundred Dollars ($500.00) for each count of which any holder of a certificate, license or permit has been convicted in Board hearings ~~before the Board.~~;

~~(l) To adopt~~ 11. Adopt and establish rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy, and such rules shall be subject to amendment or repeal by the Board as the need may arise~~. Every person who practices pharmacy in this state shall be governed and controlled by the rules of professional conduct adopted by the Board, and the Board shall cause these rules to be printed as part of the application blanks for registration and renewal thereof, and each applicant shall subscribe thereto when making an application.~~;

~~(m) To perform~~ 12. Perform such other duties, exercise such other powers and employ such other personnel as the provisions and enforcement of ~~this act~~ the Oklahoma Pharmacy Act may require~~.~~; and

~~(n) To make~~ 13. Make and publish uniform rules ~~and regulations~~ such as may be necessary for carrying out and enforcing the provisions of ~~this act~~ the Oklahoma Pharmacy Act and such as in its discretion may be necessary to protect the health, safety and welfare of the public.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 353.9, is amended to read as follows:

Section 353.9 A. Registered pharmacists shall be persons regularly registered as such in the State of Oklahoma on or before the effective date of this act. All other qualified persons may become registered upon passing a satisfactory examination ~~before~~ given by the Board of Pharmacy. Before any applicant is allowed to sit for such examinations, ~~he~~ such applicant shall submit to the Board sufficient proof that the applicant:

~~(a) He is~~ 1. Is of good moral character~~.~~;

~~(b) He is~~ 2. Is a graduate of an accredited School or College of Pharmacy approved by the Board~~.~~; and

~~(c) He has~~ 3. Has attained experience in the practice of pharmacy, obtained in a place and in a manner prescribed and approved by the Board of Pharmacy.

B. All applicants shall make application in the form and manner prescribed by the Board, and deposit with the ~~executive secretary~~ Executive Director of the Board a fee set by the Board not to exceed One Hundred Fifty Dollars ($150.00) plus the purchase price of the examination~~; then, on presenting himself at the time and place directed by the Board and passing a~~. Upon satisfactory passage of

an examination~~, he~~ and meeting such other requirements specified by the Board pursuant to the Oklahoma Pharmacy Act, the applicant shall be granted an appropriate certificate setting forth ~~his~~ the qualifications to practice pharmacy. Any applicant failing an examination shall not sit for an additional examination until ~~he~~ such applicant has made a new application and paid the fee provided herein.

~~It is specifically provided, however, that the~~ C. The Board of Pharmacy shall have the power to issue reciprocal certificates of registration to applicants registered in other states having like requirements, and for which they shall charge a fee of Two Hundred Dollars ($200.00).

SECTION 8. AMENDATORY 59 O.S. 1991, Section 353.10, is amended to read as follows:

Section 353.10 ~~"Assistant pharmacist" shall mean any~~ A. Any person ~~presently~~ who was licensed as an assistant pharmacist ~~in the State of Oklahoma; provided, however, that any person who prior to the effective date of House Bill No. 655 of the Twenty-eighth Oklahoma Legislature filed a proper application under then existing law to be examined as an assistant pharmacist, which application was accompanied by the proper examination fee under said law and who was otherwise qualified thereunder, will be entitled to take such an examination and, if he passes, to be licensed as an~~ before July 27, 1961, and who met the standards and requirements for licensure pursuant to the Oklahoma Pharmacy Act may practice as an assistant pharmacist.

B. Assistant pharmacists shall not ~~be permitted to conduct or~~ manage a pharmacy ~~except in towns of a population of less than five hundred (500) and a distance of more than ten (10) miles from a county seat~~.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 353.11, is amended to read as follows:

Section 353.11 A. Every registered pharmacist and assistant pharmacist who desires to continue in the profession of pharmacy in this state shall annually, after the expiration of the first year of registration, and on or before the ~~second~~ first day of July of each year, pay to the ~~executive secretary of the~~ Board ~~of Pharmacy~~ a renewal fee to be fixed by the Board ~~of Pharmacy, which~~. Such renewal fee shall not exceed Seventy-five Dollars ($75.00)~~, in return for which~~. Upon compliance with the provisions of the Oklahoma Pharmacy Act and payment of such renewal fee, a renewal certificate of registration shall be issued.

