

ENROLLED SENATE  
BILL NO. 369

By: Shurden of the Senate

and

Stanley and Adkins of the  
House

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 353.13A, as amended by Section 1 of Enrolled House Bill No. 2321 of the 2nd Session of the 49th Oklahoma Legislature, and 355, which relate to the Oklahoma Pharmacy Act; making placement of specified information on a prescription label permissive; modifying definition; amending 59 O.S. 2001, Sections 491, 493.2, as amended by Section 2, Chapter 213, O.S.L. 2002, 493.4, 495h, 500, 508.2, 509, 509.1, as amended by Section 4, Chapter 213, O.S.L. 2002, and 513 (59 O.S. Supp. 2003, Sections 493.2 and 509.1), which relate to allopathic physicians; updating and clarifying language; authorizing penalties for certain suspended licenses; allowing waiver of certain requirement; providing for special training licenses; limiting reinstatement for certain revocations; allowing specified negotiations; modifying and deleting certain definitions; modifying disciplinary actions; providing for rules for unprofessional or unethical conduct; providing for revocation of licenses upon conviction of certain crimes; amending 59 O.S. 2001, Section 638, which relates to the Oklahoma Osteopathic Medicine Act; modifying punishment for certain offenses; amending 59 O.S. 2001, Section 3003, which relates to the Orthotics and Prosthetics Practice Act; modifying list of persons to whom act is not applicable; amending 59 O.S. 2001, Sections 1933 and 1935, which relate to the Oklahoma Licensed Behavioral Practitioners Advisory Board; modifying appointment dates of terms of members; clarifying language; extending time frame for completion of specified course work; clarifying name of accreditation entity; amending 59 O.S. 2001, Sections 353.1, as last amended by Section 1, Chapter 408, O.S.L. 2002, 353.7, as amended by Section 2, Chapter 408, O.S.L. 2002, 353.9, 353.11, as amended by Section 3, Chapter 408, O.S.L. 2002, 353.18, 353.24, as amended by Section 20, Chapter 22, O.S.L. 2002, 353.26, as amended by Section 4, Chapter 408, O.S.L. 2002, and 353.29 (59 O.S. Supp. 2003, Sections 353.1, 353.7, 353.11, 353.24 and 353.26), which relate to the Oklahoma Pharmacy Act; modifying and expanding definitions; expanding powers and duties of the Board

of Pharmacy; clarifying language; requiring license application and fee payment by certain entities; authorizing issuance of certain registrations for specified purpose; requiring certain proof; providing for and limiting amount of fee; establishing procedure for license renewal under certain circumstances; establishing late fee; stating applicability of and exemption from law; specifying application requirements and providing for late fees; requiring promulgation of specified fees; requiring pharmacy license and permit for specified pharmacies; expanding provisions of unlawfulness; allowing the Board of Pharmacy to take certain actions and expanding conditions for which action may be taken; providing for reinstatement fees; expanding provisions related to use of supportive personnel; amending Section 1, Chapter 138, O.S.L. 2003, as amended by Section 17 of Enrolled House Bill No. 2464 of the 2nd Session of the 49th Oklahoma Legislature, and Section 2, Chapter 138, O.S.L. 2003 (59 O.S. Supp. 2003, Section 635.1), which relate to special volunteer medical licenses; expanding eligibility requirements for volunteer medical licensure; providing for nonliability of certain providers under certain circumstances; stating exception; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 353.13A, as amended by Section 1 of Enrolled House Bill No. 2321 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 353.13A A. Prescriptions received by other than written communication shall be promptly recorded in writing by the pharmacist. The record made by the pharmacist shall constitute the original prescription to be filled by the pharmacist.

B. 1. Pharmacists may dispense prescriptions for dangerous drugs and controlled dangerous substances specified in Section 581 of this title for ocular abnormalities prescribed by qualified optometrists certified by the Board of Examiners in Optometry to use such dangerous drugs and controlled dangerous substances.

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

C. A filled prescription label shall include the name and address of the pharmacy of origin, date of filling, name of patient, name of prescriber, directions for administration, and prescription number. The symptom or purpose for which the drug is being prescribed ~~shall~~ may appear on the label, if, after being advised by the practitioner, the patient or the patient's authorized representative so requests. If the symptom or purpose for which a drug is being prescribed is not provided by the practitioner, the pharmacist may fill the prescription order without contacting the practitioner, patient, or the patient's representative. The label shall also include the trade or generic name, and the quantity and strength of the drug therein contained, except when otherwise directed by the prescriber. This requirement shall not apply to compounded prescriptions or medicines and drugs supplied or delivered directly to patients for consumption on the premises while admitted to any hospital or mental institution.

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

SECTION 2. AMENDATORY 59 O.S. 2001, Section 355, is amended to read as follows:

Section 355. As used in ~~Section 353.1 et seq. of this title~~ the Oklahoma Pharmacy Act:

1. "Dangerous drugs" means any drug intended for use by humans which, because of its toxicity or other potential 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 medical doctor, dentist, podiatrist~~ an allopathic physician, osteopathic physician, podiatric physician, dentist, veterinarian, or optometrist licensed to practice and authorized to prescribe medication within the scope of practice of such practitioner; 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 such practitioner's patients.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 491, is amended to read as follows:

Section 491. A. 1. Every person before practicing medicine and surgery or any of the branches or departments of ~~such medicine and surgery~~, within the meaning of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, within ~~the State of Oklahoma~~ this state, must be in legal possession of the unrevoked

license or certificate herein provided for, and any issued pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act.

