

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 587

By: Monson, Haney and Muegge
of the Senate

and

Paulk, Bastin and Boyd
(Laura) of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations and public health and safety; amending 59 O.S. 1991, Sections 353.1, as amended by Section 2, Chapter 199, O.S.L. 1993, 567.2, as amended by Section 1, Chapter 97, O.S.L. 1994, 567.3a, as amended by Section 2, Chapter 97, O.S.L. 1994, 567.7, as amended by Section 3, Chapter 97, O.S.L. 1994, 567.8, as amended by Section 4, Chapter 97, O.S.L. 1994 and 567.14 (59 O.S. Supp. 1995, Sections 353.1, 567.2, 567.3a, 567.7 and 567.8), which relate to the Oklahoma Pharmacy Act and the Oklahoma Nursing Practice Act; conforming language; adding certain term; allowing certain advanced practice nurses to have prescriptive authority under certain conditions; providing for identification of certain persons; requiring placement of certain name on prescription label; specifying certain restrictions; providing exceptions; providing for expiration and nonrenewal of temporary recognition; making certain actions unlawful; restricting use of certain titles and abbreviations; expanding certain conditions and criteria; providing for acceptance of certain responsibility, accountability and obligation to practice; requiring certain educational standards; providing for promulgation of certain rules; specifying contents; providing for certain educational requirements; establishing a Formulary Advisory Council; providing for membership, duty, officers and quorum; providing for certain applications for prescriptive authority for advanced practice nurses and establishing certain fees; amending 63 O.S. 1991, Sections 2-101, as amended by Section 4, Chapter 52, O.S.L. 1994 and 2-312, as amended by Section 5, Chapter 52, O.S.L. 1994 (63 O.S. Supp. 1995, Sections 2-101 and 2-312), which relate to the Uniform Controlled Dangerous Substances Act; modifying certain definitions; clarifying gender references; including advanced practice nurse in list of persons authorized to prescribe and administer certain controlled dangerous substances; requiring wearing of insignia or badge by certain persons; providing for codification; providing effective dates; and declaring an emergency.

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. 1995, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act, Section 353 et seq. of this title:

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~~ licensed practitioner of medicine, dentistry, osteopathy, optometry certified by the Board of Examiners in

Optometry, podiatry, or veterinary medicine, 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, 21 U.S.C.A., Section 321 et seq.;

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. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision, pursuant to the provisions of Section 481 et seq. of this title, or the State Board of Osteopathic Examiners, pursuant to the provisions of Section 620 et seq. of this title, who supervises an advanced practice nurse as defined in Section 567.3 of this title, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners; and

26. "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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 353.1a of Title 59, unless there is created a duplication in numbering, reads as follows:

Prescribing authority shall be allowed, under the medical direction of a supervising physician, for an advanced practice nurse recognized by the Oklahoma Board of Nursing in one of the following categories: advanced registered nurse practitioners, clinical nurse specialists, or certified nurse-midwives. The advanced practice nurse may write or sign, or transmit by word of mouth, telephone or other means of communication an order for drugs or medical supplies that is intended to be filled, compounded, or dispensed by a pharmacist. The supervising physician and the advanced practice nurse shall be identified at the time of origination of the prescription and the name of the advanced practice nurse shall be printed on the prescription label.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 567.2, as amended by Section 1, Chapter 97, O.S.L. 1994 (59 O.S. Supp. 1995, Section 567.2), is amended to read as follows:

Section 567.2 The purpose of ~~this act~~ the Oklahoma Nursing Practice Act, Section 567.1 et seq. of this title, 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 practice nurse, or use any title, abbreviation, sign or device to indicate that ~~he or she~~ such person is a licensed registered nurse, or is a licensed practical nurse or an advanced practice nurse unless ~~he or she~~ the person has been duly licensed and registered and recognized as meeting the qualifications as provided for in ~~this act~~ the Oklahoma Nursing Practice Act.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 567.3a, as amended by Section 2, Chapter 97, O.S.L. 1994 (59 O.S. Supp. 1995, Section 567.3a), is amended to read as follows:

Section 567.3a As used in the Oklahoma Nursing Practice Act, Section 567.1 et seq. of this title:

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~~ the provisions of the Oklahoma Nursing Practice 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~~ the Oklahoma Nursing Practice 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 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 practice nurse shall include advanced registered nurse practitioners, clinical nurse specialists, nurse-midwives and certified registered nurse anesthetists;

6. "Recognition pending certification:~~A~~" means a registered nurse who has completed educational requirements as an advanced practice nurse and has registered for a Board-approved national certifying exam. Such registered nurse may apply for temporary recognition pending certification. Temporary recognition shall not exceed one (1) year from the date of graduation.

