

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1181

6 By: Jolley

7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2001, Sections 353.1, as last
10 amended by Section 1, Chapter 18, O.S.L. 2005,
11 353.1b, 353.3, 353.5, as amended by Section 2,
12 Chapter 419, O.S.L. 2005, 353.6, 353.7, as last
13 amended by Section 17, Chapter 523, O.S.L. 2004,
14 353.9, as amended by Section 18, Chapter 523, O.S.L.
15 2004, 353.10, 353.11, as last amended by Section 19,
16 Chapter 523, O.S.L. 2004, 353.12, 353.13, as amended
17 by Section 2, Chapter 18, O.S.L. 2005, 353.13A, as
18 last amended by Section 1, Chapter 523, O.S.L. 2004,
19 353.17, 353.18, as last amended by Section 2, Chapter
20 285, O.S.L. 2005, 353.20, 353.22, 353.24, as last
21 amended by Section 1, Chapter 40, O.S.L. 2005,
22 353.25, 353.26, as last amended by Section 22,
23 Chapter 523, O.S.L. 2004, 353.29, as amended by
24 Section 23, Chapter 523, O.S.L. 2004, Section 5,
Chapter 408, O.S.L. 2002, as amended by Section 1,
Chapter 307, O.S.L. 2003, 354, 355.2 and 366 (59 O.S.
Supp. 2008, Sections 353.1, 353.5, 353.7, 353.9,
353.11, 353.13, 353.13A, 353.18, 353.24, 353.26,
353.29 and 353.30), which relate to the Oklahoma
Pharmacy Act; modifying and adding definitions;
clarifying and updating language throughout act;
modifying membership of State Board of Pharmacy;
providing certain qualifications for the Executive
Director; changing the terms registration or
registered to licensing, licensure or licensed as
appropriate throughout act; authorizing certain
action for certain inspectors or compliance officers;
modifying and adding duties of the State Board of
Pharmacy; modifying certain fines; modifying certain
fees; adding certain requirements for assistant

1 pharmacists; modifying certain procedures relating to
2 renewal of licenses; deleting certain requirement for
3 assistant pharmacists; requiring certain notice to be
4 in writing; making it unlawful for an assistant
5 pharmacist to certify certain prescriptions; making
6 language gender neutral; deleting certain
7 requirements for the Oklahoma Board of Examiners in
8 Optometry; modifying prohibition relating to use of
9 certain titles; making it unlawful to impersonate a
10 pharmacist; making certain impersonation a felony;
11 making Internet, website or online pharmacies subject
12 to certain licensure; stating when certain
13 requirement for licensure applies; deleting
14 authorization for assistant pharmacists to manage or
15 control a pharmacy; modifying certain requirement for
16 new and renewal applications for certain licensure;
17 modifying requirements for the acceptance of certain
18 prescription drug returns; clarifying and adding
19 certain unlawful acts; modifying procedures for
20 revocation or suspension of certain licenses or
21 permits; providing for when certain information
22 becomes a public record; prohibiting certain
23 information from being subject to subpoena or
24 discovery in certain proceedings; providing
exception; providing when a respondent may acquire
certain information; providing exception for
acquiring an investigative report under certain
circumstances; requiring the Board to mail certain
sworn complaint with certain notice; providing
alternative to such mailing; modifying procedures for
revoking or suspending certain certificate, license
or permit; raising certain fees; modifying type of
order required to administer certain immunizations
and injections; deleting provision relating to a
pharmacist administering both immunization and
therapeutic injections and certain rules to be
promulgated; deleting requirement for assistant
pharmacists to supply certain reference copy of a
prescription; repealing 59 O.S. 2001, Section 355, as
amended by Section 2, Chapter 523, O.S.L. 2004, which
relates to certain definitions; providing for
codification; and providing an effective date.

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

2 SECTION 1. AMENDATORY 59 O.S. 2001, Section 353.1, as
3 last amended by Section 1, Chapter 18, O.S.L. 2005 (59 O.S. Supp.
4 2008, Section 353.1), is amended to read as follows:

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

6 1. "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 2. "Administer" means the direct application of a drug, whether
10 by injection, inhalation, ingestion or any other means, to the body
11 of a patient;

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

17 4. "Board" or "State Board" means the State Board of Pharmacy;

18 5. "Chemical" means any medicinal substance, whether simple or
19 compound or obtained through the process of the science and art of
20 chemistry, whether of organic or inorganic origin;

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

23 a. in accordance with a licensed practitioner's
24 prescription drug order under an initiative based on

1 the practitioner/patient/pharmacist relationship in
2 the course of professional practice, or

3 b. for the purpose of, or incident to, research,
4 teaching, or chemical analysis and not for sale or
5 dispensing.

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

9 7. "Continuing professional education" means professional,
10 pharmaceutical education in the general areas of the socioeconomic
11 and legal aspects of health care; the properties and actions of
12 drugs and dosage forms; and the etiology, characteristics and
13 therapeutics of the diseased state;

14 8. "Dangerous drug", "legend drug", "prescription drug" or "Rx
15 Only" means a drug which:

16 a. under federal law, is required, prior to being
17 dispensed or delivered, to be labeled with one of the
18 following statements:

19 (1) "Caution: Federal law prohibits dispensing
20 without prescription",

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

23 or

24 (3) "Rx Only", or

1 b. is required by any applicable federal or state law or
2 regulation to be dispensed on prescription only or is
3 restricted to use by licensed practitioners only;

4 9. "Dispense" or "Dispensing" means the interpretation,
5 evaluation, and implementation of a prescription drug order,
6 including the preparation and delivery of a drug or device to a
7 patient or a patient's agent in a suitable container appropriately
8 labeled for subsequent administration to, or use by, a patient.
9 Dispense includes sell, distribute, leave with, give away, dispose
10 of, deliver or supply;

11 10. "Doctor of Pharmacy" means a person licensed by the Board
12 to engage in the practice of pharmacy. The terms "pharmacist" and
13 "Doctor of Pharmacy" shall be interchangeable and shall have the
14 same meaning wherever they appear in the Oklahoma Statutes and the
15 rules promulgated by the Board;

16 11. "Drug outlet" means all pharmacies, wholesalers,
17 manufacturers and facilities which are engaged in dispensing,
18 delivery, distribution or storage of dangerous drugs;

19 12. "Drugs" means all medicinal substances and preparations
20 recognized by the United States Pharmacopoeia and National
21 Formulary, or any revision thereof, and all substances and
22 preparations intended for external and/or internal use in the cure,
23 diagnosis, mitigation, treatment or prevention of disease in humans
24 or animals and all substances and preparations, other than food,