2. Any person ~~so~~ practicing in such manner within this state, who is not in ~~such~~ the legal possession thereof of such license or certificate, shall, upon conviction thereof, be guilty of a ~~misdemeanor~~ felony, and shall, upon conviction thereof, in any court having jurisdiction, be fined for:

- a. the first offense in any sum not less than One Thousand Dollars (\$1,000.00), and not more than Five Thousand Dollars (\$5,000.00), and ~~shall, for~~
- b. any succeeding offense, ~~be subject to fine in like amount as provided in subparagraph a of this paragraph,~~ and in addition thereto, shall be imprisoned in a county jail for a period of time of not less than thirty (30) days, nor more than one hundred eighty (180) days; ~~and in.~~

3. In all instances, each day's practice shall constitute a separate and distinct offense. ~~It is further provided, that any~~

4. Any person who ~~shall render such professional services practices medicine and surgery or any of the branches or departments thereof without first complying with the provisions of this act, the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall, in addition to the other penalties herein provided therein, receive no compensation for such medical and surgical or branches or departments thereof services.~~

B. 1. If ~~the~~ a license has been revoked or suspended pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act whether for disciplinary reasons or for failure to renew such license, the State Board of Medical Licensure and Supervision may, ~~pursuant~~ subject to rules ~~adopted and~~ promulgated by the Board, assess and collect an administrative fine not to exceed Five Thousand Dollars (\$5,000.00) for each day after revocation or suspension whether for disciplinary reasons or for failure to renew such license that the person practices medicine and surgery or any of the branches or departments of such, within the meaning of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, thereof within this state.

2. Fines assessed shall be in addition to ~~such fines or imprisonment as may be invoked~~ any penalty provided pursuant to subsection A of this section.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 493.2, as amended by Section 2, Chapter 213, O.S.L. 2002 (59 O.S. Supp. 2003, Section 493.2), is amended to read as follows:

Section 493.2 A. Foreign applicants shall meet all requirements for licensure as provided in Sections 492.1 and 493.1 of this title.

B. 1. A foreign applicant shall possess the degree of Doctor of Medicine or a Board-approved equivalent based on satisfactory completion of educational programs from a school with education and training substantially equivalent to that offered by the University of Oklahoma College of Medicine.

2. In the event ~~clerkships were utilized by the foreign medical school, such clerkships shall have been performed in hospitals and schools~~ utilized clerkships in the United States, its territories or possessions, such clerkships shall have been performed in hospitals and schools that have programs accredited by the Accreditation Council for Graduate Medical Education (ACGME) accredited programs.

C. A foreign applicant shall have a command of the English language that is satisfactory to the State Board of Medical Licensure and Supervision, demonstrated by the passage of an oral English competency examination.

D. The Board may promulgate rules requiring all foreign applicants to satisfactorily complete at least twelve (12) months and up to twenty-four (24) months of Board-approved progressive graduate medical training as determined necessary by the Board for the protection of the public health, safety and welfare.

E. All credentials, diplomas and other required documentation in a foreign language submitted to the Board by such applicants shall be accompanied by notarized English translations.

F. Foreign applicants shall provide satisfactory evidence of having met the requirements for permanent residence or temporary nonimmigrant status as set forth by the United States Immigration and Naturalization Service.

G. Foreign applicants shall provide a certified copy of the Educational Commission for Foreign Medical Graduates (ECFMG) Certificate to the Board at such time and in such manner as required by the Board. The Board may waive the requirement for an Educational Commission for Foreign Medical Graduates Certificate by rule for good cause shown.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 493.4, is amended to read as follows:

Section 493.4 A. No person who is granted a special training license shall practice outside the limitations of such license.

B. To be eligible for special training licensure, the applicant shall have completed all the requirements for full and unrestricted medical licensure except graduate education and/or licensing examination or other requirements relative to the basis for the special training license.

C. By rule, the State Board of Medical Licensure and Supervision shall establish restrictions for special training licensure to assure that the holder will practice only under appropriate circumstances as set by the Board.

D. A special training license shall be renewable annually upon the approval of the Board and upon the evaluation of performance in the special circumstances upon which the special training license was granted.

E. The issuance of a special training license shall not be construed to imply that a full and unrestricted medical license will be issued at a future date.

F. All other provisions of ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act shall apply to holders of special training licenses.

G. This section shall not limit the authority of any state agency or educational institution in this state which employs a ~~special~~ special training licensed physician to impose additional practice limitations upon such physician.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 495h, is amended to read as follows:

Section 495h. The State Board of Medical Licensure and Supervision may require satisfactory evidence of professional competence and good moral character from applicants requesting reinstatement of any license or certificate issued by the Board. The Board may set criteria for measurement of professional competence by rule ~~or may instruct the professional advisory committee to evaluate applicants for current level of professional competence.~~

SECTION 7. AMENDATORY 59 O.S. 2001, Section 500, is amended to read as follows:

Section 500. Each person holding a license authorizing the practice of medicine and surgery in this state shall notify the State Board of Medical Licensure and Supervision, in writing, of such licensee's current practice location and mailing address. Each licensee shall carry on his or her person at all times while engaged in such practice of medicine and surgery official verification of valid and effective licensure as may be issued by the Board.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 508.2, is amended to read as follows:

Section 508.2 A. At any time after the expiration of twelve (12) months from the date the license of any person to practice medicine or surgery has been revoked with right to reapply, or at any time after the expiration of six (6) months from the date the license of any person to practice medicine or surgery has been suspended by the State Board of Medical Licensure and Supervision, such person whose license has been so revoked or suspended may file an application with the secretary of the Board, together with an application fee set by the Board, to reinstate ~~his~~ the license. A licensee who has had a license revoked, suspended or who has surrendered a license in lieu of prosecution shall not be reinstated and no probation shall be lifted unless the licensee has paid all fines and reimbursements in a manner satisfactory to the Board.

B. The application shall be assigned for hearing at the next regular meeting of the Board following the filing thereof, ~~or.~~ In addition, the Board may authorize the secretary to ~~hear same~~ hold a hearing on the application at any time ~~and.~~ In such cases, the Board shall have the authority and right to reconsider ~~such the~~ the order and decision of revocation or suspension ~~and, in its discretion and for.~~

C. For such causes and reasons deemed by it sufficient and for the best interest of the medical profession and the citizens of this state, the Board may reinstate ~~the a~~ a license of ~~the an~~ an applicant and issue the order therefor.

D. The Board may negotiate with the licensee a plan of repayment for any fines or other costs that is satisfactory to the Board.

