

THE STATE SENATE  
Tuesday, February 17, 2009

Committee Substitute for  
**Senate Bill No. 1181**

COMMITTEE SUBSTITUTE FOR 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 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 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

1 prohibition relating to use of certain titles; making it  
2 unlawful to impersonate a pharmacist; making certain  
3 impersonation a felony; making Internet, website or online  
4 pharmacies subject to certain licensure; stating when  
5 certain requirement for licensure applies; deleting  
6 authorization for assistant pharmacists to manage or control  
7 a pharmacy; modifying certain requirement for new and  
8 renewal applications for certain licensure; modifying  
9 requirements for the acceptance of certain prescription drug  
10 returns; clarifying and adding certain unlawful acts;  
11 modifying procedures for revocation or suspension of certain  
12 licenses or permits; providing for when certain information  
13 becomes a public record; prohibiting certain information  
14 from being subject to subpoena or discovery in certain  
15 proceedings; providing exception; providing when a  
16 respondent may acquire certain information; providing  
17 exception for acquiring an investigative report under  
18 certain circumstances; requiring the Board to mail certain  
19 sworn complaint with certain notice; providing alternative  
20 to such mailing; modifying procedures for revoking or  
21 suspending certain certificate, license or permit; raising  
22 certain fees; modifying type of order required to administer  
23 certain immunizations and injections; deleting provision  
24 relating to a pharmacist administering both immunization and  
25 therapeutic injections and certain rules to be promulgated;  
26 deleting requirement for assistant pharmacists to supply  
27 certain reference copy of a prescription; repealing 59 O.S.  
28 2001, Section 355, as amended by Section 2, Chapter 523,  
29 O.S.L. 2004, which relates to certain definitions; providing  
30 for codification; and providing an effective date.

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

32 SECTION 1. AMENDATORY 59 O.S. 2001, Section 353.1, as  
33 last amended by Section 1, Chapter 18, O.S.L. 2005 (59 O.S. Supp.  
34 2008, Section 353.1), is amended to read as follows:

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

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

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

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

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

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

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

15        a. in accordance with a licensed practitioner's  
16        prescription drug order under an initiative based on  
17        the practitioner/patient/pharmacist relationship in  
18        the course of professional practice, or

19        b. for the purpose of, or incident to, research,  
20        teaching, or chemical analysis and not for sale or  
21        dispensing.

1        Compounding includes the preparation of drugs or devices in  
2 anticipation of prescription drug orders based on routine, regularly  
3 observed prescribing patterns;

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

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

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

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

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

18        or

19        (3) "Rx Only", or

20        b. is required by any applicable federal or state law or  
21 regulation to be dispensed on prescription only or is  
22 restricted to use by licensed practitioners only;

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

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

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

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

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

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

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

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

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

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

1 requirements of the Federal Food, Drug and Cosmetic Act, 21  
2 U.S.C.A., Section 321 et seq.;

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

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

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

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

18 ~~3. "Drugs" means all medicinal substances and preparations~~  
19 ~~recognized by the United States Pharmacopoeia and National~~  
20 ~~Formulary, or any revision thereof, and all substances and~~  
21 ~~preparations intended for external and internal use in the cure,~~  
22 ~~diagnosis, mitigation, treatment or prevention of disease in humans~~

1 ~~and all substances and preparations, other than food, intended to~~  
2 ~~affect the structure or any function of the body of a human;~~

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

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

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

13 ~~7. 28. "Practice of pharmacy" means:~~

14 ~~a. the interpretation and evaluation of prescription~~  
15 ~~orders,~~

16 ~~b. the compounding, dispensing, administering and~~  
17 ~~labeling of drugs and devices, except labeling by a~~  
18 ~~manufacturer, packer or distributor of nonprescription~~  
19 ~~drugs and commercially packaged legend drugs and~~  
20 ~~devices,~~

21 ~~c. the participation in drug selection and drug~~  
22 ~~utilization reviews,~~

- 1           d. the proper and safe storage of drugs and devices and  
2           the maintenance of proper records thereof,  
3           e. the responsibility for advising by counseling and  
4           providing information, where professionally necessary  
5           or where regulated, of therapeutic values, content,  
6           hazards and use of drugs and devices,  
7           f. the offering or performing of those acts, services,  
8           operations or transactions necessary in the conduct,  
9           operation, management and control of a pharmacy, and  
10          g. the provision of those acts or services that are  
11          necessary to provide pharmaceutical care;