1 intended to affect the structure or any function of the body of a
2 human or animals;

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

6 14. "Hospital" means any institution licensed as a hospital by
7 this state for the care and treatment of patients;

8 15. "Licensed practitioner" means an allopathic physician,
9 osteopathic physician, podiatric physician, dentist, veterinarian or
10 optometrist licensed to practice and authorized to prescribe
11 dangerous drugs within the scope of practice of such practitioner;

12 16. "Manufacturer" means a person engaged in the manufacturing
13 of drugs;

14 17. "Manufacturing" means the production, preparation,
15 propagation, compounding, conversion or processing of a device or a
16 drug, either directly or indirectly by extraction from substances of
17 natural origin or independently by means of chemical or biological
18 synthesis and includes any packaging or repackaging of the
19 substances or labeling or relabeling of its container, and the
20 promotion and marketing of such drugs or devices. The term
21 "manufacturing" also includes the preparation and promotion of
22 commercially available products from bulk compounds for resale by
23 licensed pharmacies, licensed practitioners or other persons;

24

1 18. "Medical gas" means those gases including those in liquid
2 state upon which the manufacturer or distributor has placed one of
3 several cautions, such as "Rx Only", in compliance with federal law;

4 19. "Medical gas order" means an order for medical gas issued
5 by a licensed medical practitioner;

6 20. "Medical gas distributor" means a person licensed to
7 distribute, transfer, wholesale, deliver or sell medical gases on
8 drug orders to suppliers or other entities licensed to use,
9 administer or distribute medical gas and may also include a patient
10 or ultimate user;

11 21. "Medical gas supplier" means a person who dispenses medical
12 gases on drug orders only to a patient or ultimate user;

13 22. "Medicine" means any drug or combination of drugs which has
14 the property of curing, preventing, treating, diagnosing or
15 mitigating diseases, or which is used for that purpose;

16 23. "Nonprescription drugs" means medicines or drugs which are
17 sold without a prescription and which are prepackaged for use by the
18 consumer and labeled in accordance with the requirements of the
19 statutes and regulations of this state and the federal government.

20 Such items shall also include medical and dental supplies and
21 bottled or non-bulk chemicals which are sold or offered for sale to
22 the general public if such articles or preparations meet the
23 requirements of the Federal Food, Drug and Cosmetic Act, 21
24 U.S.C.A., Section 321 et seq.;

1 24. "Packager" means any person, firm or corporation, except a
2 pharmacy, who transfers dangerous drugs including, but not limited
3 to, compressed medical gases from one container to another of any
4 type;

5 25. "Person" means an individual, partnership, limited
6 liability company, corporation or association, unless the context
7 otherwise requires;

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

11 ~~2. "Doctor of Pharmacy" means a person registered by the Board~~
12 ~~of Pharmacy to engage in the practice of pharmacy. The terms~~
13 ~~"pharmacist" and "Doctor of Pharmacy" shall be interchangeable and~~
14 ~~shall have the same meaning wherever they appear in the Oklahoma~~
15 ~~Statutes and the rules promulgated by the Board of Pharmacy;~~

16 ~~3. "Drugs" means all medicinal substances and preparations~~
17 ~~recognized by the United States Pharmacopoeia and National~~
18 ~~Formulary, or any revision thereof, and all substances and~~
19 ~~preparations intended for external and internal use in the cure,~~
20 ~~diagnosis, mitigation, treatment or prevention of disease in humans~~
21 ~~and all substances and preparations, other than food, intended to~~
22 ~~affect the structure or any function of the body of a human;~~

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

4 5. 27. "Poison" means any substance which when introduced into
5 the ~~system~~ body, either directly or by absorption, produces violent,
6 morbid or fatal changes, or which destroys living tissue with which
7 such substance comes into contact;

8 6. ~~"Chemical" means any medicinal substance, whether simple or~~
9 ~~compound or obtained through the process of the science and art of~~
10 ~~chemistry, whether of organic or inorganic origin;~~

11 7. 28. "Practice of pharmacy" means:

- 12 a. the interpretation and evaluation of prescription
13 orders,
- 14 b. the compounding, dispensing, administering and
15 labeling of drugs and devices, except labeling by a
16 manufacturer, packer or distributor of nonprescription
17 drugs and commercially packaged legend drugs and
18 devices,
- 19 c. the participation in drug selection and drug
20 utilization reviews,
- 21 d. the proper and safe storage of drugs and devices and
22 the maintenance of proper records thereof,
- 23 e. the responsibility for advising by counseling and
24 providing information, where professionally necessary

1 or where regulated, of therapeutic values, content,
2 hazards and use of drugs and devices,

3 f. the offering or performing of those acts, services,
4 operations or transactions necessary in the conduct,
5 operation, management and control of a pharmacy, and

6 g. the provision of those acts or services that are
7 necessary to provide pharmaceutical care;

8 29. "Prescription" means and includes any order for drug or
9 medical supplies written or signed, or transmitted by word of mouth,
10 telephone or other means of communication by:

11 a. a licensed practitioner of allopathic or osteopathic
12 medicine, ~~including physician assistants~~ dentistry,
13 podiatry or veterinary medicine, or

14 b. under the supervision of a an Oklahoma licensed
15 physician, ~~dentistry, optometry certified by the Board~~
16 ~~of Examiners in Optometry, podiatry, or veterinary~~
17 ~~medicine,~~ an Oklahoma licensed advanced practice nurse
18 or an Oklahoma licensed physician assistant, or

19 c. an Oklahoma licensed optometrist certified by the
20 Oklahoma Board of Examiners in Optometry who is
21 licensed by law to prescribe such drugs and medical
22 supplies intended to be filled, compounded, and/or
23 dispensed by a pharmacist, or by a an Oklahoma

1 licensed wholesaler or distributor as authorized in
2 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;~~

23 ~~14. "Dispense" includes sell, distribute, leave with, give~~
24 ~~away, dispose of, deliver, or supply;~~

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

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

9 ~~a. under federal law, is required, prior to being~~
10 ~~dispensed or delivered, to be labeled with one of the~~
11 ~~following statements:~~

12 ~~(1) "Caution: Federal law prohibits dispensing~~
13 ~~without prescription",~~

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

16 ~~or~~

17 ~~(3) "Rx Only", or~~

18 ~~b. is required by any applicable federal or state law or~~
19 ~~regulation to be dispensed on prescription only or is~~
20 ~~restricted to use by practitioners only;~~

