

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

HOUSE BILL 1908

By: Cox

AS INTRODUCED

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 definitions; modifying certain nurses' authority to order drugs; modifying Board membership; modifying Board officers; modifying meetings of examinations of applicants; modifying powers and duties of the Board; increasing fines; modifying qualifications of pharmacists; modifying definition of assistant pharmacist; modifying renewal of license; modifying display of certificate; modifying prohibited acts; modifying issuance of prescriptions; modifying penalty for unlawfully using title; declaring unlawful to impersonate a pharmacist; modifying regulation of the sale of drugs; modifying pharmaceutical equipment

1 regulations; modifying unlawful distribution of
2 poison; modifying unlawful acts; modifying penalties
3 for violation; modifying disciplinary actions;
4 modifying support personnel; modifying use of
5 injections; modifying the use of prescriptions;
6 modifying rules and regulations; modifying continuing
7 education requirements; providing for codification;
8 and providing an effective date.

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

9 SECTION 1. AMENDATORY 59 O.S. 2001, Section 353.1, as
10 last amended by Section 1, Chapter 18, O.S.L. 2005 (59 O.S. Supp.
11 2008, Section 353.1), is amended to read as follows:

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

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

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

21 ~~3. "Drugs" means all medicinal substances and preparations~~
22 ~~recognized by the United States Pharmacopoeia and National~~
23 ~~Formulary, or any revision thereof, and all substances and~~
24 ~~preparations intended for external and internal use in the cure,~~

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

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

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

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

14 ~~7. "Prescription" means and includes any order for drug or~~
15 ~~medical supplies written or signed, or transmitted by word of mouth,~~
16 ~~telephone or other means of communication by a licensed practitioner~~
17 ~~of allopathic or osteopathic medicine, including physician~~
18 ~~assistants under the supervision of a licensed physician, dentistry,~~
19 ~~optometry certified by the Board of Examiners in Optometry,~~
20 ~~podiatry, or veterinary medicine, licensed by law to prescribe such~~
21 ~~drugs and medical supplies intended to be filled, compounded, or~~
22 ~~dispensed by a pharmacist, or by a wholesaler or distributor as~~
23 ~~authorized in subsection C of Section 353.13 of this title;~~

24

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

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

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

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

17 ~~12. "Board" or "State Board" means the Board of Pharmacy;~~

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

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

23 ~~15. "Wholesaler" or "Distributor" means a person engaged in the~~
24 ~~business of distributing dangerous drugs or medicines at wholesale~~

1 ~~to pharmacies, hospitals, practitioners, government agencies, or~~
2 ~~other lawful drug outlets permitted to sell or use drugs or~~
3 ~~medicines, or as authorized in subsection C of Section 353.13 of~~
4 ~~this title;~~

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

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

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

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

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

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

19 ~~17. "Manufacturer" means a person engaged in the manufacturing~~
20 ~~of drugs;~~

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

22 ~~a. the interpretation and evaluation of prescription~~
23 ~~orders;~~

24

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

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

23 ~~20. "Manufacturing" means the production, preparation,~~
24 ~~propagation, compounding, conversion, or processing of a device or a~~

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

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

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

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

23

24

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

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

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

- 18 ~~a. as the result of a practitioner's prescription drug~~
19 ~~order or initiative based on the~~
20 ~~practitioner/patient/pharmacist relationship in the~~
21 ~~course of professional practice, or~~
22 ~~b. for the purpose of, or incident to, research,~~
23 ~~teaching, or chemical analysis and not for sale or~~
24 ~~dispensing.~~

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

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

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

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

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

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

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

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

24

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

6 4. "Board" or "State Board" means the Oklahoma State Board of
7 Pharmacy;

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

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

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

17 (b) for the purpose of, or incident to, research,
18 teaching, or chemical analysis and not for sale or
19 dispensing.

20 Compounding also includes the preparation of drugs or devices in
21 anticipation of prescription drug orders based on routine, regularly
22 observed prescribing patterns;

23 7. "Continuing professional education" means professional,
24 pharmaceutical education in the general areas of the socioeconomic

1 and legal aspects of health care; the properties and actions of
2 drugs and dosage forms; and the etiology, characteristics and
3 therapeutics of the diseased state;

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

6 (a) under federal law, is required, prior to being
7 dispensed or delivered, to be labeled with one of the
8 following statements:

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

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

13 (3) "Rx Only", or

14 (b) is required by any applicable federal or state law or
15 regulation to be dispensed on prescription only or is
16 restricted to use by licensed practitioners only;

17 9. "Dispense" or "dispensing" means the interpretation,

18 evaluation, and implementation of a prescription drug order,

19 including the preparation and delivery of a drug or device to a

20 patient or a patient's agent in a suitable container appropriately

21 labeled for subsequent administration to, or use by, a patient.