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

- 15          a. a licensed practitioner of allopathic or osteopathic  
16 medicine, ~~including physician assistants~~ dentistry,  
17 podiatry or veterinary medicine, or  
18          b. under the supervision of ~~a~~ an Oklahoma licensed  
19 physician, ~~dentistry, optometry certified by the Board~~  
20 ~~of Examiners in Optometry, podiatry, or veterinary~~  
21 ~~medicine,~~ an Oklahoma licensed advanced practice nurse  
22 or an Oklahoma licensed physician assistant, or

1            c. an Oklahoma licensed optometrist certified by the  
2            Oklahoma Board of Examiners in Optometry who is  
3            licensed by law to prescribe such drugs and medical  
4            supplies intended to be filled, compounded, and/or  
5            dispensed by a pharmacist, or by a an Oklahoma  
6            licensed wholesaler or distributor as authorized in  
7            subsection G of Section 353.13 of this title;

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

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

20           ~~10. "Hospital" means any institution licensed by this state for~~  
21           ~~the care and treatment of patients;~~

22           ~~11. "Person" means every individual, copartnership, corporation~~  
23           ~~or association, unless the context otherwise requires;~~

1       ~~12. "Board" or "State Board" means the Board of Pharmacy;~~  
2       ~~13. "Administer" means the direct application of a drug,~~  
3 ~~whether by injection, inhalation, ingestion or any other means, to~~  
4 ~~the body of a patient;~~  
5       ~~14. "Dispense" includes sell, distribute, leave with, give~~  
6 ~~away, dispose of, deliver, or supply;~~  
7       ~~15. "Wholesaler" or "Distributor" means a person engaged in the~~  
8 ~~business of distributing dangerous drugs or medicines at wholesale~~  
9 ~~to pharmacies, hospitals, practitioners, government agencies, or~~  
10 ~~other lawful drug outlets permitted to sell or use drugs or~~  
11 ~~medicines, or as authorized in subsection C of Section 353.13 of~~  
12 ~~this title;~~  
13       ~~16. "Dangerous drug", "legend drug", "prescription drug" or "Rx~~  
14 ~~Only" means a drug which:~~  
15           ~~a. under federal law, is required, prior to being~~  
16           ~~dispensed or delivered, to be labeled with one of the~~  
17           ~~following statements:~~  
18           ~~(1) "Caution: Federal law prohibits dispensing~~  
19           ~~without prescription",~~  
20           ~~(2) "Caution: Federal law restricts this drug to use~~  
21           ~~by or on the order of a licensed veterinarian",~~  
22           ~~or~~  
23           ~~(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 practitioners only;~~

4           ~~17. "Manufacturer" means a person engaged in the manufacturing~~  
5 ~~of drugs;~~

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

7           ~~a. the interpretation and evaluation of prescription~~  
8           ~~orders;~~

9           ~~b. the compounding, dispensing, administering and~~  
10           ~~labeling of drugs and devices, except labeling by a~~  
11           ~~manufacturer, packer or distributor of nonprescription~~  
12           ~~drugs and commercially packaged legend drugs and~~  
13           ~~devices;~~

14           ~~c. the participation in drug selection and drug~~  
15           ~~utilization reviews;~~

16           ~~d. the proper and safe storage of drugs and devices and~~  
17           ~~the maintenance of proper records thereof;~~

18           ~~e. the responsibility for advising by counseling and~~  
19           ~~providing information, where professionally necessary~~  
20           ~~or where regulated, of therapeutic values, content,~~  
21           ~~hazards and use of drugs and devices;~~



1 ~~this act shall be considered the same as a pharmacist, except where~~  
2 ~~otherwise specified;~~

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

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

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

15 ~~25.~~ 30. "Professional samples" means complimentary drugs  
16 packaged in accordance with federal and state statutes and  
17 regulations;

18 31. "Supervising physician" means an individual holding a  
19 current license to practice as a physician from the State Board of  
20 Medical Licensure and Supervision, pursuant to the provisions of the  
21 Oklahoma Allopathic Medical and Surgical Licensure and Supervision  
22 Act, or the State Board of Osteopathic Examiners, pursuant to the  
23 provisions of the Oklahoma Osteopathic Medicine Act, who supervises

