ENROLLED SENATE
BILL NO. 1181

By: Jolley of the Senate

and

Cox of the House

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 353.1, as last amended by Section 1, Chapter 18, O.S.L. 2005, 353.1b, 353.3, 353.5, as amended by Section 2, Chapter 419, O.S.L. 2005, 353.6, 353.7, as last amended by Section 17, Chapter 523, O.S.L. 2004, 353.9, as amended by Section 18, Chapter 523, O.S.L 2004, 353.10, 353.11, as last amended by Section 19, Chapter 523, O.S.L. 2004, 353.12, 353.13, as amended by Section 2, Chapter 18, O.S.L. 2005, 353.13A, as last amended by Section 1, Chapter 523, O.S.L 2004, 353.17, 353.18, as last amended by Section 2, Chapter 285, O.S.L. 2005, 353.20, 353.22, 353.24, as last amended by Section 1, Chapter 40, O.S.L. 2005, 353.25, 353.26, as last amended by Section 22, Chapter 523, O.S.L. 2004, 353.29, as amended by 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, 366 and 587 (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 Board of Pharmacy; requiring certain minimum standards for hospital drug rooms; 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 Board of Pharmacy; modifying certain fines; modifying certain fees; adding certain requirements for assistant pharmacists; modifying certain procedures relating to renewal of licenses; deleting certain requirement for assistant pharmacists; requiring certain notice to be in writing; making it unlawful for an assistant pharmacist to certify certain prescriptions; making language gender neutral; deleting certain requirements for the Oklahoma Board of Examiners in Optometry; modifying prohibition relating to use of certain titles; making it unlawful to impersonate a pharmacist; making certain impersonation a felony; making internet, web or online pharmacies subject to certain licensure; stating when certain requirement for licensure applies; deleting authorization for assistant pharmacists to manage or control a pharmacy; modifying certain requirement for new and renewal applications for certain licensure; modifying requirements for the acceptance of certain prescription drug returns; clarifying and adding certain unlawful acts; modifying procedures for revocation or suspension of certain licenses or permits; providing for when certain information becomes a public record; prohibiting certain information from being subject to subpoena or 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; 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; modifying limit on certain fee; 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.

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

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

Section 353.1 For the purposes of the Oklahoma Pharmacy Act:

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

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

3. "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;

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

5. "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;

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

a. in accordance with a licensed practitioner's prescription drug order under an 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 includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns;

7. "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;

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

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

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

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

(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 licensed practitioners only;

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

10. "Doctor of Pharmacy" means a person licensed by the Board 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;

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

12. "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/or internal use in the cure, diagnosis, mitigation, treatment or prevention of disease in humans or animals and all substances and preparations, other than food, intended to affect the structure or any function of the body of a human or animals;

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

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

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

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

17. "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 licensed pharmacies, licensed practitioners or other persons;

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

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

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

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

22. "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;

23. "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.;

24. "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;

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

26. "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.~~ 27. "Poison" means any substance which when introduced into the ~~system~~ body, 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.~~ 28. "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;

29. "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. a licensed practitioner of allopathic or osteopathic medicine, ~~including physician assistants~~ dentistry, podiatry, optometry, or veterinary medicine, or

b. under the supervision of ~~a~~ an Oklahoma 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, or by a~~ an Oklahoma licensed advanced practice nurse or an Oklahoma licensed physician assistant, or

c. an Oklahoma licensed wholesaler or distributor as authorized in subsection G of Section 353.13 of this title;

~~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", "prescription drug" or "Rx Only" means a drug which:~~

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

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

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

(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.~~ 30. "Professional samples" means complimentary drugs packaged in accordance with federal and state statutes and regulations;

31. "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 the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, or the State Board of Osteopathic Examiners, pursuant to the provisions of 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;

~~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.~~ 32. "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; and

33. "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.

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

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

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

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

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

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

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

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

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

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

B. The present members of the ~~board~~ Board shall continue to serve the remainder of their terms. Successors shall be appointed for a term of five (5) years. The ~~lay~~ public member of the Board shall serve a term coterminous with the Governor and shall serve at the pleasure of the Governor. The terms of the members of the Board shall expire on the 30th day of June of the year designated for the expiration of the term for which appointed but the member shall serve until a qualified successor has been duly appointed. No person shall be appointed to serve more than two consecutive terms. Said appointments shall be made from a list of ten (10) names representative of the pharmacy profession submitted annually by the Executive Director of the Oklahoma Pharmaceutical Association after an election has been held by mail ballot.