21 ~~17. "Manufacturer" means a person engaged in the manufacturing~~
22 ~~of drugs;~~

23 ~~18. "Practice of pharmacy" means:~~

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

21 ~~19. "Drug outlet" means all pharmacies, wholesalers,~~
22 ~~manufacturers, or wherever dangerous drugs are stored, and~~
23 ~~facilities which are engaged in dispensing, delivery or distribution~~
24 ~~of dangerous drugs;~~

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

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

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

20 ~~23. "Continuing professional education" means professional,~~
21 ~~pharmaceutical education in the general areas of the socioeconomic~~
22 ~~and legal aspects of health care; the properties and actions of~~
23 ~~drugs and dosage forms; and the etiology, characteristics and~~
24 ~~therapeutics of the diseased state;~~

1 ~~24. "Accredited program" means those seminars, classes,~~
2 ~~meetings, work projects and other educational courses approved by~~
3 ~~the Board for purposes of continuing professional education,~~

4 ~~25.~~ 30. "Professional samples" means complimentary drugs
5 packaged in accordance with federal and state statutes and
6 regulations;

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

19 ~~26. "Compounding" means the preparation, mixing, assembling,~~
20 ~~packaging, or labeling of a drug or device:~~

- 21 ~~a. as the result of a practitioner's prescription drug~~
22 ~~order or initiative based on the~~
23 ~~practitioner/patient/pharmacist relationship in the~~
24 ~~course of professional practice, or~~

1 ~~b. for the purpose of, or incident to, research,~~
2 ~~teaching, or chemical analysis and not for sale or~~
3 ~~dispensing.~~

4 ~~Compounding also includes the preparation of drugs or devices in~~
5 ~~anticipation of prescription drug orders based on routine, regularly~~
6 ~~observed prescribing patterns;~~

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

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

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

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

17 ~~31. "Supportive personnel" means technicians and auxiliary~~
18 ~~supportive persons who are regularly paid employees of a pharmacy~~
19 ~~who work and perform tasks in the pharmacy as authorized by Section~~
20 ~~353.29 of this title~~

21 32. "Supportive personnel" means technicians and auxiliary
22 supportive persons who are regularly paid employees of a pharmacy
23 who work and perform tasks in the pharmacy as authorized by Section
24 353.29 of this title; and

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

7 SECTION 2. AMENDATORY 59 O.S. 2001, Section 353.1b, is
8 amended to read as follows:

9 Section 353.1b ~~Authority~~ A certified registered nurse
10 anesthetist has authority to order, select, obtain and administer
11 ~~drugs shall be allowed for a certified registered nurse anesthetist,~~
12 pursuant to rules adopted by the Oklahoma Board of Nursing, only
13 when engaged in the preanesthetic preparation or evaluation;
14 anesthesia induction, maintenance or emergence; or postanesthesia
15 care practice of nurse anesthesia. A certified registered nurse
16 anesthetist may order, select, obtain and administer drugs only
17 during the perioperative or periobstetrical period.

18 SECTION 3. AMENDATORY 59 O.S. 2001, Section 353.3, is
19 amended to read as follows:

20 Section 353.3 A. The State Board of Pharmacy shall consist of
21 six (6) persons, five who shall be licensed as pharmacists by this
22 state and one who shall be a ~~lay person~~ public member.

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

1 a. be registered and in good standing in the State of
2 Oklahoma,

3 b. have been actively engaged in the practice of pharmacy
4 within this state for a period of not less than five
5 (5) years immediately prior to serving on the Board.

6 2. The ~~lay~~ public member shall be appointed by the Governor and
7 shall:

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

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

13 B. The present members of the ~~board~~ Board shall continue to
14 serve the remainder of their terms. Successors shall be appointed
15 for a term of five (5) years. The ~~lay~~ public member of the Board
16 shall serve a term coterminous with the Governor and shall serve at
17 the pleasure of the Governor. The terms of the members of the Board
18 shall expire on the 30th day of June of the year designated for the
19 expiration of the term for which appointed but the public member
20 shall serve until a qualified successor has been duly appointed. No
21 person shall be appointed to serve more than two consecutive terms.
22 Said appointments shall be made from a list of ten (10) names
23 representative of the pharmacy profession submitted annually by the
24

1 Executive Director of the Oklahoma Pharmaceutical Association after
2 an election has been held by mail ballot.

3 SECTION 4. AMENDATORY 59 O.S. 2001, Section 353.5, as
4 amended by Section 2, Chapter 419, O.S.L. 2005 (59 O.S. Supp. 2008,
5 Section 353.5), is amended to read as follows:

6 Section 353.5 A. The State Board of Pharmacy shall annually
7 elect a president and vice-president of the Board. The president
8 and vice-president shall serve for a term of one (1) year and shall
9 perform the duties prescribed by the Board. The Board shall employ
10 an Executive Director who is a licensed pharmacist or is eligible to
11 become a licensed pharmacist in this state. The Executive Director
12 shall perform such duties as required by the Board.

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

16 C. The Executive Director of the Board shall receive an annual
17 salary to be fixed by the Board. The Board shall determine and base
18 the annual salary of the Executive Director upon data obtained from
19 a survey of U. S. regional average annual salaries for ~~registered~~
20 licensed pharmacists, compiled and published each year by the
21 National Community Pharmacist's Association ~~Pfizer Pharmacy Digest~~.

22 D. The Executive Director shall:

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

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

4 SECTION 5. AMENDATORY 59 O.S. 2001, Section 353.6, is
5 amended to read as follows:

6 Section 353.6 Meetings for the examination of applicants for
7 ~~registration~~ licensing and granting of certificates shall be held at
8 least one time each year at a time and place to be fixed by the
9 State Board of Pharmacy. At least ten (10) days' notice shall be
10 publicly given of the time and place of each meeting at which there
11 is an examination of candidates for ~~registration~~ licensure.