1 an advanced practice nurse as defined in Section 567.3a of this  
2 title, and who is not in training as an intern, resident, or fellow.  
3 To be eligible to supervise an advanced practice nurse, such  
4 physician shall remain in compliance with the rules promulgated by  
5 the State Board of Medical Licensure and Supervision or the State  
6 Board of Osteopathic Examiners;

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

9 ~~a. as the result of a practitioner's prescription drug~~  
10 ~~order or initiative based on the~~  
11 ~~practitioner/patient/pharmacist relationship in the~~  
12 ~~course of professional practice, or~~

13 ~~b. for the purpose of, or incident to, research,~~  
14 ~~teaching, or chemical analysis and not for sale or~~  
15 ~~dispensing.~~

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

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

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

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

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

6       ~~31. "Supportive personnel" means technicians and auxiliary~~  
7 ~~supportive persons who are regularly paid employees of a pharmacy~~  
8 ~~who work and perform tasks in the pharmacy as authorized by Section~~  
9 ~~353.29 of this title~~

10       32. "Supportive personnel" means technicians and auxiliary  
11 supportive persons who are regularly paid employees of a pharmacy  
12 who work and perform tasks in the pharmacy as authorized by Section  
13 353.29 of this title; and

14       33. "Wholesaler" or "Distributor" means a person engaged in the  
15 business of distributing dangerous drugs or medicines at wholesale  
16 to pharmacies, hospitals, practitioners, government agencies or  
17 other lawful drug outlets permitted to sell or use drugs or  
18 medicines, or as authorized in subsection G of Section 353.13 of  
19 this title.

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

22       Section 353.1b ~~Authority~~ A certified registered nurse  
23 anesthetist has authority to order, select, obtain and administer

1 ~~drugs shall be allowed for a certified registered nurse anesthetist,~~  
2 pursuant to rules adopted by the Oklahoma Board of Nursing, only  
3 when engaged in the preanesthetic preparation or evaluation;  
4 anesthesia induction, maintenance or emergence; or postanesthesia  
5 care practice of nurse anesthesia. A certified registered nurse  
6 anesthetist may order, select, obtain and administer drugs only  
7 during the perioperative or peribstetrical period.

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

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

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

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

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

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

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

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

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

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

20           Section 353.5 A.   The State Board of Pharmacy shall annually  
21  elect a president and vice-president of the Board. The president  
22  and vice-president shall serve for a term of one (1) year and shall  
23  perform the duties prescribed by the Board. The Board shall employ

1 an Executive Director who is a licensed pharmacist or is eligible to  
2 become a licensed pharmacist in this state. The Executive Director  
3 shall perform such duties as required by the Board.

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

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

13 D. The Executive Director shall:

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

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

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

21 Section 353.6 Meetings for the examination of applicants for  
22 ~~registration~~ licensing and granting of certificates shall be held at  
23 least one time each year at a time and place to be fixed by the

1 State Board of Pharmacy. At least ten (10) days' notice shall be  
2 publicly given of the time and place of each meeting at which there  
3 is an examination of candidates for ~~registration~~ licensure.

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

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

- 9 1. Regulate the practice of pharmacy;
- 10 2. Regulate the sale of drugs, medicines, chemicals and  
11 poisons;
- 12 3. Regulate the dispensing of drugs and medicines in all places  
13 where drugs and medicines are compounded and/or dispensed;
- 14 4. Enter and inspect, by its members or by its duly authorized  
15 representatives, any and all places, including premises, equipment,  
16 contents and records, where drugs, medicines, chemicals or poisons  
17 are stored, sold, vended, given away, compounded, dispensed or  
18 manufactured;
- 19 5. Administer oaths in all matters pertaining to the affairs of  
20 the Board and to take evidence and compel the attendance of  
21 witnesses on questions pertaining to the enforcement of the Oklahoma  
22 Pharmacy Act;

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

13           7. Prescribe minimum standards with respect to floor space and  
14 other physical characteristics of pharmacies, and hospital drug  
15 rooms as may be reasonably necessary to the maintenance of  
16 professional surroundings and to the protection of the safety and  
17 welfare of the public, and to refuse the issuance of new or renewal  
18 licenses for failure to comply with such standards. Minimum  
19 standards for hospital drug rooms shall be consistent with the  
20 Oklahoma State Department of Health, Hospital Standards, as defined  
21 in OAC 310:667;

22           8. Examine and issue appropriate certificates of ~~registration~~  
23 licensure as Doctor of Pharmacy to all applicants ~~whom it shall~~ who