SECTION 9. AMENDATORY 59 O.S. 2001, Section 509, is amended to read as follows:

Section 509. The words "unprofessional conduct" as used in Sections 481 through 514 of this title are hereby declared to include, but shall not be limited to, the following:

1. Procuring, aiding or abetting a criminal operation;
- ~~2. Advertising to the public in any manner; provided, however, that a person, firm, association or corporation may place an announcement in a newspaper regarding the opening of an office, change of an address or membership in a firm, association or corporation, the closing of an office, permanent or temporary, for whatever reason, and the specialty or specialties of person or persons, firm, association or corporation;~~
3. The obtaining of any fee or offering to accept any fee, present or other form of remuneration whatsoever, on the assurance or promise that a manifestly incurable disease can or will be cured;
- ~~4.~~ 3. Willfully betraying a professional secret to the detriment of the patient;
- ~~5.~~ 4. Habitual intemperance or the habitual use of habit-forming drugs;
- ~~6.~~ 5. Conviction of a felony or of any offense involving moral turpitude;
- ~~7.~~ 6. All advertising of medical business in which statements are made which are grossly untrue or improbable and calculated to mislead the public;
- ~~8.~~ 7. Conviction or confession of a crime involving violation of:
  - a. the antinarcotic or prohibition laws and regulations of the federal government,

- b. the laws of this state, or
- c. State Board of Health rules;

~~9.~~ 8. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;

~~10.~~ 9. The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct;

~~11.~~ 10. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs;

~~12.~~ 11. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs;

~~13.~~ 12. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship;

~~14.~~ 13. The violation, or attempted violation, direct or indirect, of any of the provisions of ~~this act~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice;

~~15.~~ 14. Aiding or abetting, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state;

~~16.~~ 15. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection the State Board of Medical Licensure and Supervision may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why the physician will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and the physician's attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of the examination are received and reviewed by the Board;

~~17.~~ 16. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards;

~~18.~~ 17. Engaging in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient;

~~19.~~ 18. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient; or

~~20.~~ 19. Failure to provide necessary ongoing medical treatment when a doctor-patient relationship has been established, which relationship can be severed by either party providing a reasonable period of time is granted.

SECTION 10. AMENDATORY 59 O.S. 2001, Section 509.1, as amended by Section 4, Chapter 213, O.S.L. 2002 (59 O.S. Supp. 2003, Section 509.1), is amended to read as follows:

Section 509.1 A. RANGE OF ACTIONS: The State Board of Medical Licensure and Supervision may impose disciplinary actions in accordance with the severity of violation of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. Disciplinary actions may include, but are not limited to the following:

1. Revocation of the medical license with or without the right to reapply;

2. Suspension of the medical license;

3. Probation;

4. Stipulations, limitations, restrictions, and conditions relating to practice;

5. Censure ~~+, including specific redress, if appropriate+;~~

6. Reprimand;

7. A period of free public or charity service; ~~and~~

8. Satisfactory completion of an educational, training, and/or treatment program or programs; and

9. Administrative fines of up to Five Thousand Dollars (\$5,000.00) per violation.

Provided, as a condition of disciplinary action sanctions, the Board may impose as a condition of any disciplinary action, the payment of costs expended by the Board for any legal fees and costs and probation and monitoring fees including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees.

The Board may take such actions singly or in combination as the nature of the violation requires.

B. LETTER OF CONCERN: The Board may authorize the secretary to issue a letter of concern to a licensee when evidence does not warrant formal proceedings, but the secretary has noted indications of possible errant conduct that could lead to serious consequences and formal action. The letter of concern may contain, at the secretary's discretion, clarifying information from the licensee.

C. EXAMINATION/EVALUATION: The Board may, upon reasonable cause, require professional competency, physical, mental, or chemical dependency examinations of any licensee, including withdrawal and laboratory examination of body fluids.

D. DISCIPLINARY ACTION AGAINST LICENSEES:

1. The Board shall promulgate ~~and adopt~~ rules ~~of Professional Conduct for professional~~ describing acts of unprofessional or unethical conduct ~~of~~ by physicians pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; and

2. Grounds for Action: The Board may take disciplinary action for unprofessional or unethical conduct as deemed appropriate based upon the merits of each case and as set out by rule. The Board shall not revoke the license of a person otherwise qualified to practice allopathic medicine within the meaning of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act solely because the person's practice or a therapy is experimental or nontraditional.

Reports of all disciplinary action provided for in this section will be available to the public upon request.

E. 1. SURRENDER IN LIEU OF PROSECUTION: The Board may accept a surrender of license from a licensee who has engaged in unprofessional conduct in lieu of Board staff prosecuting a pending disciplinary action or filing formal disciplinary proceedings only as provided in this section. To effect such a surrender, the licensee must submit a sworn statement to the Board:

- a. expressing the licensee's desire to surrender the license,
- b. acknowledging that the surrender is freely and voluntarily made, that the licensee has not been subjected to coercion or duress, and that the licensee is fully aware of the consequences of the license surrender,
- c. stating that the licensee is the subject of an investigation or proceeding by the Board or a law enforcement or other regulatory agency involving allegations which, if proven, would constitute grounds for disciplinary action by the Board, and

- d. specifically admitting to and describing the misconduct.

2. The sworn written statement must be submitted with the licensee's wallet card and wall certificate. The Secretary or Executive Director of the Board may accept the sworn statement, wallet card and wall certificate from a licensee pending formal acceptance by the Board. The issuance of a complaint and citation by the Board shall not be necessary for the Board to accept a surrender under this subsection. A surrender under this subsection shall be considered disciplinary action by the Board in all cases, even in cases where surrender occurs prior to the issuance of a formal complaint and citation, and shall be reported as disciplinary action by the Board to the public and any other entity to whom the Board regularly reports disciplinary actions.

3. As a condition to acceptance of the surrender, the Board may require the licensee to pay the costs expended by the Board for any legal fees and costs and any investigation, probation and monitoring fees including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees.

4. The licensee whose surrender in lieu of prosecution is accepted by the Board shall be ineligible to reapply for reinstatement of his or her license for at least one (1) year from the date of the accepted surrender.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 513, is amended to read as follows:

Section 513. A. 1. The State Board of Medical Licensure and Supervision is hereby given quasi-judicial powers while sitting as a Board for the purpose of revoking, suspending or imposing other disciplinary actions upon the license of physicians or surgeons of this state, and appeals from its decisions shall be taken to the Supreme Court of this state within thirty (30) days of the date that a copy of the decision is mailed to the appellant, as shown by the certificate of mailing attached to the decision.