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

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

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

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

D. The Executive Director shall:

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

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

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

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

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

Section 353.7 The State 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 and/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 or pharmacist compliance officers shall have the authority to take and copy records 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~~,~~ and hospital drug rooms 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. Minimum standards for hospital drug rooms shall be consistent with the State Department of Health, Hospital Standards, as defined in OAC 310:667;

8. Examine and issue appropriate certificates of ~~registration~~ licensure as Doctor of Pharmacy to all applicants ~~whom it shall deem~~ who the Board deems are 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,~~ or take other disciplinary action and/or levy fines not to exceed ~~One Thousand Dollars ($1,000.00)~~ Three Thousand Dollars ($3,000.00) 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~~ The Board may impose as part of any disciplinary action the payment of costs expended by the Board for any legal fees and costs, including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees. The Board may also require ~~extra~~ additional continuing education ~~or~~, including 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;

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 make such other ~~areas~~ rules 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~~ services provided and such fees shall be nonrefundable. 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; and

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

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

Section 353.9 A. ~~Registered~~ Licensed pharmacists shall be persons regularly ~~registered~~ licensed as such in the State of Oklahoma on or before the effective date of this act. All other qualified persons may become ~~registered~~ licensed as a Doctor of Pharmacy upon passing ~~a satisfactory~~ an examination approved by the State 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 is a foreign pharmacy school graduate who has received an FPGEC 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)~~ One Hundred Dollars ($100.00).

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)~~ Two Hundred Fifty Dollars ($250.00) plus the purchase price of the examination. Upon ~~satisfactory passage of~~ passing 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.

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

E. The Board shall have the power to issue original certificates of ~~registration~~ licensure 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~~. Such applicants shall ~~charge~~ be charged a fee not to exceed ~~Two Hundred Dollars ($200.00)~~ Two Hundred Fifty Dollars ($250.00).

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

Section 353.10 A. Any person who was licensed as an assistant pharmacist before July 27, 1961, and who met the standards and

requirements for licensure pursuant to the Oklahoma Pharmacy Act may practice as an assistant pharmacist.

B. Assistant pharmacists shall not manage a pharmacy.

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

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

Section 353.11 A. 1. Every ~~registered~~ licensed 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~~ of the license, complete a renewal form and remit to the State Board of Pharmacy a renewal fee for each year 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~~ licensure shall be issued.

2. Every ~~registered~~ licensed 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~~ pharmacist fails or neglects to procure ~~an annual registration or permit~~ the renewal of his or her license, 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~~ license and all other privileges conferred by the Oklahoma Pharmacy Act. In order to regain ~~registration~~ licensure, ~~it shall be necessary for such person to make application~~ the pharmacist shall apply in writing to the Board requesting reinstatement. The Board may require ~~such person~~ the pharmacist to appear before the Board at a regular meeting.

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

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

B. Any member of the Board ~~of Pharmacy~~, ~~or~~ inspector or pharmacist compliance officer duly authorized by ~~said~~ the Board shall have authority to confiscate and void any certificate issued by ~~said~~ the Board which has been displayed in any place not authorized by the Board, provided that the holder of the certificate shall be entitled to a hearing before the Board and show cause why his or her certificate should not be canceled.

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

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

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

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

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

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

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

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

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

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

3. It shall be a violation of state law for ~~a~~ an Oklahoma licensed wholesaler or distributor to sell a prescription-labeled drug to ~~an owner~~ a client or ~~their~~ his or her authorized agent without a valid VCPR in place; and

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

consultation with the State Veterinarian in accordance with state law.

SECTION 12. AMENDATORY 59 O.S. 2001, Section 353.13A, as last amended by Section 1, Chapter 523, O.S.L. 2004 (59 O.S. Supp. 2008, Section 353.13A), 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~~ licensed by the Oklahoma Board of Examiners in Optometry ~~to use such dangerous drugs and controlled dangerous substances~~.