B. If any person ~~shall fail or neglect~~ fails or neglects to procure his annual registration or permit, as herein ~~specified~~ required, notice of such failure having been mailed to his post office address, the Board may, after the expiration of thirty (30) days following the issue of said notice, deprive him of his registration and all other privileges conferred by ~~this article, and, in~~ the Oklahoma Pharmacy Act. In order to regain registration, it shall be necessary for such person to make application in writing to the Board requesting reinstatement~~, the~~. The Board ~~being given the authority, in its discretion, to~~ may require such person to appear before the Board at a regular meeting.

SECTION 10. AMENDATORY 59 O.S. 1991, Section 353.12, is amended to read as follows:

Section 353.12 A. Every person upon receiving a certificate of registration ~~under this act~~ pursuant to the Oklahoma Pharmacy Act, or who has heretofore received a certificate of registration in this state, shall keep ~~the same~~ such certificate conspicuously ~~exposed~~ displayed in the pharmacy where ~~he~~ such pharmacist is actively

engaged in the practice of pharmacy ~~and his~~ or in such a location as is otherwise prescribed by the Board. The current receipt for registration shall be attached to the lower left corner of the original certificate. Every registered pharmacist or assistant pharmacist ~~within the meaning of this act~~ shall, within ten (10) days after discontinuing or changing his place of practice ~~as recorded on the books of the Board of Pharmacy~~, remove his certificate and notify the Executive ~~secretary~~ Director of the Board of his new place of practice~~, and upon~~. Upon receipt of said notification, the Executive ~~secretary~~ Director shall make the necessary change in ~~his~~ the register. ~~Any registered pharmacist or assistant pharmacist failing to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor.~~

B. Any member of the Board of Pharmacy or inspector duly authorized by said Board shall have authority to confiscate and void any certificate issued by said Board which has been displayed in any place ~~where the holder is not actively engaged at all times~~ not authorized by the Board, provided that the holder of ~~an arrested~~ the certificate shall be entitled to a hearing before the Board ~~of Pharmacy~~ and show cause why his certificate should not be canceled.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 353.13, is amended to read as follows:

Section 353.13 A. It shall be unlawful for any person, other than a registered pharmacist or assistant pharmacist, to ~~retail, compound or dispense drugs, medicines or pharmaceutical preparations or, in connection therewith, to transfer medications from one container to another or to attach a label thereto~~ certify the finished prescription, as defined by the Board, before delivery to the patient or the patient's agent or care giver.

~~Further it~~ B. It shall be unlawful for any person to institute~~, conduct~~ or manage a pharmacy ~~for the retailing, compounding or dispensing of drugs, medicines or pharmaceutical preparations~~ unless such person shall be a registered pharmacist, or shall place in charge of said pharmacy a registered pharmacist~~, except as hereinafter provided~~.

C. No registered pharmacist shall manage, supervise nor be in charge of more than one pharmacy. ~~Provided, further, that the State Board of Pharmacy shall issue a license to a registered assistant pharmacist to manage, operate, and own a store in communities of five hundred (500) population or less who are without the services of a licensed registered pharmacist, and which community is removed ten (10) miles or more from a city or town with a licensed registered pharmacist.~~

D. 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 therefor, without authority of the prescriber or purchaser, any like drug, medicine, chemical or pharmaceutical preparation.

E. No proprietor of a pharmacy, or other person, shall permit the practice of pharmacy except by a registered pharmacist or assistant pharmacist.

F. No proprietor of a pharmacy, or other person, shall subvert the authority of the pharmacist in charge of the pharmacy by impeding the management of the prescription department in compliance with federal and state pharmacy laws and regulations.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 353.16A of Title 59, unless there is created a duplication in numbering, reads as follows:

The Board may refuse to issue or renew, or may suspend, revoke or restrict the license of any pharmacist because of incapacity of a nature that prevents such pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public.