2. The license of any physician or surgeon who has been convicted of any felony in or without the State of Oklahoma and whether in a state or federal court, and which conviction shall have become final, shall may be suspended or revoked and canceled by the Board upon the submission thereto of a certified copy of the judgment and sentence of the trial court and the certificate of the clerk of the court that of the conviction has become final; provided, that the revocation.

3. Upon proof of a final felony conviction by the courts and after exhaustion of the appellate process, the Board shall revoke the physician's license. If the felony conviction is overturned on appeal and no other appeals are sought, the Board shall restore the license of the physician. Suspension or revocation of the license of any person convicted of a felony on any other grounds than that of moral turpitude or the violation of the federal or state narcotic laws, shall be on the merits of the particular case, but the court

records in the trial of such case when conviction has been had shall be prima facie evidence of the conviction.

4. The Board shall also revoke and cancel the license of any physician or surgeon who has been charged in a court of record of this or other states of the United States or in the federal court with the commission of a felony and who is a fugitive from justice, upon the submission of a certified copy of the charge together with a certificate from the clerk of the court that after the commitment of the crime the physician or surgeon fled from the jurisdiction of the court and is a fugitive from justice.

B. To the extent necessary to allow the Board the power to enforce disciplinary actions imposed by the Board, in the exercise of its authority, the Board may punish willful violations of its orders and impose additional penalties as allowed by Section ~~33~~ 509.1 of this ~~act~~ title.

SECTION 12. AMENDATORY 59 O.S. 2001, Section 638, is amended to read as follows:

Section 638. A. Each of the following acts shall constitute a ~~misdemeanor~~ felony, punishable, upon conviction, by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail for not less than ninety (90) days nor more than one (1) year, or by both such fine and imprisonment:

1. The practice of osteopathic medicine or attempt to practice osteopathic medicine without a license issued by the State Board of Osteopathic Examiners, and each visit, treatment, prescription, or attempted visit, treatment, or prescription shall constitute a separate and distinct offense;

2. Obtaining of, or attempting to obtain, a license under the provisions of this act, or obtaining, or attempting to obtain, money or any other thing of value, by fraudulent representation or false pretense;

3. Advertising as an osteopathic physician and surgeon, or practicing or attempting to practice osteopathic medicine under a false, assumed, or fictitious name, or a name other than the real name; or

4. Allowing any person in the licensee's employment or control to practice as an osteopathic physician and surgeon when not actually licensed to do so.

B. Any person making any willfully false oath or affirmation whenever oath or affirmation is required by the Oklahoma Osteopathic Medicine Act shall be deemed guilty of the felony of perjury, and upon conviction, shall be punished as prescribed by the general laws of this state.

SECTION 13. AMENDATORY 59 O.S. 2001, Section 3003, is amended to read as follows:

Section 3003. The Orthotics and Prosthetics Practice Act shall not apply to:

1. Persons licensed by this state as practitioners of the healing arts when engaging in the practice or practices for which licensed;

2. A person who is employed by the government of the United States or any entity thereof while in the discharge of the employee's assigned duties;

3. A student enrolled in a school of orthotics or prosthetics recognized by the State Board of Medical Licensure and Supervision or a resident as defined by Section ~~2~~ 3002 of this ~~act~~ title who is continuing clinical education;

4. A person licensed by this state as a physical therapist, occupational therapist, or physician assistant when engaging in the practice for which licensed; or

5. A person certified by the Board for Certification in Pedorthics when practicing pedorthics at the ankle or below; ~~or~~

~~6. Persons engaged in the practice of orthotics as an employee or authorized representative of an orthotics manufacturer with employment responsibilities that include, but are not limited to, one or more of the following: evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, training, repairing, replacing or delivering an orthotic device under the order, direction or prescription of a physician or healthcare provider operating within their licensed scope of practice.~~

SECTION 14. AMENDATORY 59 O.S. 2001, Section 1933, is amended to read as follows:

Section 1933. A. ~~1.~~ There is hereby created the "Oklahoma Licensed Behavioral Practitioners Advisory Board" whose duty shall be to advise the State Department of Health on the provisions of the Licensed Behavioral Practitioner Act, except as otherwise provided by law.

~~2.~~ B. 1. The Advisory Board shall consist of seven (7) members who shall be appointed by the State Commissioner of Health, with the advice and consent of the State Board of Health, as follows:

- a. two members for a term ending June 30, 2004,
- b. two members for a term ending June 30, 2005,
- c. two members for a term ending June 30, 2006, and
- d. one member for a term ending June 30, 2007.

Upon expiration of such terms, the Commissioner shall appoint successors for four-year terms.

2. Four members shall be licensed behavioral practitioners; provided, initial behavioral practitioner appointees shall not be required to be licensed under the Licensed Behavioral Practitioner Act before the end of the first year that the license is available. One member shall be a licensed mental health professional other than a licensed behavioral practitioner, and two members shall be lay persons who are not affiliated with any practice of behavioral health service delivery or the delivering of health or mental health services. ~~The Commissioner shall appoint successors for a four-year term.~~

3. All professional appointees shall be selected from a list of qualified candidates submitted by the Executive Board of the North American Association of Masters in Psychology acting in conjunction with the executive committees of all state professional behavioral health associations which represent a specialty recognized pursuant to the Licensed Behavioral Practitioner Act.

~~B.~~ C. Vacancies occurring in the Advisory Board shall be filled for the unexpired term by appointment by the Commissioner, with the advice and consent of the Oklahoma State Board of Health, from a list of qualified candidates submitted within thirty (30) days of such vacancy by the Executive Board of the North American Association of Masters in Psychology acting in conjunction with the executive committees of all state professional behavioral health associations which represent a specialty recognized pursuant to the Licensed Behavioral Practitioner Act. Such appointments shall be made within thirty (30) days after the candidates' names have been submitted if possible.

