

SHORT TITLE: Regulation of prescriptive authority for Certified Registered Nurse Anesthetists; effective date

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 275

By: Monson

AS INTRODUCED

An Act relating to the Oklahoma Pharmacy Act and the Oklahoma Nursing Practice Act; amending 59 O.S. 1991, Sections 353.1, as last amended by Section 1, Chapter 186, O.S.L. 1996, 355, 567.3a, as last amended by Section 13, Chapter 318, O.S.L. 1996, and 567.7, as last amended by Section 6, Chapter 186, O.S.L. 1996 (59 O.S. Supp. 1996, Sections 353.1, 567.3a and 567.7), which relate to definitions and licensure; modifying definitions; authorizing certified registered nurse anesthetists certain prescriptive authority; requiring certain list; stating qualifications required for prescriptive authority; requiring termination of prescriptive authority under certain circumstances; requiring certain notification, promulgation of certain rule, and certain documentation; stating application and renewal fee; amending 63 O.S. 1991, Sections 2-101, as last amended by Section 1, Chapter 306, O.S.L. 1996 and 2-312, as last amended by Section 10, Chapter 186, O.S.L. 1996 (63 O.S. Supp. 1996, Sections 2-101 and 2-312), which relate to the Uniform Controlled Dangerous Substances Act; modifying definition; expanding list of persons who may prescribe certain controlled dangerous substances; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 353.1, as last amended by Section 1, Chapter 186, O.S.L. 1996 (59 O.S. Supp. 1996, Section 353.1), is amended to read as follows:

Section 353.1 ~~For the purposes of~~ As used in 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 licensed practitioner of medicine, dentistry, osteopathy, optometry certified by the Board of Examiners in Optometry, podiatry, or veterinary medicine, or a Certified Registered Nurse Anesthetist 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)~~ a. "Caution: Federal law prohibits dispensing without prescription", or

~~(ii)~~ b. "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;

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 567.3a 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. AMENDATORY 59 O.S. 1991, Section 355, is amended to read as follows:

Section 355. As used in Section 353.1 et seq. of this act
title:

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

2. "Licensed practitioner" means a physician, dentist,
podiatrist, osteopathic physician, veterinarian, or optometrist
licensed to practice and authorized to prescribe medication within
the scope of ~~his~~ practice of such practitioner, or a Certified
Registered Nurse Anesthetist (CRNA) authorized by the Oklahoma Board
of Nursing to prescribe medicines within the scope of practice of
such CRNA pursuant to Section 567.3a of this title; and

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

SECTION 3. AMENDATORY 59 O.S. 1991, Section 567.3a, as
last amended by Section 13, Chapter 318, O.S.L. 1996 (59 O.S. Supp.
1996, Section 567.3a), is amended to read as follows:

Section 567.3a As used in the Oklahoma Nursing Practice Act,
Section 567.3a 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 the human 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 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,
- m. performing additional nursing functions in accordance with knowledge and skills acquired beyond basic nursing preparation, and
- n. delegating those nursing tasks as defined in the rules of the Board that may be performed by an advanced unlicensed assistive person;

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 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,
- h. performing additional nursing procedures in accordance with knowledge and skills acquired through education beyond nursing preparation, and

- i. delegating those nursing tasks as defined in the rules of the Board that may be performed by an advanced unlicensed assistive person;

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.

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

Temporary recognition 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, temporary recognition shall expire upon receipt of the test results. 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. "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. a. "Clinical nurse specialist" means a licensed registered nurse who holds:
 - ~~a.~~ (1) a master's degree in nursing with clinical specialization preparation to function in an expanded role,
 - ~~b.~~ (2) specialty certification from a national certifying organization recognized by the Board,
 - ~~c.~~ (3) a certificate of recognition from the Board, and
 - ~~d.~~ (4) 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 the Oklahoma Nursing Practice Act.
- b. In the expanded role, the clinical nurse specialist performs at an advanced practice level which shall include, but not be limited to:
 - ~~a.~~ (1) 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.~~ (2) managing the care of patients or clients with complex nursing problems,
 - ~~c.~~ (3) enhancing patient or client care by integrating the competencies of clinical practice, education, consultation, and research, and
 - ~~d.~~ (4) referring patients or clients to other services.
- c. 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 receipt of, the signing for, or the dispensing of professional samples to patients.

d. 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.

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

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

A certified nurse-midwife in accordance with 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. "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;

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

- ~~a.~~ (1) has successfully completed the educational program of a school of nurse anesthetists accredited by the American Association of Nurse Anesthetists,
- ~~b.~~ (2) 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.~~ (3) 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. (4) has received a certificate of recognition from the Board.

b. A certified registered nurse anesthetist is authorized to prescribe, select, obtain and administer legend drugs, Schedule II through V controlled substances, devices, and medical gases when engaged in the practice of nurse anesthesia pursuant to rules adopted by the Oklahoma Board of Nursing. The Board shall transmit to the Board of Pharmacy a list of all certified registered nurse anesthetists with prescriptive authority. The list shall include:

(1) the name of the certified registered nurse anesthetist so authorized,

(2) the Board-assigned identification number of the prescriber, and

(3) the effective date of the prescriptive authorization.