~~The~~ Temporary recognition ~~expires~~ shall expire when advanced practice status is granted or one hundred twenty (120) days following the test date, whichever comes first. If the temporary recognition certification holder fails to be certified, ~~the permit~~ temporary recognition shall expire upon receipt of the test results. ~~It is~~ Temporary recognition shall not be renewable.

The registered nurse with temporary recognition to practice as an advanced practice nurse shall not be eligible to apply for prescriptive authority;

~~6.~~ 7. "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 an advanced practice nurse 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 practice nurses as identified by the certifying body and approved by the Board.

An advanced registered nurse practitioner in accordance with the scope of practice of the advanced registered nurse practitioner shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section and subject to the medical direction of a supervising physician. This authorization shall not include dispensing drugs, but shall not preclude, subject to federal regulations, the receipt of, the signing for, or 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 the scope of practice/role definition statements for the advanced registered nurse practitioner.

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.~~ 8. "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~~ the Oklahoma Nursing Practice 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,
- 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 the scope of practice of such clinical nurse specialist shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section, and subject to the medical direction of a supervising physician. This authorization shall not include dispensing drugs, but shall not preclude, subject to federal regulations, 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 the scope of practice/role definition statements for the clinical nurse specialist.

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.~~ 9. "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 the scope of practice of such certified nurse-midwife shall be eligible to obtain recognition as authorized by the Board to prescribe, as defined by the rules promulgated by the Board pursuant to this section and subject to the medical direction of a supervising physician. This authorization shall not include the dispensing of drugs, but shall not preclude, subject to federal regulations, the receipt of, the signing for, or 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 the scope of practice/role definition statements for the certified nurse-midwife;

~~9.~~ 10. "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.~~ 11. "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.

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;

12. "Supervising physician" means an individual holding a current license to practice as a physician from the State Board of Medical Licensure and Supervision or the State Board of

Osteopathic Examiners, who supervises an advanced practice nurse, and who is not in training as an intern, resident, or fellow. To be eligible to supervise an advanced practice nurse, such physician shall remain in compliance with the rules promulgated by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners; and

13. "Supervision of advanced practice nurses with prescriptive authority" means overseeing and accepting responsibility for the ordering and transmission of written, telephonic, electronic or oral prescriptions for drugs and other medical supplies, subject to a defined formulary.

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 13 of Section 5 of this act shall:

1. Define the procedure for documenting supervision by a physician licensed in Oklahoma to practice by the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners. Such procedure shall include a written statement that defines appropriate referral, consultation, and collaboration between the advanced practice nurse, recognized to prescribe as defined in Section 5 of this act, and the supervising physician. The written statement shall include a method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral. The written statement shall be part of the initial application and the renewal application submitted to the Board for recognition for prescriptive authority for the advanced practice nurse. Changes to the written statement shall be filed with the Board within thirty (30) days of the change and shall be effective on filing;

2. Define minimal requirements for initial application for prescriptive authority which shall include, but not be limited to,

evidence of completion of a minimum of forty-five (45) contact hours or three (3) academic credit hours of education in pharmacotherapeutics, clinical application, and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health in a program beyond basic registered nurse preparation, approved by the Board. Such contact hours or academic credits shall be obtained within a time period of three (3) years immediately preceding the date of application for prescriptive authority;

3. Define minimal requirements for application for renewal of prescriptive authority which shall include, but not be limited to, documentation of a minimum of fifteen (15) contact hours or one (1) academic credit hour of education in pharmacotherapeutics, clinical application, and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health in a program beyond basic registered nurse preparation, approved by the Board, within the two-year period immediately preceding the effective date of application for renewal of prescriptive authority;

4. Require that beginning July 1, 2002, an advanced practice nurse shall demonstrate successful completion of a master's degree in a clinical nurse specialty in order to be eligible for initial application for prescriptive authority under the provisions of this act;

5. Define the method for communicating authority to prescribe or termination of same, and the formulary to the Board of Pharmacy, all pharmacies, and all registered pharmacists;

6. Define terminology used in such rules;

7. Define the parameters for the prescribing practices of the advanced practice nurse;

8. Define the methods for termination of prescriptive authority for advanced practice nurses; and

9. a. Establish a Formulary Advisory Council that shall develop and submit to the Board recommendations for an exclusionary formulary that shall list drugs or categories of drugs that shall not be prescribed by

advanced practice nurses recognized to prescribe by the Oklahoma Board of Nursing. The Formulary Advisory Council shall also develop and submit to the Board recommendations for practice-specific prescriptive standards for each category of advanced practice nurse recognized to prescribe by the Oklahoma Board of Nursing pursuant to the provisions of this act. The Board shall either accept or reject the recommendations made by the Council. No amendments to the recommended exclusionary formulary may be made by the Board without the approval of the Formulary Advisory Council.