SECTION 13. AMENDATORY 59 O.S. 1991, Section 353.17, is amended to read as follows:

Section 353.17 ~~Any~~ A. No person ~~who~~ shall take, use or exhibit the title of pharmacist, registered pharmacist or assistant pharmacist, either expressly or by implication, except ~~under the authority granted by this act~~ as otherwise authorized by the Oklahoma Pharmacy Act ~~shall be guilty of a misdemeanor~~.

B. No person, firm or corporation other than one licensed under this act shall take, use or exhibit the title "Druggist", "Doctor of Pharmacy", "R.Ph.", "D.Ph.", "Pharmacy", "Drug Store", "Drug Department", "Drugs", "Drug Sundries", "Prescriptions", or any other term, sign or device or any word in similitude thereof.

SECTION 14. AMENDATORY 59 O.S. 1991, Section 353.18, is amended to read as follows:

Section 353.18 A. 1. It shall be unlawful~~: For~~ for any person~~, firm or corporation~~ to engage in selling at retail, or offering for sale, dangerous drugs, medicines, chemicals or poisons for the treatment of disease, excluding agricultural chemicals and drugs, or to accept prescriptions for same, without first procuring a license from the Board ~~of Pharmacy~~.

2. On evidence satisfactory to the Board:

~~1.~~ a. that the said place for which the license is sought will be conducted in full compliance with the law and the rules and regulations of the Board~~;~~,

~~2.~~ b. that the location, appointments and physical characteristics of said place are reasonably consistent with the maintenance of professional surroundings and constitute no known danger to the public health and safety~~;~~,

~~3.~~ c. that said place will be under the management and control of a registered pharmacist~~;~~, and

~~4.~~ d. that a registered pharmacist or assistant pharmacist will be present and on duty at all hours the pharmacy is open for business,

a license shall be issued to such person as the Board shall deem qualified.

3. Application for such license shall be in writing, shall contain the name or names of persons who shall own the pharmacy and shall be accompanied by a payment to the Board of a sum not to exceed One Hundred Fifty Dollars ($150.00) as a license fee; prior to opening for business, all applicants for an initial license or permit shall ~~receive the required inspection during the next scheduled routine inspections to be made in that geographical area and there shall be no extra fee for such initial inspection. However, applicants requesting a special nonscheduled initial inspection~~ be inspected. Applicants shall pay ~~a special~~ an inspection fee not to exceed One Hundred Dollars ($100.00); provided however, that no charge shall be made for the licensing of any Federal Veterans Hospital in the State of Oklahoma. ~~A registered pharmacist shall be on duty during regular working hours.~~ Such license shall be valid for a period of one (1) year, commencing on July 1 and ending on June 30, and ~~such license~~ shall contain the name of the licensee and the address of the place at which such business shall be conducted.

B. 1. It shall ~~further~~ be unlawful for any person to manufacture, ~~make, produce,~~ package, ~~pack~~ or ~~prepare within this state~~ wholesale any dangerous drugs except under the management and control of a registered pharmacist or such other persons as may be approved by the Board after an investigation and determination of such person's ~~qualification~~ qualifications. No person shall manufacture, ~~make, produce, pack,~~ package, or ~~prepare or sell or offer for sale at~~ wholesale ~~such articles~~ dangerous drugs offered for sale in this state without first obtaining a permit ~~to do so~~ from the Board.

2. Application for such permit shall be made in writing and shall be accompanied by a payment to the Board of a sum ~~of~~ not to exceed Three Hundred Dollars ($300.00) as a permit fee; prior to opening for business, all applicants for an initial permit shall be inspected. Applicants shall pay an inspection fee not to exceed One Hundred Dollars ($100.00).

3. Such permit shall be valid for a period of one (1) year, commencing on July 1 and ending on June 30, and such permit shall contain the name of the permittee and the address of the place at which such business shall be conducted.