12 SECTION 6. AMENDATORY 59 O.S. 2001, Section 353.7, as
13 last amended by Section 17, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
14 2008, Section 353.7), is amended to read as follows:

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

17 1. Regulate the practice of pharmacy;

18 2. Regulate the sale of drugs, medicines, chemicals and
19 poisons;

20 3. Regulate the dispensing of drugs and medicines in all places
21 where drugs and medicines are compounded and/or dispensed;

22 4. Enter and inspect, by its members or by its duly authorized
23 representatives, any and all places, including premises, equipment,
24 contents and records, where drugs, medicines, chemicals or poisons

1 are stored, sold, vended, given away, compounded, dispensed or
2 manufactured;

3 5. Administer oaths in all matters pertaining to the affairs of
4 the Board and to take evidence and compel the attendance of
5 witnesses on questions pertaining to the enforcement of the Oklahoma
6 Pharmacy Act;

7 6. Employ the number of inspectors and/or pharmacist compliance
8 officers necessary to carry out the provisions of the Oklahoma
9 Pharmacy Act at an annual salary to be fixed by the Board, and to
10 authorize necessary expenses. Such inspectors shall have the same
11 powers and authority as that granted to peace officers by the laws
12 of this state for the purpose of enforcing the Oklahoma Pharmacy
13 Act. In addition, such inspectors or pharmacist compliance officers
14 shall have the authority to take and copy records and the duty to
15 confiscate all drugs, medicines, chemicals or poisons found to be
16 stored, sold, vended, given away, compounded, dispensed or
17 manufactured contrary to the provisions of the Oklahoma Pharmacy
18 Act;

19 7. Prescribe minimum standards with respect to floor space and
20 other physical characteristics of pharmacies, and hospital drug
21 rooms as may be reasonably necessary to the maintenance of
22 professional surroundings and to the protection of the safety and
23 welfare of the public, and to refuse the issuance of new or renewal
24 licenses for failure to comply with such standards. Minimum

1 standards for hospital drug rooms shall be consistent with the
2 Oklahoma State Department of Health, Hospital Standards, as defined
3 in OAC 310:667;

4 8. Examine and issue appropriate certificates of ~~registration~~
5 licensure as Doctor of Pharmacy to all applicants ~~whom it shall~~ who
6 the Board deem are qualified to be such under the provisions of the
7 Oklahoma Pharmacy Act;

8 9. Investigate complaints, hold hearings and subpoena witnesses
9 and records;

10 10. Initiate prosecution;

11 11. Reprimand, ~~or~~ place on probation, ~~any holder of a~~
12 ~~certificate, license or permit,~~ suspend, ~~or~~ revoke certificates,
13 ~~licenses or permits,~~ take other disciplinary action and/or levy
14 fines not to exceed ~~One Thousand Dollars (\$1,000.00)~~ Three Thousand
15 Dollars (\$3,000.00) for each count for which any holder of a
16 certificate, license or permit has been convicted in Board hearings.
17 ~~Provided, as a condition of corrective disciplinary sanctions, the~~
18 The Board may impose as part of any disciplinary action, the payment
19 of costs expended by the Board for any legal fees and costs,
20 including, but not limited to, staff time, salary and travel
21 expense, witness fees and attorney fees. The Board may also require
22 ~~extra~~ additional continuing education, ~~or~~ including attendance at a
23 live continuing education program, and may require participation in
24 a rehabilitation program for the impaired. The Board may take such

1 actions singly or in combination, as the nature of the violation
2 requires;

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

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

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

17 15. Establish and collect appropriate fees for licenses,
18 permits, inspections and ~~service~~ services provided and such fees
19 shall be nonrefundable. Such fees shall be promulgated to implement
20 the provisions of the Oklahoma Pharmacy Act under the provisions of
21 the Administrative Procedures Act; ~~and~~

22 16. Regulate:

23 a. personnel working in a pharmacy, such as interns and
24 supportive personnel, including technicians,

1 b. interns, preceptors and training areas through which
2 the training of applicants in the practice of pharmacy
3 occurs for licensure as a pharmacist, and

4 c. such persons regarding all aspects relating to the
5 handling of drugs, medicines, chemicals and poisons;
6 and

7 17. Acquire by purchase, lease, gift, solicitation of gift or
8 by any other manner, and to maintain, use and operate or to contract
9 for the maintenance, use and operation of or lease of any and all
10 property of any kind, real, personal or mixed or any interest
11 therein unless otherwise provided by the Oklahoma Pharmacy Act;
12 provided, all contracts for real property shall be subject to the
13 provisions of Section 63 of Title 74 of the Oklahoma Statutes.

14 SECTION 7. AMENDATORY 59 O.S. 2001, Section 353.9, as
15 amended by Section 18, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2008,
16 Section 353.9), is amended to read as follows:

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

1 1. Is of good moral character;

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

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

9 B. Interns, preceptors and training areas shall make
10 application for a license, and shall pay a fee set by the Board, not
11 to exceed ~~Fifty Dollars (\$50.00)~~ One Hundred Dollars (\$100.00).

12 C. All applicants shall make application in the form and manner
13 prescribed by the Board, and deposit with the Executive Director of
14 the Board a fee set by the Board not to exceed ~~One Hundred Fifty~~
15 ~~Dollars (\$150.00)~~ Two Hundred Fifty Dollars (\$250.00) plus the
16 purchase price of the examination. Upon ~~satisfactory passage of~~
17 passing an examination and meeting such other requirements specified
18 by the Board pursuant to the Oklahoma Pharmacy Act, the applicant
19 shall be granted an appropriate certificate setting forth the
20 qualifications to practice pharmacy. Any applicant failing an
21 examination shall not sit for an additional examination until such
22 applicant has made a new application and paid the fee provided
23 herein.

1 D. The Board ~~of Pharmacy~~ shall have the power to issue
2 reciprocal certificates of ~~registration~~ licensure to applicants
3 ~~registered~~ licensed in other states having like requirements, ~~and~~
4 ~~for which they.~~ Such applicants shall charge be charged a fee ~~of~~
5 ~~Two Hundred Dollars (\$200.00)~~ not to exceed Two Hundred Fifty
6 Dollars (\$250.00).

7 E. The Board shall have the power to issue original
8 certificates of ~~registration~~ licensure to applicants for the score
9 transfer process administered by the National Association of Boards
10 of Pharmacy; provided, such applicants shall provide sufficient
11 proof of compliance with the requirements of paragraphs 1 through 3
12 of subsection A of this section, ~~and for which the Board.~~ Such
13 applicants shall charge be charged a fee not to exceed Two Hundred
14 ~~Dollars (\$200.00)~~ Two Hundred Fifty Dollars (\$250.00).

15 SECTION 8. AMENDATORY 59 O.S. 2001, Section 353.10, is
16 amended to read as follows:

17 Section 353.10 A. Any person who was licensed as an assistant
18 pharmacist before July 27, 1961, and who met the standards and
19 requirements for licensure pursuant to the Oklahoma Pharmacy Act may
20 practice as an assistant pharmacist.

21 B. Assistant pharmacists shall not manage a pharmacy.

22 C. Every assistant pharmacist shall meet the same requirements
23 for pharmacists listed in Sections 353.11, 353.12 and 353.16A of
24 this title.