~~2.~~ All prescriptions issued by ~~certified~~ licensed optometrists shall include the ~~certification~~ license number of the optometrist as assigned by the Oklahoma 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 may appear on the label, if~~, after being advised~~ provided by the practitioner~~,~~ and 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 13. AMENDATORY 59 O.S. 2001, Section 353.17, is amended to read as follows:

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

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

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

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

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

Section 353.18 A. 1. It shall be unlawful for any person, including, but not limited to, Internet, website or online pharmacies, 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 State Board of Pharmacy. This applies whether such sale, offer for sale or acceptance of prescriptions occurs from this state, or such

sale, offer for sale, or acceptance of prescription occurs and is to be delivered, distributed or dispensed to patients or customers in this state. 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. A license shall be issued to such person as the Board shall deem qualified upon evidence satisfactory to the Board that:

a. the place for which the license is sought will be conducted in full compliance with the law and the rules of the Board,

b. the location, appointments and physical characteristics of the place are reasonably consistent with the maintenance of professional surroundings and constitute no known danger to the public health and safety,

c. the place will be under the management and control of a ~~registered~~ licensed pharmacist, and

d. a ~~registered~~ licensed pharmacist ~~or assistant pharmacist~~ will be present and on duty at all hours the pharmacy is open for business; provided, however, the provisions of this subparagraph shall not apply to a hospital drug room.

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

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

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

b. An application for each initial or renewal license shall be accompanied by a licensing fee not to exceed ~~One Hundred Fifty Dollars ($150.00)~~ Three Hundred Dollars ($300.00) 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)~~ Two Hundred Dollars ($200.00); provided however, that no charge shall be made for the licensing of any Federal Veterans Hospital in the State of Oklahoma.

c. A license issued pursuant to the provisions of this subsection shall be valid for a period 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~~ licensed 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. a. An application for an initial or renewal permit issued pursuant to the provisions of this subsection shall be:

(1) made in writing, and

(2) accompanied by a permit fee not to exceed Three Hundred Dollars ($300.00) 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)~~ Two Hundred Dollars ($200.00).

3. A permit issued pursuant to the provisions of this subsection shall be valid for a period determined by the Board and 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~~ licensee or permittee 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. 1. The Board shall promulgate rules regarding the issuance and renewal of licenses and permits pursuant to the Oklahoma Pharmacy Act which shall include, but need not be limited to:

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

(1) type of ownership, whether individual, partnership, limited liability company or corporation,

(2) names of principal owners or officers and their Social Security numbers,

(3) names of designated managers and their Social Security numbers,

(4) applicant's and designated managers' fingerprints,

(5) criminal background check information for the applicants and designated managers as required by rule,

(6) a copy of the license from the applicant's or designated managers' home state, and

(7) bond requirements, and

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

2. The Board shall be authorized to use an outside agency, such as the National Association of Boards of Pharmacy (NABP) or the Verified-Accredited Wholesale Distributors (VAWD), to accredit wholesale distributors and repackagers.

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

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

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

E. A wholesale distributor shall accept prescription drug returns pursuant to the terms and conditions of the agreement between the wholesale distributor and a hospital, pharmacy, chain pharmacy warehouse or other healthcare entity and these returns

shall not be subject to any pedigree or electronic file requirement unless the returns appear suspicious or are greater than the purchases from the wholesale distributor. Wholesale distributors shall be held accountable for maintaining their return process and ensuring that items returned originated from their operations, that the return process is secure, and that the return process does not permit the entry of adulterated and counterfeit product.

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

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

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

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

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

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

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

Section 353.22 A. It shall be unlawful for:

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

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

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

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

Section 353.24 It shall be unlawful for any person, firm or ~~corporation~~ business entity 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. Provided further, the provisions of this paragraph shall not apply to any Department of Mental Health and Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substances Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of this title, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence. Nothing in this paragraph shall prevent veterinary prescription drugs from being shipped directly from ~~a~~ an Oklahoma licensed 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 except through a program pursuant to the Utilization of Unused Prescription Medications Act. 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;

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; provided, however, this provision shall not apply to any Department of Mental Health and

Substance Abuse Services employee or any person whose facility contracts with the Department of Mental Health and Substances Abuse Services whose possession of any dangerous drug, as defined in Section 353.1 of this title, is for the purpose of delivery of a mental health consumer's medicine to the consumer's home or residence;

8. Knowingly violate a Board order or agreed order;

9. Compromise the security of licensure examination materials; or

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

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

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

B. Any person who shall willfully make any false representations in procuring or attempting to procure for himself or herself, or for another, ~~registration~~ licensure under ~~this act~~ the Oklahoma Pharmacy Act shall be guilty of the felony of perjury.

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

Section 353.26 A. The State Board of Pharmacy 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 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,~~ has been ~~reprimanded~~ disciplined by another State Board of Pharmacy or ~~has had another disciplinary action~~ by another state or federal 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)~~ Three Thousand Dollars ($3,000.00) for each count of which any holder of a certificate, license, or permit has been convicted in Board hearings.