1 the Board deem are qualified to be such under the provisions of the  
2 Oklahoma Pharmacy Act;

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

5 10. Initiate prosecution;

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

22 12. Adopt and establish rules of professional conduct  
23 appropriate to the establishment and maintenance of a high standard

1 of integrity and dignity in the profession of pharmacy. Such rules  
2 shall be subject to amendment or repeal by the Board as the need may  
3 arise;

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

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

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

18 16. Regulate:

- 19 a. personnel working in a pharmacy, such as interns and  
20 supportive personnel, including technicians,  
21 b. interns, preceptors and training areas through which  
22 the training of applicants in the practice of pharmacy  
23 occurs for licensure as a pharmacist, and

1 c. such persons regarding all aspects relating to the  
2 handling of drugs, medicines, chemicals and poisons;  
3 and

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

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

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

22 1. Is of good moral character;

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

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

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

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

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

4        SECTION 9.        AMENDATORY        59 O.S. 2001, Section 353.11, as  
5 last amended by Section 19, Chapter 523, O.S.L. 2004 (59 O.S. Supp.  
6 2008, Section 353.11), is amended to read as follows:

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

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

20        B. If any ~~person~~ pharmacist fails or neglects to procure ~~an~~  
21 ~~annual registration or permit~~ the renewal of his or her license, as  
22 herein required, ~~notice of such failure having been mailed to such~~  
23 ~~person's post office address~~, the Board may, after the expiration of

1 thirty (30) days following the issue of the notice, deprive the  
2 person of his or her ~~registration~~ license and all other privileges  
3 conferred by the Oklahoma Pharmacy Act. In order to regain  
4 ~~registration licensure~~, ~~it shall be necessary for such person to~~  
5 ~~make application~~ the pharmacist shall apply in writing to the Board  
6 requesting reinstatement. The Board may require ~~such person~~ the  
7 pharmacist to appear before the Board at a regular meeting.

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

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

1 the notification, the Executive Director shall make the necessary  
2 change in the ~~register~~ Board records.

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

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

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

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

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

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

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

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

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

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

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

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

9           4. Compliance ~~of this act~~ with the Oklahoma Pharmacy Act as it  
10 relates to veterinary prescription-labeled drugs shall be ~~done in~~  
11 ~~accordance with and~~ pursuant to rules ~~that shall be~~ promulgated by  
12 the Oklahoma State Board of Veterinary Medical Examiners and in  
13 consultation with the State Veterinarian in accordance with state  
14 law.

15           SECTION 12.           AMENDATORY           59 O.S. 2001, Section 353.13A, as  
16 last amended by Section 1, Chapter 523, O.S.L. 2004 (59 O.S. Supp.  
17 2008, Section 353.13A), is amended to read as follows:

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

22           B. ~~±~~ Pharmacists may dispense prescriptions for dangerous  
23 drugs and controlled dangerous substances specified in Section 581

1 of this title for ocular abnormalities prescribed by ~~qualified~~  
2 optometrists ~~certified~~ licensed by the Oklahoma Board of Examiners  
3 in Optometry ~~to use such dangerous drugs and controlled dangerous~~  
4 ~~substances.~~

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

13 C. A filled prescription label shall include the name and  
14 address of the pharmacy of origin, date of filling, name of patient,  
15 name of prescriber, directions for administration, and prescription  
16 number. The symptom or purpose for which the drug is being  
17 prescribed may appear on the label, if, ~~after being advised~~ provided  
18 by the practitioner, and the patient or the patient's authorized  
19 representative so requests. If the symptom or purpose for which a  
20 drug is being prescribed is not provided by the practitioner, the  
21 pharmacist may fill the prescription order without contacting the  
22 practitioner, patient, or the patient's representative. The label  
23 shall also include the trade or generic name, and the quantity and

1 strength of the drug therein contained, except when otherwise  
2 directed by the prescriber. This requirement shall not apply to  
3 ~~compounded~~ prescriptions or medicines and drugs supplied or  
4 delivered directly to patients for consumption on the premises while  
5 admitted to any hospital or mental institution.