1 SECTION 9. AMENDATORY 59 O.S. 2001, Section 353.11, as
2 last amended by Section 19, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
3 2008, Section 353.11), is amended to read as follows:

4 Section 353.11 A. 1. Every ~~registered~~ licensed pharmacist and
5 ~~assistant pharmacist~~ who desires to continue in the profession of
6 pharmacy in this state shall ~~annually, after the expiration of the~~
7 ~~registration, and~~ on or before the expiration date each year of the
8 license, complete a renewal form and remit to the State Board of
9 Pharmacy a renewal fee for each year to be fixed by the Board. Upon
10 compliance with the provisions of the Oklahoma Pharmacy Act and
11 payment of such renewal fee, a renewal certificate of ~~registration~~
12 licensure shall be issued.

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

17 B. If any ~~person~~ pharmacist fails or neglects to procure ~~an~~
18 ~~annual registration or permit~~ the renewal of his or her license, as
19 herein required, ~~notice of such failure having been mailed to such~~
20 ~~person's post office address~~, the Board may, after the expiration of
21 thirty (30) days following the issue of the notice, deprive the
22 person of his or her ~~registration~~ license and all other privileges
23 conferred by the Oklahoma Pharmacy Act. In order to regain
24 ~~registration~~ licensure, ~~it shall be necessary for such person to~~

1 ~~make application~~ the pharmacist shall apply in writing to the Board
2 requesting reinstatement. The Board may require ~~such person~~ the
3 pharmacist to appear before the Board at a regular meeting.

4 SECTION 10. AMENDATORY 59 O.S. 2001, Section 353.12, is
5 amended to read as follows:

6 Section 353.12 A. Every person upon receiving a certificate of
7 ~~registration~~ licensure pursuant to the Oklahoma Pharmacy Act, or who
8 has heretofore received a certificate of ~~registration~~ licensure in
9 this state, shall keep such certificate conspicuously displayed in
10 the pharmacy where such pharmacist is actively engaged in the
11 practice of pharmacy or in such a location as is otherwise
12 prescribed by the State Board of Pharmacy. The current receipt for
13 ~~registration~~ licensure shall be attached to the lower left corner of
14 the original certificate. Every ~~registered~~ licensed pharmacist ~~or~~
15 ~~assistant pharmacist~~ shall, within ten (10) days after discontinuing
16 or changing his or her place of practice, remove his or her
17 certificate and notify the Executive Director of the Board, in
18 writing, of his or her new place of practice. Upon receipt of ~~said~~
19 the notification, the Executive Director shall make the necessary
20 change in the ~~register~~ Board records.

21 B. Any member of the Board ~~of Pharmacy~~, ~~or~~ inspector or
22 pharmacist compliance officer duly authorized by ~~said~~ the Board
23 shall have authority to confiscate and void any certificate issued
24 by ~~said~~ the Board which has been displayed in any place not

1 authorized by the Board, provided that the holder of the certificate
2 shall be entitled to a hearing before the Board and show cause why
3 his or her certificate should not be canceled.

4 SECTION 11. AMENDATORY 59 O.S. 2001, Section 353.13, as
5 amended by Section 2, Chapter 18, O.S.L. 2005 (59 O.S. Supp. 2008,
6 Section 353.13), is amended to read as follows:

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

11 B. It shall be unlawful for any person to institute or manage a
12 pharmacy unless such person ~~shall be~~ is a ~~registered~~ licensed
13 pharmacist, or ~~shall place~~ has placed a licensed pharmacist in
14 charge of said pharmacy ~~a registered pharmacist~~.

15 C. No ~~registered~~ licensed pharmacist shall manage, supervise
16 ~~nor~~ or be in charge of more than one pharmacy.

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

23

24

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

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

8 G. Nothing in the Oklahoma Pharmacy Act shall prevent
9 veterinary prescription drugs from being shipped directly from a an
10 Oklahoma licensed wholesaler or distributor to a client; provided,
11 such drugs may be supplied to the client only on the order of an
12 Oklahoma licensed veterinarian and only when a valid veterinarian-
13 client-patient relationship exists.

14 1. ~~Prescriptions dispensed~~ Drugs supplied pursuant to the
15 provisions of this subsection shall not be required to be certified
16 by a pharmacist prior to being ~~dispensed~~ supplied by a wholesaler or
17 distributor.

18 2. It shall be a violation of state law for ~~an owner~~ a client
19 or ~~their~~ his or her authorized agent to acquire or use any
20 prescription drug other than according to the label and/or outside
21 of a valid veterinarian-client-patient relationship (VCPR);

22 3. It shall be a violation of state law for a an Oklahoma
23 licensed wholesaler or distributor to sell a prescription-labeled
24

1 drug to ~~an owner~~ a client or ~~their~~ his or her authorized agent
2 without a valid VCPR in place; and

3 4. Compliance ~~of this act~~ with the Oklahoma Pharmacy Act as it
4 relates to veterinary prescription-labeled drugs shall be ~~done in~~
5 ~~accordance with and~~ pursuant to rules ~~that shall be~~ promulgated by
6 the Oklahoma State Board of Veterinary Medical Examiners and in
7 consultation with the State Veterinarian in accordance with state
8 law.

9 SECTION 12. AMENDATORY 59 O.S. 2001, Section 353.13A, as
10 last amended by Section 1, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
11 2008, Section 353.13A), is amended to read as follows:

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

16 B. ~~1-~~ Pharmacists may dispense prescriptions for dangerous
17 drugs and controlled dangerous substances specified in Section 581
18 of this title for ocular abnormalities prescribed by ~~qualified~~
19 optometrists ~~certified~~ licensed by the Oklahoma Board of Examiners
20 in Optometry ~~to use such dangerous drugs and controlled dangerous~~
21 ~~substances.~~

22 ~~2-~~ All prescriptions issued by ~~certified~~ licensed optometrists
23 shall include the ~~certification~~ license number of the optometrist as
24 assigned by the Oklahoma Board of Examiners in Optometry. ~~The Board~~

1 ~~of Examiners in Optometry shall provide an annual list of all~~
2 ~~certified optometrists directly to each pharmacy licensed by the~~
3 ~~Oklahoma State Board of Pharmacy. Any additions or deletions in~~
4 ~~certification shall be mailed to all pharmacies in this state within~~
5 ~~thirty (30) days of such change.~~

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

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

1 SECTION 13. AMENDATORY 59 O.S. 2001, Section 353.17, is
2 amended to read as follows:

3 Section 353.17 A. No person shall take, use or exhibit the
4 title of pharmacist, ~~registered~~ licensed pharmacist or ~~assistant~~
5 ~~pharmacist~~ Doctor of Pharmacy, either expressly or by implication,
6 except as otherwise authorized by the Oklahoma Pharmacy Act.