~~C.~~ D. Any Advisory Board member may be removed by the Commissioner, after written notice, for incapacity, incompetence, neglect of duty, or misfeasance or malfeasance in office.

~~D.~~ E. Members of the Advisory Board shall serve without compensation, but shall be reimbursed their actual and necessary travel expenses as provided by the provisions of the State Travel Reimbursement Act.

~~E.~~ F. Advisory Board members shall be ineligible for reappointment for a period of three (3) years following completion of ~~their~~ a term.

~~F.~~ G. The Advisory Board shall hold at least four regular meetings each year. Meetings shall be held at such time and place as the Advisory Board may provide. The Advisory Board shall elect annually the following officers: A chair, a vice-chair, and a secretary. Four members of the Advisory Board shall constitute a quorum.

SECTION 15. AMENDATORY 59 O.S. 2001, Section 1935, is amended to read as follows:

Section 1935. A. Applications for a license to practice as a licensed behavioral practitioner shall be made to the State Department of Health in writing. Such applications shall be on a form and in a manner prescribed by the State Commissioner of Health.

The application shall be accompanied by the fee required by the Licensed Behavioral Practitioner Act, which shall be retained by the State Department of Health and not returned to the applicant.

B. Each applicant for a license to practice as a licensed behavioral practitioner shall:

1. Be possessed of good moral character;
2. Pass an examination based on standards promulgated by the State Board of Health pursuant to the Licensed Behavioral Practitioner Act;
3. Be at least twenty-one (21) years of age;
4. Not have engaged in, nor be engaged in, any practice or conduct which would be grounds for denying, revoking, or suspending a license pursuant to the Licensed Behavioral Practitioner Act; and
5. Otherwise comply with the rules promulgated by the Board pursuant to the provisions of the Licensed Behavioral Practitioner Act.

C. In addition to the qualifications specified by the provisions of subsection B of this section, an applicant for a license to practice as a licensed behavioral practitioner shall have:

1. Successfully completed at least forty-five (45) graduate semester hours (sixty (60) graduate quarter hours) of behavioral science-related course work. These forty-five (45) hours shall include at least a master's degree from a program in psychology. All course work and degrees shall be earned from a regionally accredited college or university. The State Board of Health shall define what course work qualifies as "behavioral science-related";

2. ~~As of January 1, 2005~~ On or after January 1, 2008, successfully completed at least sixty (60) graduate semester hours (ninety (90) graduate quarter hours) of behavioral science-related course work. These sixty (60) hours shall include at least a master's degree from a program in psychology. All courses shall be earned from a regionally accredited college or university and all degrees shall be earned from a program accredited by the ~~Interorganizational Board for Accreditation of Masters Programs~~ Master's in Psychology (IBAMPP) Accreditation Council (MPAC), its designees or successors.

The Board shall define what course work qualifies as "behavioral science-related"; and

3. Three (3) years of supervised full-time experience in professional behavioral health services subject to the supervision of a licensed mental health professional pursuant to conditions established by the Board. One (1) or two (2) years of experience may be gained at the rate of one (1) year for each thirty (30) graduate semester hours earned beyond the master's degree, provided that such hours are clearly related to the field of psychology or

behavioral sciences and are acceptable to the Board. The applicant shall have no less than one (1) year of supervised full-time experience in behavioral science.

SECTION 16. AMENDATORY 59 O.S. 2001, Section 353.1, as last amended by Section 1, Chapter 408, O.S.L. 2002 (59 O.S. Supp. 2003, Section 353.1), is amended to read as follows:

Section 353.1 For the purposes of the Oklahoma Pharmacy Act:

1. "Pharmacy" means a place regularly licensed by the Board of Pharmacy in which prescriptions, drugs, medicines, chemicals and poisons are compounded or dispensed;

2. "Doctor of Pharmacy" means a person registered by the Board of Pharmacy to engage in the practice of pharmacy. The terms "pharmacist" and "Doctor of Pharmacy" shall be interchangeable and shall have the same meaning wherever they appear in the Oklahoma Statutes and the rules promulgated by the Board 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 allopathic or osteopathic medicine, including physician assistants under the supervision of a licensed physician, dentistry, 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 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, or as authorized in subsection G of Section 353.13 of this title;

16. "Dangerous drug", "legend drug" ~~or~~, "prescription drug" or "Rx Only" means a drug which 7:

a. under federal law, is required, prior to being dispensed or delivered, to be labeled with ~~either~~ one of the following statements: ~~(i)~~

(1) "Caution: Federal law prohibits dispensing without prescription", ~~or (ii)~~

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian", or ~~a drug which~~

(3) "Rx Only", or

b. 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, administering 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~~ the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, or the State Board of Osteopathic Examiners, pursuant to the provisions of ~~Section 620 et seq. of this title~~ the Oklahoma Osteopathic Medicine Act, 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;

27. "Medical gas" means those gases and liquid oxygen upon which the manufacturer or distributor has placed one of several cautions, such as "Rx Only", in compliance with federal law;

28. "Medical gas order" means an order for medical gas issued by a licensed medical practitioner;

29. "Medical gas distributor" means a person who distributes, transfers, wholesales, delivers or sells medical gases to a person and may also include a patient or ultimate user;

30. "Medical gas supplier" means a person who dispenses medical gases only to a patient or ultimate user; and

31. "Supportive personnel" means technicians and auxiliary supportive persons who are regularly paid employees of a pharmacy who work and perform tasks in the pharmacy as authorized by Section 353.29 of this title.