~~Such permit shall be subject to such rules and regulations with respect to sanitation and equipment as the said Board may from time to time adopt and invoke for the protection of public health and safety.~~

~~Nothing in Section 353.1 et seq. of this title~~ C. The Oklahoma Pharmacy Act shall not be construed to prevent the sale of ~~patent or proprietary medicines~~ nonprescription drugs in original packages by any merchant or dealer.

~~Any person violating any portion of the provisions of Section 353.1 et seq. of this title shall be guilty of a misdemeanor.~~

SECTION 15. AMENDATORY 59 O.S. 1991, Section 353.20, is amended to read as follows:

Section 353.20 A. Every pharmacy ~~must~~ shall have the proper pharmaceutical equipment so that prescriptions can be ~~properly~~ filled, and the practice of pharmacy can be properly conducted. The ~~State~~ Board ~~of Pharmacy~~ shall prescribe the minimum ~~of such~~ professional and technical equipment and library which a pharmacy shall at all times possess. No pharmacy license shall be issued or continued ~~for the conduct of a pharmacy~~ until or unless such pharmacy has complied with the ~~provisions of this section have~~ Oklahoma Pharmacy Act ~~been complied with~~.

B. The Board may from time to time require that scales and balances be condemned, or other specific equipment changes be made. Failure to comply with such requirements within sixty (60) days shall result in revocation of license for the place of business upon which such requirement is made.

C. No license shall be issued or continued for conduct of a pharmacy unless the premises of such pharmacy shall be equipped with proper sanitary appliances and kept in a clean and orderly manner.

D. There shall be kept in every pharmacy a suitable book, file or record in which shall be preserved for a period of not less than five (5) years every prescription compounded or dispensed at said pharmacy, and said book or file of prescriptions shall at all times be open to inspection by the members of the Board or its duly authorized agents.

SECTION 16. AMENDATORY 59 O.S. 1991, Section 353.22, is amended to read as follows:

Section 353.22 A. It shall be unlawful for ~~any~~:

1. Any person to ~~retail~~ sell any poison without distinctly labeling the box, vessel or paper in which the said poison is

contained with the name of the article, the word "poison", and the name and the place of business of the seller~~. Nor shall it be lawful for any~~; or

2. Any registered pharmacist, or other person, to sell any poison without causing an entry to be made in a book kept for that purpose before delivering the same to the purchaser, stating the date of the sale, the name and address of the purchaser, the name of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser, such a book to be always open for inspection by the proper authorities and to be preserved for at least five (5) years.

B. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities or doses, upon the prescription of practitioners of medicine. ~~Any violation of the provisions of this section shall make the offender guilty of a misdemeanor.~~

SECTION 17. AMENDATORY 59 O.S. 1991, Section 353.25, is amended to read as follows:

Section 353.25 A. The violation of any provision of ~~this act~~ the Oklahoma Pharmacy Act for which no penalty is specifically provided shall be punishable as a misdemeanor.

B. Any person who shall willfully make any false representations in procuring or attempting to procure for himself, or for another, registration under this act shall be guilty of perjury.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 353.24, is amended to read as follows:

Section 353.24 It shall be unlawful for any person, firm or corporation to:

~~(a) To forge~~ 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~~.~~;

~~(b) To sell~~ 2. Sell, offer for sale, barter or give away any unused quantity of drugs obtained by prescription~~.~~, except as provided by the State Board of Pharmacy;

~~(c) To sell~~ 3. Sell, offer for sale, barter or give away any drugs damaged by fire ~~or~~, water, or other causes without first obtaining the written approval of the Board ~~of Pharmacy and~~ or the State Department of Health~~.~~;

~~(d) To enter~~ 4. Enter into any arrangement whereby prescription orders are received, or prescriptions delivered at a place other than the pharmacy in which they are compounded and dispensed. However, nothing in this ~~section~~ paragraph shall prevent a pharmacist or his employee from personally receiving a prescription or delivering a legally filled prescription at a residence, office or place of employment of the patient for whom the prescription was written~~.~~; or

~~(e) To sell~~ 5. Sell, offer for sale or barter or buy any professional samples. For purpose of this ~~section~~ paragraph, "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 for the purpose of being distributed free of charge in such package by the licensed practitioner to his patient.