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

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

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

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

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

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

4 SECTION 15. AMENDATORY 59 O.S. 2001, Section 353.18, as  
5 last amended by Section 2, Chapter 285, O.S.L. 2005 (59 O.S. Supp.  
6 2008, Section 353.18), is amended to read as follows:

7 Section 353.18 A. 1. It shall be unlawful for any person,  
8 including, but not limited to, Internet, website or online  
9 pharmacies, to engage in selling at retail, or offering for sale,  
10 dangerous drugs, medicines, chemicals or poisons for the treatment  
11 of disease, excluding agricultural chemicals and drugs, or to accept  
12 prescriptions for same, without first procuring a license from the  
13 State Board of Pharmacy. This applies whether such sale, offer for  
14 sale or acceptance of prescriptions occurs from this state, or such  
15 sale, offer for sale, or acceptance of prescription occurs and is to  
16 be delivered, distributed or dispensed to patients or customers in  
17 this state. The provisions of this subsection shall not apply to  
18 medical gas suppliers or medical gas distributors regulated pursuant  
19 to the provisions of subsection B of this section.

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

- 1           a.    the place for which the license is sought will be  
2                    conducted in full compliance with the law and the  
3                    rules of the Board,  
4           b.    the location, appointments and physical  
5                    characteristics of the place are reasonably consistent  
6                    with the maintenance of professional surroundings and  
7                    constitute no known danger to the public health and  
8                    safety,  
9           c.    the place will be under the management and control of  
10                  a ~~registered~~ licensed pharmacist, and  
11           d.    a ~~registered~~ licensed pharmacist ~~or assistant~~  
12                  ~~pharmacist~~ will be present and on duty at all hours  
13                  the pharmacy is open for business; provided, however,  
14                  the provisions of this subparagraph shall not apply to  
15                  a hospital drug room.
- 16        3.    a.    An application for a license issued pursuant to the  
17                  provisions of this subsection shall:  
18                       (1) be submitted to the Board in writing, and  
19                       (2) contain the name or names of persons owning the  
20                        pharmacy.
- 21        b.    An application for each initial or renewal license  
22                  shall be accompanied by a licensing fee not to exceed  
23                  ~~One Hundred Fifty Dollars (\$150.00)~~ Three Hundred



1 other persons as may be approved by the Board after an investigation  
2 and determination of such person's qualifications. No person shall  
3 sell medical gases, or manufacture, package, or wholesale dangerous  
4 drugs offered for sale in this state without first obtaining a  
5 permit from the Board.

6 2. a. An application for an initial or renewal permit issued  
7 pursuant to the provisions of this subsection shall  
8 be:

9 (1) made in writing, and

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

13 b. Prior to opening for business, all applicants for an  
14 initial permit shall be inspected. Applicants shall  
15 pay an inspection fee not to exceed ~~One Hundred~~  
16 ~~Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00).

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

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

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

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

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

- 16 (1) type of ownership, whether individual,  
17 partnership, limited liability company or  
18 corporation,  
19 (2) names of principal owners or officers and their  
20 Social Security numbers,  
21 (3) names of designated managers and their Social  
22 Security numbers,

- 1 (4) applicant's and designated managers'  
2 fingerprints,  
3 (5) criminal background check information for the  
4 applicants and designated managers as required by  
5 rule,  
6 (6) a copy of the license from the applicant's or  
7 designated managers' home state, and  
8 (7) bond requirements, and  
9 b. provisions for the establishment of a pedigree or  
10 electronic file to be used by wholesale distributors,  
11 chain pharmacy warehouses and repackagers for the  
12 purpose of ensuring the integrity of drugs owned,  
13 purchased, distributed, returned, transferred and sold  
14 when the products leave the normal distribution  
15 channel.

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

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

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

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

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

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

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

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

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

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

19 D. There shall be kept in every pharmacy a suitable book, file  
20 or record in which shall be preserved for a period of not less than  
21 five (5) years every prescription compounded or dispensed at ~~said~~  
22 the pharmacy, and ~~said~~ the book or file of prescriptions shall at

1 all times be open to inspection by the members of the Board or its  
2 duly authorized agents.

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

5 Section 353.22 A. It shall be unlawful for:

- 6 1. Any person to sell any poison without distinctly labeling  
7 the box, vessel or paper in which the ~~said~~ poison is contained with  
8 the name of the article, the word "poison", and the name and the  
9 place of business of the seller; or
- 10 2. Any ~~registered~~ licensed pharmacist, or other person, to sell  
11 any poison without causing an entry to be made in a book kept for  
12 that purpose before delivering the same to the purchaser, stating  
13 the date of the sale, the name and address of the purchaser, the  
14 name of the poison sold, the purpose for which it is represented by  
15 the purchaser to be required, and the name of the dispenser, ~~such a~~  
16 Such book ~~to be~~ shall always ~~open~~ be available for inspection by the  
17 proper authorities and ~~to~~ shall be preserved for at least five (5)  
18 years.