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

13 SECTION 14. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 353.17A of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

16 It shall be unlawful to impersonate a pharmacist. If a person
17 impersonates a pharmacist and causes patient harm, then, upon
18 conviction, it shall be a felony.

19 SECTION 15. AMENDATORY 59 O.S. 2001, Section 353.18, as
20 last amended by Section 2, Chapter 285, O.S.L. 2005 (59 O.S. Supp.
21 2008, Section 353.18), is amended to read as follows:

22 Section 353.18 A. 1. It shall be unlawful for any person,
23 including, but not limited to, Internet, website or online
24 pharmacies, to engage in selling at retail, or offering for sale,

1 dangerous drugs, medicines, chemicals or poisons for the treatment
2 of disease, excluding agricultural chemicals and drugs, or to accept
3 prescriptions for same, without first procuring a license from the
4 State Board of Pharmacy. This applies whether such sale, offer for
5 sale or acceptance of prescriptions occurs from this state, or such
6 sale, offer for sale, or acceptance of prescription occurs and is to
7 be delivered, distributed or dispensed to patients or customers in
8 this state. The provisions of this subsection shall not apply to
9 medical gas suppliers or medical gas distributors regulated pursuant
10 to the provisions of subsection B of this section.

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

- 13 a. the place for which the license is sought will be
14 conducted in full compliance with the law and the
15 rules of the Board,
- 16 b. the location, appointments and physical
17 characteristics of the place are reasonably consistent
18 with the maintenance of professional surroundings and
19 constitute no known danger to the public health and
20 safety,
- 21 c. the place will be under the management and control of
22 a ~~registered~~ licensed pharmacist, and
- 23 d. a ~~registered~~ licensed pharmacist ~~or assistant~~
24 ~~pharmacist~~ will be present and on duty at all hours

1 the pharmacy is open for business; provided, however,
2 the provisions of this subparagraph shall not apply to
3 a hospital drug room.

4 3. a. An application for a license issued pursuant to the
5 provisions of this subsection shall:

6 (1) be submitted to the Board in writing, and

7 (2) contain the name or names of persons owning the
8 pharmacy.

9 b. An application for each initial or renewal license
10 shall be accompanied by a licensing fee not to exceed
11 ~~One Hundred Fifty Dollars (\$150.00)~~ Three Hundred
12 Dollars (\$300.00) for each period of one (1) year.

13 Prior to opening for business, all applicants for an
14 initial license or permit shall be inspected.

15 Applicants shall pay an inspection fee not to exceed
16 ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars

17 (\$200.00); provided however, that no charge shall be
18 made for the licensing of any Federal Veterans
19 Hospital in the State of Oklahoma.

20 c. A license issued pursuant to the provisions of this
21 subsection shall be valid for a period set by the
22 Board and shall contain the name of the licensee and
23 the address of the place at which such business shall
24 be conducted.

1 4. A retail pharmacy that prepares sterile therapeutic
2 preparations that shall be free from living microorganisms (aseptic)
3 shall obtain a pharmacy license, and shall also obtain a parenteral
4 permit at a fee set by the Board, not to exceed Seventy-five Dollars
5 (\$75.00). Such pharmacy shall meet requirements set by the Board by
6 rule for parenteral permits.

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

16 2. a. An application for an initial or renewal permit issued
17 pursuant to the provisions of this subsection shall
18 be:

19 (1) made in writing, and

20 (2) accompanied by a permit fee not to exceed Three
21 Hundred Dollars (\$300.00) for each period of one
22 (1) year.

23 b. Prior to opening for business, all applicants for an
24 initial permit shall be inspected. Applicants shall

1 pay an inspection fee not to exceed ~~One Hundred~~
2 ~~Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00).

3 3. A permit issued pursuant to the provisions of this
4 subsection shall be valid for a period determined by the Board and
5 shall contain the name of the permittee and the address of the place
6 at which such business shall be conducted.

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

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

15 D. 1. The Board shall promulgate rules regarding the issuance
16 and renewal of licenses and permits pursuant to the Oklahoma
17 Pharmacy Act which shall include, but need not be limited to:

- 18 a. provisions for new or renewal application requirements
19 for both in- and out-of-state wholesale distributors,
20 chain pharmacy warehouses and repackagers that ship
21 into Oklahoma. Requirements for new and renewal
22 applications, if such information has not been
23 previously provided to the Board, ~~shall~~ may include,
24 but need not be limited to, the following:

- 1 (1) type of ownership, whether individual,
2 partnership, limited liability company or
3 corporation,
- 4 (2) names of principal owners or officers and their
5 Social Security numbers,
- 6 (3) names of designated managers and their Social
7 Security numbers,
- 8 (4) applicant's and designated managers'
9 fingerprints,
- 10 (5) criminal background check information for the
11 applicants and designated managers as required by
12 rule,
- 13 (6) a copy of the license from the applicant's or
14 designated managers' home state, and
- 15 (7) bond requirements, and

16 b. provisions for the establishment of a pedigree or
17 electronic file to be used by wholesale distributors,
18 chain pharmacy warehouses and repackagers for the
19 purpose of ensuring the integrity of drugs owned,
20 purchased, distributed, returned, transferred and sold
21 when the products leave the normal distribution
22 channel.

23 2. The Board shall be authorized to use an outside agency, such
24 as the National Association of Boards of Pharmacy (NABP) or the

1 Verified-Accredited Wholesale Distributors (VAWD), to accredit
2 wholesale distributors and repackagers.

3 3. The Board may exempt by rule wholesalers accredited by VAWD
4 from the provisions of subparagraphs a and b of paragraph 1 of this
5 subsection.

6 4. The Board shall exempt from the provisions of this
7 subsection logistics providers that receive prescription drugs from
8 original sponsors or manufacturers, deliver the drug products in
9 commerce at the direction of the original sponsor or manufacturer,
10 and do not purchase, sell, trade, or take title to any prescription
11 drug.

12 5. In promulgating such rules, the Board shall seek input from
13 manufacturers, wholesale distributors, chain pharmacy warehouses,
14 logistics providers and repackagers.