B. 1. The Board, its employees, or other agents of the Board 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 and the information then becomes a public record.

~~C.~~ To ensure the confidentiality of such information ~~for the protection of the affected individual or entity, the information~~ obtained during the investigation but not introduced in administrative proceedings, this information shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act, nor shall the information be subject to subpoena or discovery in any civil or criminal proceedings, except that the Board may give

such information to law enforcement and other state agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that ensure against unauthorized access to the information.

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

C. 1. The Board~~, upon a~~ shall mail by certified mail to respondent at the last address provided by respondent to the Board, at least ten (10) days before the hearing, the sworn complaint filed with its Executive 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~~ against respondent and notice 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~~. Alternatively, the Board may serve respondent personally by any person appointed to make service by the Executive Director of the Board and in any manner authorized by the law of this state for the personal service of summonses in proceedings in a state court. If the Board finds that the allegations of the complaint are supported by the evidence rendered at the hearing, the Board is hereby authorized and empowered to, by written order, revoke permanently or suspend for a designated period, the certificate, license or permit of the ~~person charged in the complaint~~ respondent and/or ~~to~~ reprimand, ~~or~~ place ~~such person~~ on probation and/or fine the respondent.

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.~~ D. 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)~~ One Hundred Fifty Dollars ($150.00) as a condition of reinstatement of the license.

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

Section 353.29 A. ~~The use of supportive~~ Supportive personnel may be used in the practice of pharmacy ~~shall be acceptable within~~ if used in compliance with rules established by the State 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)~~ Seventy-five Dollars ($75.00) 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.~~ 3. 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 22. AMENDATORY Section 5, Chapter 408, O.S.L. 2002, as amended by Section 1, Chapter 307, O.S.L. 2003 (59 O.S. Supp. 2008, Section 353.30), is amended to read as follows:

Section 353.30 A. The use of agreements in the practice of pharmacy shall be acceptable within the rules promulgated by the State Board of Pharmacy and in consultation with the State Board of

Medical Licensure and Supervision and the State Board of Osteopathic Examiners.

B. The Board ~~of Pharmacy~~ shall develop and prepare permanent rules relating to training requirements and administration of immunizations and therapeutic injections in consultation within the State Board of Medical Licensure and Supervision and the State Board of Osteopathic Examiners.

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

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

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

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

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

C. No ~~legally competent~~ licensed practitioner ~~of the healing arts~~ shall refuse to honor the request of his or her patient to have his or her prescription transferred to the ~~registered~~ licensed pharmacist or licensed pharmacy of the patient's choice.

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

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

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

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

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

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

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

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. AMENDATORY 59 O.S. 2001, Section 587, is amended to read as follows:

Section 587. The fee for such examinations shall be set by the Board of Examiners in Optometry rule, not to be less than One Hundred Dollars ($100.00) and not to exceed Two Hundred Dollars ($200.00), and a yearly license fee set by the Board of Examiners in Optometry rule, not to ~~be less than Sixty five Dollars ($65.00) and not to~~ exceed ~~Two Hundred Dollars ($200.00)~~ Three Hundred Dollars ($300.00) shall be paid each fiscal year by all persons holding a license to practice optometry in this state, and shall be paid not later than the 30th day of June of each year. In the event of

default of payment of such license fee by any person, his or her certificate shall be revoked by the Board of Examiners who shall take such action only after notifying the person in default by registered mail and allowing ~~him or her~~ that person fifteen (15) days in which to comply with this requirement. The Board shall be paid travel expenses as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The secretary-treasurer shall receive ~~a~~ compensation fixed by the Board, ~~of~~ not to exceed Two Hundred Dollars ($200.00) per month. All fees and charges collected by the secretary-treasurer of the Board shall be paid on the first day of each month into a revolving fund in the State Treasury to be designated as the "Optometry Board Revolving Fund". This fund shall consist of all monies received by the Board of Optometry other than appropriated funds. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the Board of Optometry. Expenditures from this fund shall be made pursuant to the purposes of Sections 581 through 606 of this title and without legislative approval. Warrants for expenditures shall be drawn by the State Treasurer based on claims signed by an authorized employee or employees of the Board of Optometry and approved for payment by the Director of State Finance. The revolving fund shall be audited at least once each year by the State Auditor and Inspector.

SECTION 27. 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 28. This act shall become effective November 1, 2009.

Passed the Senate the 13th day of May, 2009.

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Presiding Officer of the Senate

Passed the House of Representatives the 19th day of May, 2009.

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Presiding Officer of the House
of Representatives