- b. The Formulary Advisory Council shall be composed of twelve (12) members as follows:
 - (1) four members, to include a pediatrician, an obstetrician-gynecological physician, a general internist, and a family practice physician; provided that three of such members shall be appointed by the Oklahoma State Medical Association, and one shall be appointed by the Oklahoma Osteopathic Association,
 - (2) four members who are registered pharmacists, appointed by the Oklahoma Pharmaceutical Association, and
 - (3) four members, one of whom shall be an advanced registered nurse practitioner, one of whom shall be a clinical nurse specialist, one of whom shall be a certified nurse-midwife, and one of whom shall be a current member of the Oklahoma Board of Nursing, all of whom shall be appointed by the Oklahoma Board of Nursing.
- c. All professional members of the Formulary Advisory Council shall be in active clinical practice, at least fifty percent (50%) of the time, within their defined area of specialty. The members of the Formulary Advisory Council shall serve at the

pleasure of the appointing authority for a term of three (3) years. The terms of the members shall be staggered. Members of the Council may serve beyond the expiration of their term of office until a successor is appointed by the original appointing authority. A vacancy on the Council shall be filled for the balance of the unexpired term by the original appointing authority.

- d. Members of the Council shall elect a chair and a vice-chair from among the membership of the Council. For the transaction of business, at least seven members, with a minimum of two members present from each of the identified categories of physicians, pharmacists and advanced practice nurses, shall constitute a quorum. The Council shall recommend and the Board shall approve and implement an initial exclusionary formulary on or before January 1, 1997. The Council and the Board shall annually review the approved exclusionary formulary and shall make any necessary revisions utilizing the same procedures used to develop the initial exclusionary formulary.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 567.7, as amended by Section 3, Chapter 97, O.S.L. 1994 (59 O.S. Supp. 1995, Section 567.7), is amended to read as follows:

Section 567.7 A. Licenses issued ~~under this act~~ pursuant to the Oklahoma Nursing Practice Act shall be renewed every two (2) years according to a schedule published by the Oklahoma Board of Nursing.

B. ~~Licenses~~ A licensee who apply applies for reinstatement of ~~their~~ a license must shall meet such requirements as the Board may prescribe in its rules.

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 in accordance with the rules of the Board. 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~~ licensee desires to resume practice, ~~they must~~ such licensee shall meet such requirements as the Board may prescribe in its rules.

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~~ An initial application 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~~ rule 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~~ An initial application and a renewal application application 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 an initial application and Sixty Dollars (\$60.00) for a biennial renewal application.

H. An initial application and a renewal application 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 an initial application and Sixty Dollars (\$60.00) for a biennial renewal application.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 567.8, as amended by Section 4, Chapter 97, O.S.L. 1994 (59 O.S. Supp. 1995, 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 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;

2. Is guilty of a felony or of any offense that shall constitute a felony under the laws of this state;

3. Is unfit or incompetent by reason of negligence;

4. Is habitually intemperate or addicted to habit-forming drugs;

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;

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;

7. Is guilty of unprofessional conduct as defined in the rules of the Board;

8. Is guilty of any act that jeopardizes a patient's life, health or safety as defined in the rules of the Board;

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, Section 567.1 et seq. of this title.

D. All individual proceedings before the Board shall be conducted in accordance with the ~~Oklahoma~~ Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes.

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~~ A person whose license is 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~~ the person's residence.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 567.14, is amended to read as follows:

Section 567.14 A. No person shall practice or offer to practice registered nursing ~~or,~~ practical nursing, or advanced practice nursing in this state unless ~~they have conformed the~~ person has complied with the provisions of ~~this act~~ the Oklahoma Nursing Practice Act.

B. Any person licensed or certified by the Oklahoma Board of Nursing who provides direct care to patients shall, while on duty, wear an insignia or badge identifying the license or certification issued to such person by the Board. The Board shall promulgate rules to enact the provisions of this section.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 2-101, as amended by Section 4, Chapter 52, O.S.L. 1994 (63 O.S. Supp. 1995, Section 2-101), is amended to read as follows:

Section 2-101. As used in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

- a. a practitioner (or, in ~~his~~ the presence of the practitioner, by ~~his~~ the authorized agent of the practitioner), or
- b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts in behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouseman or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. "Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

4. "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice;

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

6. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

7. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title;

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

10. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship;

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution.

"Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

12. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

13. "Distributor" means a person who distributes;

14. "Drug" means articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; articles (other than food) intended to affect the structure or any function of the body of man or other animals; and articles intended for use as a component of any article specified

in this paragraph; but does not include devices or their components, parts or accessories;

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

16. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,
- b. statements made to the recipient that the substance may be resold for inordinate profit,
- c. whether the substance is packaged in a manner normally used for illicit controlled substances,
- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and

f. the proximity of the substances to controlled dangerous substances;

17. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

18. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

19. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

20. "Marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination;

21. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, diagnosis or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of

satisfying physiological or psychological dependence or other abuse;

22. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. opium, coca leaves and opiates,
- b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,
- c. cocaine, its salts, optical and geometric isomers, and salts of isomers,
- d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and
- e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

23. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

24. "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof;

25. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or

appointed by law to enforce any of the criminal laws of this state or of the United States;

26. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

27. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

28. "Practitioner" means:

- a.
 - (1) a physician,
 - (2) a dentist,
 - (3) a podiatrist,
 - (4) an optometrist,
 - (5) a veterinarian,
 - (6) an advanced practice nurse recognized to prescribe by the Oklahoma Board of Nursing as an advanced registered nurse practitioner, clinical nurse specialist or certified nurse-midwife, subject to the medical direction of a supervising physician, pursuant to Section 567.3a of Title 59 of the Oklahoma Statutes,
 - (7) a scientific investigator, or
 - (8) any other person,

licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

- b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

29. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

30. "State" means the State of Oklahoma or any other state of the United States;

31. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for ~~his~~ the person's own use or for the use of a member of ~~his~~ the person's household or for administration to an animal owned by ~~him~~ the person or by a member of ~~his~~ the person's household;

32. "Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act.—~~It includes~~ including, but ~~is~~ not limited to:

- a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,
- b. kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,
- c. isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled dangerous substance,
- d. testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

- e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances,
- f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled dangerous substances,
- g. separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana,
- h. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances,
- i. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances,
- j. containers and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body,
- k. hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body, and
- l. objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
 - (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
 - (2) water pipes,
 - (3) carburetion tubes and devices,
 - (4) smoking and carburetion masks,
 - (5) roach clips, meaning objects used to hold burning material, such as a marihuana cigarette,

- that has become too small or too short to be held in the hand,
- (6) miniature cocaine spoons and cocaine vials,
 - (7) chamber pipes,
 - (8) carburetor pipes,
 - (9) electric pipes,
 - (10) air-driven pipes,
 - (11) chillums,
 - (12) bonges, or
 - (13) ice pipes or chillers.

Provided, however, drug paraphernalia shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation or pipes designed for smoking tobacco;

33. "Synthetic controlled substance" means a substance that is not a controlled dangerous substance, but a substance that produces a like or similar physiological or psychological effect on the human central nervous system that currently has no accepted medical use in treatment in the United States and has a potential for abuse. The court or authority concerned with establishing that the substance is a synthetic controlled substance should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is a synthetic controlled substance:

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, its use or effect,
- b. statements made to the recipient that the substance may be resold for an inordinate profit,
- c. prior convictions, if any, of an owner or any person in control of the substance, under state or federal law related to controlled dangerous substances, and
- d. the proximity of the substance to any controlled dangerous substance;

34. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marihuana;

35. "Isomer" means the optical isomer, except as used in subsection C of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsection C of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer; and

36. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 2-312, as amended by Section 5, Chapter 52, O.S.L. 1994 (63 O.S. Supp. 1995, Section 2-312), is amended to read as follows:

Section 2-312. A. A physician, podiatrist, optometrist or a dentist who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, in good faith and in the course of ~~his~~ such person's 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~~ the direction and supervision of the physician, podiatrist, optometrist or dentist, and only may dispense controlled dangerous substances pursuant to the provisions of Sections 355 ~~through~~, 355.1 and 355.2 of Title 59 of the Oklahoma Statutes.

B. A veterinarian who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, in good faith and in the course of ~~his~~ the professional practice of the veterinarian 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~~ the direction and supervision of the veterinarian.

C. An advanced practice nurse who is recognized to prescribe by the Oklahoma Board of Nursing as an advanced registered nurse practitioner, clinical nurse specialist or certified nurse-midwife, who is subject to medical direction by a supervising physician, pursuant to Section 567.3a of Title 59 of the Oklahoma Statutes, and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of professional practice only, may prescribe and administer Schedule III, IV and V controlled dangerous substances.

SECTION 11. Section 6 of this act shall become effective July 1, 1996.

SECTION 12. Sections 1 through 5 and Sections 7 through 11 of this act shall become effective November 1, 1996.

SECTION 13. 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.

45-2-2747

CJ