c. A certified registered nurse anesthetist who applies for authorization to prescribe drugs shall:

(1) be currently recognized as a certified registered nurse anesthetist in this state,

(2) provide evidence of recertification by the Council on Recertification of Nurse Anesthetists,

(3) provide evidence of completion, within the two-year period immediately preceding the date of application, of a minimum of fifteen (15) units of continuing education in advanced pharmacology related to the administration of anesthesia as

recognized by the Council on Recertification of Nurse Anesthetists, and

(4) complete and submit a notarized application, on a form prescribed by the Board, accompanied by the application fee established pursuant to this section.

d. Prescriptive authority shall be terminated if a certified registered nurse anesthetist has:

(1) not maintained recertification from the Council on Recertification of Nurse Anesthetists,

(2) prescribed outside of the certified registered nurse anesthetist scope of practice or prescribed for other than therapeutic purposes, or

(3) violated any provision of state laws or rules or federal laws or regulations pertaining to the practice of nursing or prescriptive authority.

e. The Oklahoma Board of Nursing shall notify the Board of Pharmacy within twenty-four (24) hours after termination of or a change in prescriptive authority for a certified registered nurse anesthetist.

f. The Board shall provide by rule for biennial application renewal and reauthorization of prescriptive authority for certified registered nurse anesthetists. At the time of application renewal, a certified registered nurse anesthetist shall submit documentation of a minimum of eight (8) units of continuing education, completed during the previous two (2) years, in advanced pharmacology relating to the administration of anesthesia, as recognized by the Council of Recertification of Nurse Anesthetists.

g. 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 "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.

h. 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;

11. "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;

12. "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; and

13. "Advanced unlicensed assistive person" means any person who has successfully completed a certified training program developed by a working committee composed of representatives of the following entities:

a. State Department of Health,

- b. Oklahoma State Regents for Higher Education,
- c. State Department of Vocational and Technical Education,
- d. Oklahoma Board of Nursing,
- e. Oklahoma Hospital Association,
- f. Oklahoma Nurses Association,
- g. The Nursing Home Association of Oklahoma,
- h. Oklahoma State Association of Licensed Practical Nurses, and
- i. Oklahoma Home Care Association.

The working committee shall also develop a list of the functions that an advanced unlicensed assistive person shall be able to perform upon completion of the certification training program. The working committee shall submit the certification training program and list of functions to the Board for their review and approval. The Board shall promulgate rules to enact the provisions of this paragraph.

Any person who has successfully completed the certification training program provided for in this paragraph shall be certified by the Board as an advanced unlicensed assistive person and as such shall be qualified to assist a licensed nurse in providing patient or client care as defined in rules promulgated by the Board.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 567.7, as last amended by Section 6, Chapter 186, O.S.L. 1996 (59 O.S. Supp. 1996, Section 567.7), is amended to read as follows:

Section 567.7 A. Licenses issued 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. A licensee who applies for reinstatement of a license 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 licensee desires to resume practice, such licensee shall meet such requirements as the Board may prescribe in its rules.

D. ~~Initial applications~~ An initial application 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). 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 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. An initial application ~~and~~ or a biennial renewal 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~~ or a biennial 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.

I. An initial application and a biennial renewal application for recognition for prescriptive authority for a certified registered nurse anesthetist 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 5. AMENDATORY 63 O.S. 1991, Section 2-101, as last amended by Section 1, Chapter 306, O.S.L. 1996 (63 O.S. Supp. 1996, 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 commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

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. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence;

17. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program located in a municipality with a population in excess of twenty-five thousand (25,000) which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program located in a municipality with a population of less than twenty-five thousand (25,000) if such program is licensed pursuant to the provisions of this act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "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;

20. "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;

21. "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;

22. "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;

23. "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;

24. "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;

25. "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;

26. "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;

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

28. "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;

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

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

31. "Practitioner" means:

- a. (1) a physician,
- (2) a dentist,
- (3) a podiatrist,
- (4) an optometrist,
- (5) a veterinarian,
- (6) a nurse anesthetist,

(7) 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,

(8) a scientific investigator, or

(9) 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;

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

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

34. "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;

35. "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~~÷~~_l 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;

36. "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;

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

38. "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

39. "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 6. AMENDATORY 63 O.S. 1991, Section 2-312, as last amended by Section 10, Chapter 186, O.S.L. 1996 (63 O.S. Supp. 1996, 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 such person's professional practice only, may prescribe and administer controlled dangerous substances, or may cause the same to be administered by medical or paramedical personnel acting under 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, 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 the professional practice of the veterinarian only, and not for use by a human being, may prescribe, administer, and dispense controlled dangerous substances and may cause them to be administered by an assistant or orderly under 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.

D. An advanced practice nurse who is recognized to prescribe by the Oklahoma Board of Nursing as a certified registered nurse anesthetist and who has complied with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of such practitioner's professional practice only, may subscribe, select and administer Schedule II through V controlled dangerous substances.

SECTION 7. This act shall become effective November 1, 1997.

46-1-0346

CJ