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, equipment, contents, and records, where drugs, medicine, chemicals or poisons are stored, sold, vended, given away, compounded, dispensed or manufactured.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 353.26, is amended to read as follows:

Section 353.26 A. The Board of Pharmacy is specifically granted the power to ~~levy fines not to exceed Five Hundred Dollars ($500.00) for each count of which any holder of a certificate, license or permit has been convicted in hearings before the Board; to reprimand or place on probation any holder of a certificate, license or permit or revoke~~:

1. Revoke or suspend any certificate, license or permit issued pursuant to ~~Sections 353.1 et seq. of this title to any holder of such certificate, license or permit~~ the Oklahoma Pharmacy Act or reprimand or place on probation any holder of a certificate, license, or permit who:

~~(a)~~ a. violates any provision of ~~this act~~ the Oklahoma Pharmacy Act,

~~(b)~~ b. violates any of the provisions of Sections 2-101 et seq. of Title 63 of the Oklahoma Statutes or the Uniform Controlled Dangerous Substances Act,

~~(c)~~ c. has been convicted of a felony,

~~(d) now habitually uses intoxicating liquors or habit-forming drugs~~

d. engages in the practice of pharmacy while incapacitated or abuses intoxicating liquors or other chemical substances,

~~(e)~~ e. conducts himself in a manner likely to lower public esteem for the profession of pharmacy,

~~(f)~~ f. has had his license placed on probation, suspended, or revoked or has been reprimanded by another State Board of Pharmacy,

g. has been legally adjudged to be not mentally competent, or

~~(g)~~ h. exercises conduct and habits inconsistent with the rules of professional conduct established by the Board; and

2. Levy administrative fines not to exceed Five Hundred Dollars ($500.00) for each count of which any holder of a certificate, license, or permit has been convicted in Board hearings.

~~Said~~ B. The Board, upon a sworn complaint filed with its ~~Secretary~~ Director, and after giving at least ten (10) days~~'~~ written notice by registered or certified mail of the filing of such complaint to the person accused therein of the date and place of a hearing thereon, to which notice shall be attached a statement of the charges contained in the complaint, is hereby authorized and empowered, if it finds that the allegations of the complaint are supported by the evidence rendered at the hearing to, by written order, revoke permanently or suspend for a designated period, the certificate, license or permit of the person charged in the complaint or reprimand or place on probation said person. The Board may, upon written application therefor and in the exercise of its official discretion, cancel said order. A person whose certificate, license or permit has been revoked or suspended or who has been reprimanded or placed on probation or fined may appeal ~~to the district court of the county of the residence of said person at any time within thirty (30) days from the date of the Board's order, said appeal to be heard by the court. The decision of said court shall be final subject to review by the Supreme Court of Oklahoma; provided, the order of the Board may be stayed during appeal to either court~~ such Board order pursuant to the Administrative Procedures Act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 353.29 of Title 59, unless there is created a duplication in numbering, reads as follows:

The use of supportive personnel in the practice of pharmacy shall be acceptable within rules and regulations established by the Board.

SECTION 21. AMENDATORY 59 O.S. 1991, Section 354, is amended to read as follows:

Section 354. A. A prescription is the property of the patient for whom it is prescribed.

~~It shall be unlawful for any~~ B. No pharmacist or assistant pharmacist ~~to~~ shall refuse, upon request by that customer in person or through an authorized pharmacist or assistant pharmacist, to supply a reference copy in writing or by telephone ~~or telegraph~~. ~~Nor shall any~~

C. No legally-competent practitioner of the healing arts shall refuse to honor the request of his patient to have his prescription transferred to the registered pharmacist or pharmacy of the patient's choice.