SECTION 17. AMENDATORY 59 O.S. 2001, Section 353.7, as amended by Section 2, Chapter 408, O.S.L. 2002 (59 O.S. Supp. 2003, Section 353.7), is amended to read as follows:

Section 353.7 The Board of Pharmacy shall have the power and duty to:

1. Regulate the practice of pharmacy;
2. Regulate the sale of drugs, medicines, chemicals and poisons;
3. Regulate the dispensing of drugs and medicines in all places where drugs and medicines are compounded or dispensed;
4. Enter and inspect, by its members or by its duly authorized representatives, any and all places, including premises, equipment, contents and records, where drugs, medicines, chemicals or poisons are stored, sold, vended, given away, compounded, dispensed or manufactured;
5. Administer oaths in all matters pertaining to the affairs of the Board and to take evidence and compel the attendance of witnesses on questions pertaining to the enforcement of the Oklahoma Pharmacy Act;
6. Employ the number of inspectors and/or pharmacist compliance officers necessary to carry out the provisions of the Oklahoma Pharmacy Act at an annual salary to be fixed by the Board, and to authorize necessary expenses. Such inspectors shall have the same powers and authority as that granted to peace officers by the laws of this state for the purpose of enforcing the Oklahoma Pharmacy Act. In addition, such inspectors shall have the authority and the duty to confiscate all drugs, medicines, chemicals or poisons found to be stored, sold, vended, given away, compounded, dispensed or manufactured contrary to the provisions of the Oklahoma Pharmacy Act;
7. Prescribe minimum standards with respect to floor space and other physical characteristics of pharmacies, as may be reasonably necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public, and to refuse the issuance of new or renewal licenses for failure to comply with such standards;
8. Examine and issue appropriate certificates of registration as Doctor of Pharmacy to all applicants whom it shall deem qualified to be such under the provisions of the Oklahoma Pharmacy Act;
9. Investigate complaints, hold hearings and subpoena witnesses and records;
10. Initiate prosecution;
11. Reprimand or place on probation any holder of a certificate, license or permit; suspend or revoke certificates, licenses or permits, and levy fines not to exceed One Thousand Dollars (\$1,000.00) for each count for which any holder of a certificate, license or permit has been convicted in Board hearings. Provided, as a condition of corrective disciplinary sanctions, the

Board may require extra continuing education or attendance at a live continuing education program, and may require participation in a rehabilitation program for the impaired. The Board may take such actions singly or in combination, as the nature of the violation requires;

12. Adopt and establish rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy. Such rules shall be subject to amendment or repeal by the Board as the need may arise;

13. Perform such other duties, exercise such other powers and employ such other personnel as the provisions and enforcement of the Oklahoma Pharmacy Act may require; ~~and~~

14. Make and publish uniform rules such as may be necessary for carrying out and enforcing the provisions of the Oklahoma Pharmacy Act, Oklahoma drug laws and rules, federal drug laws and regulations, and such other areas as in its discretion may be necessary to protect the health, safety and welfare of the public;

15. Establish and collect appropriate fees for licenses, permits, inspections and service provided. Such fees shall be promulgated to implement the provisions of the Oklahoma Pharmacy Act under the provisions of the Administrative Procedures Act; and

16. Regulate:

- a. personnel working in a pharmacy, such as interns and supportive personnel, including technicians,
- b. interns, preceptors and training areas through which the training of applicants in the practice of pharmacy occurs for licensure as a pharmacist, and
- c. such persons regarding all aspects relating to the handling of drugs, medicines, chemicals and poisons.

SECTION 18. AMENDATORY 59 O.S. 2001, Section 353.9, is amended to read as follows:

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

1. Is of good moral character;

2. Is a graduate of an accredited School or College of Pharmacy approved by the Board, or a foreign pharmacy school graduate who has received an equivalency certification by the National Association of Boards of Pharmacy; and

3. Has attained experience in the practice of pharmacy, obtained in a place and in a manner prescribed and approved by the Board of Pharmacy.

B. Interns, preceptors and training areas shall make application for a license, and shall pay a fee set by the Board, not to exceed Fifty Dollars (\$50.00).

C. All applicants shall make application in the form and manner prescribed by the Board, and deposit with the Executive Director of the Board a fee set by the Board not to exceed One Hundred Fifty Dollars (\$150.00) plus the purchase price of the examination. Upon satisfactory passage of an examination and meeting such other requirements specified by the Board pursuant to the Oklahoma Pharmacy Act, the applicant shall be granted an appropriate certificate setting forth the qualifications to practice pharmacy. Any applicant failing an examination shall not sit for an additional examination until such applicant has made a new application and paid the fee provided herein.

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

E. The Board shall have the power to issue original certificates of registration to applicants for the score transfer process administered by the National Association of Boards of Pharmacy; provided, such applicants shall provide sufficient proof of compliance with the requirements of paragraphs 1 through 3 of subsection A of this section, and for which the Board shall charge a fee not exceed Two Hundred Dollars (\$200.00).

SECTION 19. AMENDATORY 59 O.S. 2001, Section 353.11, as amended by Section 3, Chapter 408, O.S.L. 2002 (59 O.S. Supp. 2003, Section 353.11), is amended to read as follows:

Section 353.11 A. 1. Every registered pharmacist and assistant pharmacist who desires to continue in the profession of pharmacy in this state shall annually, after the expiration of the registration, and on or before the expiration date each year, complete a renewal form and remit to the Board of Pharmacy a renewal fee to be fixed by the Board. Upon compliance with the provisions of the Oklahoma Pharmacy Act and payment of such renewal fee, a renewal certificate of registration shall be issued.

2. Every registered pharmacist who fails to complete a renewal form and remit the required renewal fee to the Board by the fifteenth day after the expiration of the license shall pay a late fee to be fixed by the Board.

B. If any person fails or neglects to procure an annual registration or permit, as herein required, notice of such failure having been mailed to such person's post office address, the Board may, after the expiration of thirty (30) days following the issue of the notice, deprive the person of his or her registration and all other privileges conferred by the Oklahoma Pharmacy Act. In order

to regain registration, it shall be necessary for such person to make application in writing to the Board requesting reinstatement. The Board may require such person to appear before the Board at a regular meeting.

SECTION 20. AMENDATORY 59 O.S. 2001, Section 353.18, is amended to read as follows:

Section 353.18 A. 1. It shall be unlawful for any person to engage in selling at retail, or offering for sale, dangerous drugs, medicines, chemicals or poisons for the treatment of disease, excluding agricultural chemicals and drugs, or to accept prescriptions for same, without first procuring a license from the Board of Pharmacy. The provisions of this subsection shall not apply to medical gas suppliers or medical gas distributors regulated pursuant to the provisions of subsection B of this section.