15 E. A wholesale distributor shall accept prescription drug
16 returns pursuant to the terms and conditions of the agreement
17 between the wholesale distributor and a hospital, pharmacy, chain
18 pharmacy warehouse or other healthcare entity and these returns
19 shall not be subject to any pedigree or electronic file requirement
20 unless the returns appear suspicious or are greater than the
21 purchases from the wholesale distributor. Wholesale distributors
22 shall be held accountable for maintaining their return process and
23 ensuring that items returned originated from their operations, that

24

1 the return process is secure, and that the return process does not
2 permit the entry of adulterated and counterfeit product.

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

6 SECTION 16. AMENDATORY 59 O.S. 2001, Section 353.20, is
7 amended to read as follows:

8 Section 353.20 A. Every pharmacy shall have the proper
9 pharmaceutical equipment so that prescriptions can be filled, and
10 the practice of pharmacy can be properly conducted. The State Board
11 of Pharmacy shall prescribe the minimum professional and technical
12 equipment and library which a pharmacy shall at all times possess.
13 No pharmacy license shall be issued or continued until or unless
14 such pharmacy has complied with the Oklahoma Pharmacy Act.

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

20 C. No license shall be issued or continued for ~~conduct~~ of a
21 pharmacy to do business unless the premises of such pharmacy ~~shall~~
22 ~~be~~ are equipped with proper sanitary appliances and kept in a clean
23 and orderly manner.

24

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

7 SECTION 17. AMENDATORY 59 O.S. 2001, Section 353.22, is
8 amended to read as follows:

9 Section 353.22 A. It shall be unlawful for:

10 1. Any person to sell any poison without distinctly labeling
11 the box, vessel or paper in which the ~~said~~ poison is contained with
12 the name of the article, the word "poison", and the name and the
13 place of business of the seller; or

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

23

24

1 B. The provisions of this section shall not apply to the
2 dispensing of poisons in not unusual quantities or doses, upon the
3 prescription of practitioners of medicine.

4 SECTION 18. AMENDATORY 59 O.S. 2001, Section 353.24, as
5 last amended by Section 1, Chapter 40, O.S.L. 2005 (59 O.S. Supp.
6 2008, Section 353.24), is amended to read as follows:

7 Section 353.24 It shall be unlawful for any person, firm or
8 ~~corporation~~ business entity to:

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

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

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

20 4. Enter into any arrangement whereby prescription orders are
21 received, or prescriptions delivered at a place other than the
22 pharmacy in which they are filled, compounded and/or dispensed.

23 However, nothing in this paragraph shall prevent a pharmacist or an
24 employee of the pharmacy from personally receiving a prescription or

1 delivering a legally filled prescription at a residence, office or
2 place of employment of the patient for whom the prescription was
3 written. Provided further, the provisions of this paragraph shall
4 not apply to any Department of Mental Health and Substance Abuse
5 Services employee or any person whose facility contracts with the
6 Department of Mental Health and Substances Abuse Services whose
7 possession of any dangerous drug, as defined in Section 353.1 of
8 this title, is for the purpose of delivery of a mental health
9 consumer's medicine to the consumer's home or residence. Nothing in
10 this paragraph shall prevent veterinary prescription drugs from
11 being shipped directly from a an Oklahoma licensed wholesaler or
12 distributor to a client; provided, such drugs may be dispensed only
13 on prescription of a licensed veterinarian and only when an existing
14 veterinary-client-patient relationship exists;

15 5. Sell, offer for sale or barter or buy any professional
16 samples except through a program pursuant to the Utilization of
17 Unused Prescription Medications Act. For purpose of this paragraph,
18 "professional samples" means complimentary drugs packaged in
19 accordance with federal and state statutes and regulations and
20 provided to a licensed practitioner free of charge by manufacturers
21 or distributors for the purpose of being distributed free of charge
22 in such package by the licensed practitioner to a patient;

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

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

4 7. Possess dangerous drugs without a valid prescription or a
5 valid license to possess such drugs; provided, however, this
6 provision shall not apply to any Department of Mental Health and
7 Substance Abuse Services employee or any person whose facility
8 contracts with the Department of Mental Health and Substances Abuse
9 Services whose possession of any dangerous drug, as defined in
10 Section 353.1 of this title, is for the purpose of delivery of a
11 mental health consumer's medicine to the consumer's home or
12 residence;

13 8. Knowingly violate a Board Order or Agreed Order;

14 9. Compromise the security of licensure examination materials;

15 or

16 10. Fail to notify the Board, in writing, within ten (10) days
17 of an address change.

18 SECTION 19. AMENDATORY 59 O.S. 2001, Section 353.25, is
19 amended to read as follows:

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

23 B. Any person who shall willfully make any false
24 representations in procuring or attempting to procure for himself or

1 herself, or for another, ~~registration~~ licensure under ~~this act~~ the
2 Oklahoma Pharmacy Act shall be guilty of the felony of perjury.

3 SECTION 20. AMENDATORY 59 O.S. 2001, Section 353.26, as
4 last amended by Section 22, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
5 2008, Section 353.26), is amended to read as follows:

6 Section 353.26 A. The State Board of Pharmacy may:

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

10 a. violates any provision of the Oklahoma Pharmacy Act,

11 b. violates any of the provisions of the Uniform
12 Controlled Dangerous Substances Act,

13 c. has been convicted of a felony or has pleaded guilty
14 or no contest to a felony,

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

18 e. conducts himself or herself in a manner likely to
19 lower public esteem for the profession of pharmacy,

20 f. ~~has had his or her license placed on probation,~~
21 ~~suspended, or revoked,~~ has been reprimanded

22 disciplined by another State Board of Pharmacy or ~~has~~

23 ~~had another disciplinary action~~ by another state or

24 federal entity,

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

3 h. exercises conduct and habits inconsistent with the
4 rules of professional conduct established by the
5 Board; and

6 2. Levy administrative fines not to exceed ~~One Thousand Dollars~~
7 ~~(\$1,000.00)~~ Three Thousand Dollars (\$3,000.00) for each count of
8 which any holder of a certificate, license, or permit has been
9 convicted in Board hearings.

10 B. 1. The Board, its employees, or other agents of the Board
11 shall keep confidential information obtained during an investigation
12 into violations of the Oklahoma Pharmacy Act; provided, however,
13 such information may be introduced by the state in administrative
14 proceedings before the Board and the information then becomes a
15 public record.

16 ~~C.~~ To ensure the confidentiality of such information ~~for the~~
17 ~~protection of the affected individual or entity, the information~~
18 obtained during the investigation but not introduced in
19 administrative proceedings, this information shall not be deemed to
20 be a record as that term is defined in the Oklahoma Open Records
21 Act, nor shall the information be subject to subpoena or discovery
22 in any civil or criminal proceedings, except that the Board may give
23 such information to law enforcement and other state agencies as
24 necessary and appropriate in the discharge of the duties of that

1 agency and only under circumstances that ensure against unauthorized
2 access to the information.