~~A violation of the provisions of this act shall constitute a misdemeanor.~~

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 353.13A of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Prescriptions received by other than written communication shall be promptly recorded in writing by the pharmacist. The record made by the pharmacist shall constitute the original prescription to be filled by the pharmacist.

B. 1. Pharmacists may dispense prescriptions for ocular topical pharmaceutical agents prescribed by qualified optometrists certified by the Board of Examiners in Optometry to use such ocular topical pharmaceutical agents. Nothing in this subsection shall provide for optometrists to be authorized in any way to manufacture, distribute, dispense, prescribe, administer or use for scientific purposes any controlled dangerous substance as defined in paragraph 8 of Section 2-101 of Title 63 of the Oklahoma Statutes.

2. All prescriptions issued by certified optometrists shall include the certification number of the optometrist as assigned by the Board of Examiners in Optometry. The Board of Examiners in Optometry shall provide an annual list of all certified optometrists directly to each pharmacy licensed by the Oklahoma State Board of Pharmacy. Any additions or deletions in certification shall be mailed to all pharmacies in this state within thirty (30) days of such change.

C. A filled prescription label shall include the name and address of the pharmacy of origin, date of filling, name of patient, name of prescriber, directions for administration and prescription number. The label shall also include the trade or generic name, and the quantity and strength of the drug therein contained, except when otherwise directed by the prescriber. This requirement shall not apply to compounded prescriptions or medicines and drugs supplied or delivered directly to patients for consumption on the premises while admitted to any hospital or mental institution.

D. No prescription shall be written in any characters, figures or ciphers other than in the English or Latin language, generally in use among medical and pharmaceutical practitioners.

SECTION 23. AMENDATORY 59 O.S. 1991, Section 364, is amended to read as follows:

Section 364. ~~Commencing January 1, 1975, no~~ No annual renewal certificate ~~and license shall be issued to a pharmacist pursuant to~~

~~Section 353.11, Title 59, and no initial registration and licensure by reciprocity pursuant to Section 353.9, Title 59, Oklahoma Statutes,~~ shall be issued to a pharmacist until such pharmacist shall have submitted proof to the Board that he has participated in not less than fifteen (15) clock hours of continuing education obtained through the satisfactory completion of an accredited program of continuing professional education during the previous calendar year.

SECTION 24. AMENDATORY 59 O.S. 1991, Section 366, is amended to read as follows:

Section 366. A. The Board may grant to a pharmacist who meets all the necessary requirements for registration and licensure, except the continuing education requirements, alternate methods of obtaining continuing education hours ~~through home-study courses, correspondence courses, audiovisual aids, or other such programs substantially equivalent in scope and content to the continuing professional education programs regularly scheduled; provided, however, only those pharmacists shall be eligible for the alternative programs who, upon prior written application to the Board and for good cause shown, demonstrate that they are unable to attend a sufficient number of regularly-scheduled continuing professional education programs to obtain the requisite number of continuing education hours for registration and licensure~~.

B. 1. Any pharmacist who does not meet the requirement for continuing education may obtain an inactive renewal certificate of registration ~~for any year past, present or future, for a fee not to exceed Twenty-five Dollars ($25.00) per year~~. ~~Under no circumstances shall the~~

2. The holder of an inactive renewal certificate of registration ~~be allowed to~~ shall not engage in the practice of pharmacy in Oklahoma. ~~To receive a renewal certificate of registration, as set out in Title 59, O.S. 1971, Section 353.11, the~~

3. The holder of an inactive renewal certificate of registration shall apply to the Board ~~and comply with the rules and regulations promulgated by the Board of Pharmacy~~ to be removed from the inactive status.

SECTION 25. REPEALER 59 O.S. 1991, Sections 353.2, 353.4, 353.8, 353.14, 353.15, 353.16, 353.19, 353.21, 353.23, 353.27, 361, 362, 363 and 365, are hereby repealed.

SECTION 26. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 17th day of May, 1993.

Speaker of the House of Representatives

Passed the Senate the 20th day of May, 1993.

President of the Senate