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

1 SECTION 18. AMENDATORY 59 O.S. 2001, Section 353.24, as  
2 last amended by Section 1, Chapter 40, O.S.L. 2005 (59 O.S. Supp.  
3 2008, Section 353.24), is amended to read as follows:

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

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

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

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

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

20 However, nothing in this paragraph shall prevent a pharmacist or an  
21 employee of the pharmacy from personally receiving a prescription or  
22 delivering a legally filled prescription at a residence, office or  
23 place of employment of the patient for whom the prescription was

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

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

21 6. Refuse to permit or otherwise prevent members of the Board  
22 or such representatives thereof from entering and inspecting any and  
23 all places, including premises, equipment, contents, and records,

1 where drugs, medicine, chemicals or poisons are stored, sold,  
2 vended, given away, compounded, dispensed or manufactured; ~~or~~

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

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

13 9. Compromise the security of licensure examination materials;  
14 or

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

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

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

22 B. Any person who shall willfully make any false  
23 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~~

1                   ~~had another disciplinary action~~ by another state or  
2                   federal entity,

3           g.   has been legally adjudged to be not mentally  
4                   competent, or

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

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

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

18           C.   To ensure the confidentiality of such information ~~for the~~  
19 ~~protection of the affected individual or entity, the information~~  
20 obtained during the investigation but not introduced in  
21 administrative proceedings, this information shall not be deemed to  
22 be a record as that term is defined in the Oklahoma Open Records  
23 Act, nor shall the information be subject to subpoena or discovery

1 in any civil or criminal proceedings, except that the Board may give  
2 such information to law enforcement and other state agencies as  
3 necessary and appropriate in the discharge of the duties of that  
4 agency and only under circumstances that ensure against unauthorized  
5 access to the information.

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

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

1 Board and in any manner authorized by the law of this state for the  
2 personal service of summonses in proceedings in a state court. If  
3 the Board finds that the allegations of the complaint are supported  
4 by the evidence rendered at the hearing, the Board is hereby  
5 authorized and empowered to, by written order, revoke permanently or  
6 suspend for a designated period, the certificate, license or permit  
7 of the ~~person charged in the complaint~~ respondent and/or ~~to~~  
8 reprimand, ~~or~~ place ~~such person~~ on probation and/or fine the  
9 respondent.

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

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

16 ~~E. D.~~ D. A person, other than a pharmacy technician, whose license  
17 or permit has been suspended by the Board or by operation of law  
18 shall pay a reinstatement fee not to exceed ~~One Hundred Dollars~~  
19 ~~(\$100.00)~~ One Hundred Fifty Dollars (\$150.00) as a condition of  
20 reinstatement of the license.

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

1           Section 353.29 A. ~~The use of supportive~~ Supportive personnel  
2 may be used in the practice of pharmacy ~~shall be acceptable within~~  
3 if used in compliance with rules established by the State Board of  
4 Pharmacy.

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

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

9           a. made in writing, and

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

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

15           ~~4.~~ 3. A pharmacy technician who fails to complete an  
16 application for a renewal permit by the fifteenth day after the  
17 expiration of the permit shall pay a late fee to be fixed by the  
18 Board.

19           SECTION 22.           AMENDATORY           Section 5, Chapter 408, O.S.L.  
20 2002, as amended by Section 1, Chapter 307, O.S.L. 2003 (59 O.S.  
21 Supp. 2008, Section 353.30), is amended to read as follows:

22           Section 353.30 A. The use of agreements in the practice of  
23 pharmacy shall be acceptable within the rules promulgated by the

1 State Board of Pharmacy and in consultation with the State Board of  
2 Medical Licensure and Supervision and the State Board of Osteopathic  
3 Examiners.

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

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

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

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

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

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

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

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

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

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

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

21 Section 366. A. The State Board of Pharmacy may grant to a  
22 pharmacist who meets all the necessary requirements for ~~registration~~

1 ~~and~~ licensure, except the continuing education requirements,  
2 alternate methods of obtaining continuing education hours.

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

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

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated  
17 2-12-09 - DO PASS, As Amended and Coauthored.