2. ~~On~~ A license shall be issued to such person as the Board shall deem qualified upon evidence satisfactory to the Board that:

- a. ~~that~~ the ~~said~~ place for which the license is sought will be conducted in full compliance with the law and the rules ~~and regulations~~ of the Board,
- b. ~~that~~ the location, appointments and physical characteristics of ~~said~~ the place are reasonably consistent with the maintenance of professional surroundings and constitute no known danger to the public health and safety,
- c. ~~that said~~ the place will be under the management and control of a registered pharmacist, and
- d. ~~that~~ a registered pharmacist or assistant pharmacist will be present and on duty at all hours the pharmacy is open for business ~~a license shall be issued to such person as the Board shall deem qualified; provided, however, the provisions of this subparagraph shall not apply to a hospital drug room,~~

3. ~~Application~~

- a. An application for such a license issued pursuant to the provisions of this subsection shall:
  - (1) be submitted to the Board in writing, ~~shall~~ and
  - (2) contain the name or names of persons ~~who shall own~~ owning the pharmacy ~~and.~~
- b. An application for each initial or renewal license shall be accompanied by a payment to the Board of a sum licensing fee not to exceed One Hundred Fifty Dollars (\$150.00) as a license fee; prior for each period of one (1) year. Prior to opening for business, all applicants for an initial license or permit shall be inspected. Applicants shall pay an

inspection fee not to exceed One Hundred Dollars (\$100.00); provided however, that no charge shall be made for the licensing of any Federal Veterans Hospital in the State of Oklahoma. ~~Such~~

- c. A license issued pursuant to the provisions of this subsection shall be valid for a period of one (1) year, commencing on July 1 and ending on June 30, set by the Board and shall contain the name of the licensee and the address of the place at which such business shall be conducted.

4. A retail pharmacy that prepares sterile therapeutic preparations that shall be free from living microorganisms (aseptic) shall obtain a pharmacy license, and shall also obtain a parenteral permit at a fee set by the Board, not to exceed Seventy-five Dollars (\$75.00). Such pharmacy shall meet requirements set by the Board by rule for parenteral permits.

B. 1. It shall be unlawful for any person to manufacture, package, or wholesale any dangerous drugs, or to engage in selling, or offering for sale at retail, medical gases except under the management and control of a registered pharmacist or such other persons as may be approved by the Board after an investigation and determination of such person's qualifications. No person shall sell medical gases, or manufacture, package, or wholesale dangerous drugs offered for sale in this state without first obtaining a permit from the Board.

## 2. ~~Application~~

- a. An application for ~~such~~ an initial or renewal permit issued pursuant to the provisions of this subsection shall be:

(1) made in writing, and shall be

(2) accompanied by a ~~payment to the Board of a sum~~ permit fee not to exceed Three Hundred Dollars (\$300.00) ~~as a permit fee;~~ for each period of one (1) year.

- b. prior to opening for business, all applicants for an initial permit shall be inspected. Applicants shall pay an inspection fee not to exceed One Hundred Dollars (\$100.00).

3. ~~Such~~ A permit issued pursuant to the provisions of this subsection shall be valid for a period of one (1) year, commencing on July 1 and ending on June 30, determined by the Board and such permit shall contain the name of the permittee and the address of the place at which such business shall be conducted.

4. A registered permittee who fails to complete an application for a renewal permit by the fifteenth day after the expiration of the permit shall pay a late fee to be fixed by the Board.

C. A registrant who, pursuant to the provisions of this section, fails to complete an application for a renewal license or permit by the fifteenth day after the expiration of the license or permit shall pay a late fee to be fixed by the Board.

D. The Board shall promulgate rules regarding the issuance and renewal of licenses and permits pursuant to the Oklahoma Pharmacy Act.

E. The Oklahoma Pharmacy Act shall not be construed to prevent the sale of nonprescription drugs in original packages by any merchant or dealer.

SECTION 21. AMENDATORY 59 O.S. 2001, Section 353.24, as amended by Section 20, Chapter 22, O.S.L. 2002 (59 O.S. Supp. 2003, Section 353.24), is amended to read as follows:

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

1. Forge or increase the quantity of drug in any prescription, or to present a prescription bearing forged, fictitious or altered information or to possess any drug secured by such forged, fictitious or altered prescription;

2. Sell, offer for sale, barter or give away any unused quantity of drugs obtained by prescription, except through a program pursuant to the Utilization of Unused Prescription Medications Act or as otherwise provided by the ~~State~~ Board of Pharmacy;

3. Sell, offer for sale, barter or give away any drugs damaged by fire, water, or other causes without first obtaining the written approval of the Board or the State Department of Health;

4. Enter into any arrangement whereby prescription orders are received, or prescriptions delivered at a place other than the pharmacy in which they are compounded and dispensed. However, nothing in this paragraph shall prevent a pharmacist or an employee of the pharmacy from personally receiving a prescription or delivering a legally filled prescription at a residence, office or place of employment of the patient for whom the prescription was written. Nothing in this paragraph shall prevent veterinary prescription drugs from being shipped directly from a wholesaler or distributor to a client; provided, such drugs may be dispensed only on prescription of a licensed veterinarian and only when an existing veterinary-client-patient relationship exists;

5. Sell, offer for sale or barter or buy any professional samples. For purpose of this paragraph, "professional samples" means complimentary drugs packaged in accordance with federal and state statutes and regulations and provided to a licensed practitioner free of charge by manufacturers or distributors for the purpose of being distributed free of charge in such package by the licensed practitioner to a patient; ~~or~~

6. Refuse to permit or otherwise prevent members of the Board or such representatives thereof from entering and inspecting any and

all places, including premises, equipment, contents, and records, where drugs, medicine, chemicals or poisons are stored, sold, vended, given away, compounded, dispensed or manufactured; or

7. Possess dangerous drugs without a valid prescription or a valid license to possess such drugs.

SECTION 22. AMENDATORY 59 O.S. 2001, Section 353.26, as amended by Section 4, Chapter 408, O.S.L. 2002 (59 O.S. Supp. 2003, Section 353.26), is amended to read as follows:

Section 353.26 A. The Board of Pharmacy ~~is specifically granted the power to~~ may:

1. Revoke or suspend any certificate, license or permit issued pursuant to the Oklahoma Pharmacy Act or reprimand or place on probation any holder of a certificate, license, or permit who:

- a. violates any provision of the Oklahoma Pharmacy Act,
- b. violates any of the provisions of ~~Sections 2-101 et seq. of Title 63 of the Oklahoma Statutes or the~~ Uniform Controlled Dangerous Substances Act,
- c. has been convicted of a felony or has pleaded guilty or no contest to a felony,
- d. engages in the practice of pharmacy while incapacitated or abuses intoxicating liquors or other chemical substances,
- e. conducts himself or herself in a manner likely to lower public esteem for the profession of pharmacy,
- f. has had his or her license placed on probation, suspended, or revoked ~~or~~, has been reprimanded by another State Board of Pharmacy or has had another disciplinary action by another state entity,
- g. has been legally adjudged to be not mentally competent, or
- h. exercises conduct and habits inconsistent with the rules of professional conduct established by the Board; and

2. Levy administrative fines not to exceed One Thousand Dollars (\$1,000.00) for each count of which any holder of a certificate, license, or permit has been convicted in Board hearings.

B. The Board, its employees, or other agents shall keep confidential information obtained during an investigation into violations of the Oklahoma Pharmacy Act; provided, however, such information may be introduced by the state in administrative proceedings before the Board.

C. To ensure the confidentiality of such information for the protection of the affected individual or entity, the information obtained shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act.

D. 1. The Board, upon a sworn complaint filed with its Director, and after giving at least ten (10) days' written notice by registered or certified mail of the filing of such complaint to the person accused therein of the date and place of a hearing thereon, to which notice shall be attached a statement of the charges contained in the complaint, is hereby authorized and empowered, if the Board finds that the allegations of the complaint are supported by the evidence rendered at the hearing to, by written order, revoke permanently or suspend for a designated period, the certificate, license or permit of the person charged in the complaint or to reprimand or place such person on probation.

2. The Board may, upon written application therefor and in the exercise of its official discretion, cancel the order.

3. A person whose certificate, license or permit has been revoked or suspended or who has been reprimanded or placed on probation or fined may appeal such Board order pursuant to the Administrative Procedures Act.

E. A person, other than a pharmacy technician, whose license or permit has been suspended by the Board or by operation of law shall pay a reinstatement fee not to exceed One Hundred Dollars (\$100.00) as a condition of reinstatement of the license.

SECTION 23. AMENDATORY 59 O.S. 2001, Section 353.29, is amended to read as follows:

Section 353.29 A. The use of supportive personnel in the practice of pharmacy shall be acceptable within rules ~~and regulations~~ established by the Board of Pharmacy.

B. 1. No person shall serve as a pharmacy technician without first procuring a permit from the Board.

2. An application for an initial or renewal permit issued pursuant to this subsection shall be:

a. made in writing, and

b. accompanied by a permit fee not to exceed Forty Dollars (\$40.00) for each period of one (1) year.

3. A permit issued pursuant to this subsection shall be valid for a period to be determined by the Board.

4. A pharmacy technician who fails to complete an application for a renewal permit by the fifteenth day after the expiration of the permit shall pay a late fee to be fixed by the Board.

SECTION 24. AMENDATORY Section 1, Chapter 138, O.S.L. 2003, as amended by Section 17 of Enrolled House Bill No. 2464 of

the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 493.5 A. There is established a special volunteer medical license for physicians who are retired from active practice and wish to donate their expertise for the medical care and treatment of indigent and needy persons of the state. The special volunteer medical license shall be:

1. Issued by the State Board of Medical Licensure and Supervision to eligible physicians;
2. Issued without the payment of an application fee, license fee or renewal fee;
3. Issued or renewed without any continuing education requirements;
4. Issued for a fiscal year or part thereof; and
5. Renewable annually upon approval of the Board.

B. A physician must meet the following requirements to be eligible for a special volunteer medical license:

1. Completion of a special volunteer medical license application, including documentation of the physician's medical school graduation and practice history;
2. Documentation that the physician has been previously issued a full and unrestricted license to practice medicine in Oklahoma or in another state of the United States and that he or she has never been the subject of any medical disciplinary action in any jurisdiction;
3. Acknowledgement and documentation that the physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and
4. Acknowledgement and documentation that the physician will not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any medical services rendered under the special volunteer medical license.

SECTION 25. AMENDATORY Section 2, Chapter 138, O.S.L. 2003 (59 O.S. Supp. 2003, Section 635.1), is amended to read as follows:

Section 635.1 A. There is established a special volunteer medical license for physicians who are retired from active practice and wish to donate their expertise for the medical care and treatment of indigent and needy persons of the state. The special volunteer medical license shall be:

1. Issued by the State Board of Osteopathic Examiners to eligible physicians;

2. Issued without a payment of an application fee, license fee or renewal fee;

3. Issued or renewed without any continuing education requirements;

4. Issued for a fiscal year or part thereof; and

5. Renewable annually upon approval of the Board.

B. A physician must meet the following requirements to be eligible for a special volunteer medical license:

1. Completion of a special volunteer medical license application, including documentation of the physician's osteopathic school graduation and practice history;

2. Documentation that the physician has been previously issued a full and unrestricted license to practice medicine in Oklahoma or in another state of the United States and that he or she has never been the subject of any medical disciplinary action in any jurisdiction;

3. Acknowledgement and documentation that the physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and

4. Acknowledgement and documentation that the physician will not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any medical services rendered under the special volunteer medical license.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A health care provider authorized to use the designation "Doctor", or an abbreviation thereof pursuant to the provisions of Section 725.2 of Title 59 of the Oklahoma Statutes, who renders medical care on a voluntary basis at a free medical clinic or an educational sporting event is not liable for any civil damages, other than for injuries resulting in death, caused by acts or omissions of the health care provider while rendering such medical care unless it is plainly alleged in the complaint and later proven that the acts or omissions of the health care provider constituted gross negligence or willful or wanton wrongs during the rendering of such medical care.

SECTION 27. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 26th day of May, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2004.

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Presiding Officer of the House  
of Representatives