

SB 412

1 THE STATE SENATE  
2 Monday, February 21, 2005

3 Senate Bill No. 412

4 As Amended

5 SENATE BILL NO. 412 - By: ANDERSON of the Senate and ARMES of the  
6 House.

7 [ professions and occupations - Oklahoma Pharmacy Act -  
8 effective date ]

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

10 SECTION 1. AMENDATORY 59 O.S. 2001, Section 353.1, as  
11 last amended by Section 16, Chapter 523, O.S.L. 2004 (59 O.S. Supp.  
12 2004, Section 353.1), is amended to read as follows:

13 Section 353.1 For the purposes of the Oklahoma Pharmacy Act:

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

17 2. "Doctor of Pharmacy" means a person registered by the Board  
18 of Pharmacy to engage in the practice of pharmacy. The terms  
19 "pharmacist" and "Doctor of Pharmacy" shall be interchangeable and  
20 shall have the same meaning wherever they appear in the Oklahoma  
21 Statutes and the rules promulgated by the Board of Pharmacy;

22 3. "Drugs" means all medicinal substances and preparations  
23 recognized by the United States Pharmacopoeia and National  
24 Formulary, or any revision thereof, and all substances and

1 preparations intended for external and internal use in the cure,  
2 diagnosis, mitigation, treatment or prevention of disease in humans  
3 and all substances and preparations, other than food, intended to  
4 affect the structure or any function of the body of a human;

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

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

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

15 7. "Prescription" means and includes any order for drug or  
16 medical supplies written or signed, or transmitted by word of mouth,  
17 telephone or other means of communication by a licensed practitioner  
18 of allopathic or osteopathic medicine, including physician  
19 assistants under the supervision of a licensed physician, dentistry,  
20 optometry certified by the Board of Examiners in Optometry,  
21 podiatry, or veterinary medicine, licensed by law to prescribe such  
22 drugs and medical supplies intended to be filled, compounded, or

1 dispensed by a pharmacist, or by a wholesaler or distributor as  
2 authorized in subsection G of Section 353.13 of this title;

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

6 9. "Nonprescription drugs" means medicines or drugs which are  
7 sold without a prescription and which are prepackaged for use by the  
8 consumer and labeled in accordance with the requirements of the  
9 statutes and regulations of this state and the federal government.  
10 Such items shall also include medical and dental supplies, and  
11 bottled or nonbulk chemicals which are sold or offered for sale to  
12 the general public, if such articles or preparations meet the  
13 requirements of the Federal Food, Drug and Cosmetic Act, 21  
14 U.S.C.A., Section 321 et seq.;

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

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

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

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

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

3        15. "Wholesaler" or "Distributor" means a person engaged in the  
4 business of distributing dangerous drugs or medicines at wholesale  
5 to pharmacies, hospitals, practitioners, government agencies, or  
6 other lawful drug outlets permitted to sell or use drugs or  
7 medicines, or as authorized in subsection G of Section 353.13 of  
8 this title;

9        16. "Dangerous drug", "legend drug", "prescription drug" or "Rx  
10 Only" means a drug which:

- 11            a.    under federal law, is required, prior to being  
12                    dispensed or delivered, to be labeled with one of the  
13                    following statements:
- 14                    (1) "Caution: Federal law prohibits dispensing  
15                                without prescription",
- 16                    (2) "Caution: Federal law restricts this drug to use  
17                                by or on the order of a licensed veterinarian",  
18                                or
- 19                    (3) "Rx Only", or
- 20            b.    is required by any applicable federal or state law or  
21                    regulation to be dispensed on prescription only or is  
22                    restricted to use by practitioners only;

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

3        18. "Practice of pharmacy" means:

- 4            a. the interpretation and evaluation of prescription  
5                    orders,
- 6            b. the compounding, dispensing, administering and  
7                    labeling of drugs and devices, except labeling by a  
8                    manufacturer, packer or distributor of nonprescription  
9                    drugs and commercially packaged legend drugs and  
10                    devices,
- 11           c. the participation in drug selection and drug  
12                    utilization reviews,
- 13           d. the proper and safe storage of drugs and devices and  
14                    the maintenance of proper records thereof,
- 15           e. the responsibility for advising by counseling and  
16                    providing information, where professionally necessary  
17                    or where regulated, of therapeutic values, content,  
18                    hazards and use of drugs and devices,
- 19           f. the offering or performing of those acts, services,  
20                    operations, or transactions necessary in the conduct,  
21                    operation, management and control of a pharmacy, and  
22           g. the provision of those acts or services that are  
23                    necessary to provide pharmaceutical care;

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

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

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

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

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

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

9       25. "Supervising physician" means an individual holding a  
10 current license to practice as a physician from the State Board of  
11 Medical Licensure and Supervision, pursuant to the provisions of the  
12 Oklahoma Allopathic Medical and Surgical Licensure and Supervision  
13 Act, or the State Board of Osteopathic Examiners, pursuant to the  
14 provisions of the Oklahoma Osteopathic Medicine Act, who supervises  
15 an advanced practice nurse as defined in Section 567.3a of this  
16 title, and who is not in training as an intern, resident, or fellow.  
17 To be eligible to supervise an advanced practice nurse, such  
18 physician shall remain in compliance with the rules promulgated by  
19 the State Board of Medical Licensure and Supervision or the State  
20 Board of Osteopathic Examiners;

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

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

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

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

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

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

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

21       31.   "Supportive personnel" means technicians and auxiliary  
22    supportive persons who are regularly paid employees of a pharmacy

1 who work and perform tasks in the pharmacy as authorized by Section  
2 353.29 of this title.

3 SECTION 2. AMENDATORY 59 O.S. 2001, Section 353.13, is  
4 amended to read as follows:

5 Section 353.13 A. It shall be unlawful for any person, other  
6 than a registered pharmacist or assistant pharmacist, to certify the  
7 finished prescription, as defined by the Board, before delivery to  
8 the patient or the patient's agent or care giver.

9 B. It shall be unlawful for any person to institute or manage a  
10 pharmacy unless such person shall be a registered pharmacist, or  
11 shall place in charge of said pharmacy a registered pharmacist.

12 C. No registered pharmacist shall manage, supervise nor be in  
13 charge of more than one pharmacy.

14 D. No pharmacist being requested to sell, furnish or compound  
15 any drug, medicine, chemical or other pharmaceutical preparation, by  
16 prescription or otherwise, shall substitute or cause to be  
17 substituted therefor, without authority of the prescriber or  
18 purchaser, any like drug, medicine, chemical or pharmaceutical  
19 preparation.

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

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

5 G. Nothing in the Oklahoma Pharmacy Act shall prevent  
6 veterinary prescription drugs from being shipped directly from a  
7 wholesaler or distributor to a client; provided, such drugs may be  
8 dispensed only on prescription of a licensed veterinarian and only  
9 when an existing veterinary-client-patient relationship exists.  
10 Prescriptions dispensed pursuant to the provisions of this  
11 subsection shall not be required to be certified prior to being  
12 dispensed by a wholesaler or distributor.

13 SECTION 3. This act shall become effective November 1, 2005.  
14 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,  
15 dated 2-15-05 - DO PASS, As Amended and Coauthored.