3 D. 2. The respondent may acquire information obtained during
4 an investigation, unless the disclosure of the information is
5 otherwise prohibited, except for the investigative report, if the
6 respondent signs a protective order whereby the respondent agrees to
7 use the information solely for the purpose of defense in the Board
8 proceeding and in any appeal therefrom and agrees not to otherwise
9 disclose the information.

10 C. 1. The Board, ~~upon a~~ shall mail by certified mail to
11 respondent at the last address provided by respondent to the Board,
12 at least ten (10) days before the hearing, the sworn complaint filed
13 with its Executive Director, and after giving at least ten (10)
14 days' written notice by registered or certified mail of the filing
15 of such complaint to the person accused therein against respondent
16 and notice of the date and place of a hearing thereon, to which
17 notice shall be attached a statement of the charges contained in the
18 complaint, is hereby authorized and empowered, if the.
19 Alternatively, the Board may serve respondent personally by any
20 person appointed to make service by the Executive Director of the
21 Board and in any manner authorized by the law of this state for the
22 personal service of summonses in proceedings in a state court. If
23 the Board finds that the allegations of the complaint are supported
24 by the evidence rendered at the hearing, the Board is hereby

1 authorized and empowered to, by written order, revoke permanently or
2 suspend for a designated period, the certificate, license or permit
3 of the ~~person charged in the complaint~~ respondent and/or ~~to~~
4 reprimand, ~~or~~ place ~~such person~~ on probation and/or fine the
5 respondent.

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

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

12 ~~E. D.~~ D. A person, other than a pharmacy technician, whose license
13 or permit has been suspended by the Board or by operation of law
14 shall pay a reinstatement fee not to exceed ~~One Hundred Dollars~~
15 ~~(\$100.00)~~ One Hundred Fifty Dollars (\$150.00) as a condition of
16 reinstatement of the license.

17 SECTION 21. AMENDATORY 59 O.S. 2001, Section 353.29, as
18 amended by Section 23, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2008,
19 Section 353.29), is amended to read as follows:

20 Section 353.29 A. ~~The use of supportive~~ Supportive personnel
21 may be used in the practice of pharmacy ~~shall be acceptable within~~
22 if used in compliance with rules established by the State Board of
23 Pharmacy.

24

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

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

5 a. made in writing, and

6 b. accompanied by a permit fee not to exceed ~~Forty~~
7 ~~Dollars (\$40.00)~~ Seventy-five Dollars (\$75.00) for
8 each period of one (1) year.

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

11 ~~4.~~ 3. A pharmacy technician who fails to complete an
12 application for a renewal permit by the fifteenth day after the
13 expiration of the permit shall pay a late fee to be fixed by the
14 Board.

15 SECTION 22. AMENDATORY Section 5, Chapter 408, O.S.L.
16 2002, as amended by Section 1, Chapter 307, O.S.L. 2003 (59 O.S.
17 Supp. 2008, Section 353.30), is amended to read as follows:

18 Section 353.30 A. The use of agreements in the practice of
19 pharmacy shall be acceptable within the rules promulgated by the
20 State Board of Pharmacy and in consultation with the State Board of
21 Medical Licensure and Supervision and the State Board of Osteopathic
22 Examiners.

23 B. The Board ~~of Pharmacy~~ shall develop and prepare permanent
24 rules relating to training requirements and administration of

1 immunizations and therapeutic injections in consultation within the
2 State Board of Medical Licensure and Supervision and the State Board
3 of Osteopathic Examiners.

4 C. A pharmacist who has completed a requisite course of
5 training as approved by the Board of ~~Pharmacy~~ in consultation with
6 the State Board of Medical Licensure and Supervision and the State
7 Board of Osteopathic Examiners, may administer immunizations and
8 therapeutic injections ~~only upon patient specific~~ on orders from an
9 osteopathic physician or allopathic physician.

10 ~~D. In the case of both immunization and therapeutic injection~~
11 ~~to be administered by a pharmacist, the required patient specific~~
12 ~~prescriptions shall be written in accordance with rules promulgated~~
13 ~~by the licensing board of the licensed practitioner issuing the~~
14 ~~prescription.~~

15 SECTION 23. AMENDATORY 59 O.S. 2001, Section 354, is
16 amended to read as follows:

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

19 B. No pharmacist ~~or assistant pharmacist~~ shall refuse, upon
20 request by that customer in person or through an authorized
21 pharmacist ~~or assistant pharmacist~~, to supply a reference copy in
22 writing or by telephone.

23 C. No ~~legally competent~~ licensed practitioner ~~of the healing~~
24 ~~arts~~ shall refuse to honor the request of his or her patient to have

1 his or her prescription transferred to the ~~registered~~ licensed
2 pharmacist or licensed pharmacy of the patient's choice.

3 SECTION 24. AMENDATORY 59 O.S. 2001, Section 355.2, is
4 amended to read as follows:

5 Section 355.2 A. A licensed practitioner violating any of the
6 provisions of this act shall be subject to appropriate actions
7 established in the rules and regulations of his or her licensing
8 board.

9 B. Rules ~~and regulations~~ relating to ~~this act~~ the Oklahoma
10 Pharmacy Act shall be adopted by the appropriate licensing boards
11 after consultation and review with the Oklahoma State Board of
12 Pharmacy prior to the effective date of this act.

13 SECTION 25. AMENDATORY 59 O.S. 2001, Section 366, is
14 amended to read as follows:

15 Section 366. A. The State Board of Pharmacy may grant to a
16 pharmacist who meets all the necessary requirements for ~~registration~~
17 ~~and~~ licensure, except the continuing education requirements,
18 alternate methods of obtaining continuing education hours.

19 B. 1. Any pharmacist who does not meet the requirement for
20 continuing education may obtain an inactive renewal certificate of
21 ~~registration~~ licensure.

22 2. The holder of an inactive renewal certificate of
23 ~~registration~~ licensure shall not engage in the practice of pharmacy
24 in Oklahoma.

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3. The holder of an inactive renewal certificate of ~~registration~~ licensure shall apply to the State Board of Pharmacy to be removed from the inactive status.

SECTION 26. REPEALER 59 O.S. 2001, Section 355, as amended by Section 2, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2008, Section 355), is hereby repealed

SECTION 27. This act shall become effective November 1, 2009.

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