22 Dispense includes sell, distribute, leave with, give away, dispose

23 of, deliver, or supply;

24

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

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

9 12. "Drugs" means all medicinal substances and preparations
10 recognized by the United States Pharmacopoeia and National
11 Formulary, or any revision thereof, and all substances and
12 preparations intended for external and/or internal use in the cure,
13 diagnosis, mitigation, treatment or prevention of disease in humans
14 or animals and all substances and preparations, other than food,
15 intended to affect the structure or any function of the body of a
16 human or animals;

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

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

22 15. "Licensed practitioner" means an allopathic physician,
23 osteopathic physician, podiatric physician, dentist, veterinarian,
24

1 or optometrist licensed to practice and authorized to prescribe
2 dangerous drugs within the scope of practice of such practitioner;

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

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

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

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

23 20. "Medical gas order" means an order for medical gas issued
24 by a licensed medical practitioner;

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

3 22. "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 23. "Nonprescription drugs" means medicines or drugs which are
7 sold without a prescription and which are prepackaged for use by the
8 consumer and labeled in accordance with the requirements of the
9 statutes and regulations of this state and the federal government.

10 Such items shall also include medical and dental supplies and
11 bottled or nonbulk chemicals which are sold or offered for sale to
12 the general public if such articles or preparations meet the
13 requirements of the Federal Food, Drug and Cosmetic Act, 21
14 U.S.C.A., Section 321 et seq.;

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

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

22 26. "Pharmacy" means a place regularly licensed by the Board in
23 which prescriptions, drugs, medicines, chemicals and poisons are
24 compounded and/or dispensed;

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

5 28. "Practice of pharmacy" means:

6 a. the interpretation and evaluation of prescription
7 orders,

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

13 c. the participation in drug selection and drug
14 utilization reviews,

15 d. the proper and safe storage of drugs and devices and
16 the maintenance of proper records thereof,

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

21 f. the offering or performing of those acts, services,
22 operations, or transactions necessary in the conduct,
23 operation, management and control of a pharmacy, and

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

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

6 a. by a licensed practitioner of allopathic or
7 osteopathic medicine, or dentistry, or podiatry, or
8 veterinary medicine,

9 b. under the supervision of an Oklahoma licensed
10 physician, an Oklahoma licensed advanced practice
11 nurse or Oklahoma licensed physician assistant, or

12 c. by an Oklahoma licensed optometrist certified by the
13 Oklahoma Board of Examiners in Optometry,

14 who is licensed by law to prescribe such dangerous drugs and medical
15 supplies intended to be filled, compounded, and/or dispensed by a
16 pharmacist, or by an Oklahoma licensed wholesaler or distributor as
17 authorized in subsection G of Section 353.13 of this title;

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

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

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

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

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

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

20 Section 353.1b ~~Authority~~ A certified registered nurse
21 anesthetist has authority to order, select, obtain and administer
22 ~~drugs shall be allowed for a certified registered nurse anesthetist,~~
23 pursuant to rules adopted by the Oklahoma Board of Nursing, only
24 when engaged in the preanesthetic preparation or evaluation;

1 anesthesia induction, maintenance or emergence; or postanesthesia
2 care practice of nurse anesthesia. A certified registered nurse
3 anesthetist may order, select, obtain and administer drugs only
4 during the perioperative or periobstetrical period.

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

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

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

- 12 a. be registered and in good standing in the State of
13 Oklahoma,
- 14 b. have been actively engaged in the practice of pharmacy
15 within this state for a period of not less than five
16 (5) years immediately prior to serving on the Board.

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

- 19 a. be a resident of the State of Oklahoma for not less
20 than five (5) years, and
- 21 b. not be a pharmacist or be related by blood or marriage
22 within the third degree of consanguinity to a
23 pharmacist.

24

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

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

17 Section 353.5 A. The Board ~~of Pharmacy~~ shall annually elect a
18 president and vice-president of the Board. The president and vice-
19 president shall serve for a term of one (1) year and shall perform
20 the duties prescribed by the Board. The Board shall employ an
21 Executive Director who is a licensed pharmacist, or is eligible to
22 become a licensed pharmacist in Oklahoma. The Executive Director
23 shall perform such duties as required by the Board.

24

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

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

10 D. The Executive Director shall:

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

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

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

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

1 SECTION 6. AMENDATORY 59 O.S. 2001, Section 353.7, as
2 last amended by Section 17, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
3 2008, Section 353.7), is amended to read as follows:

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

6 1. Regulate the practice of pharmacy;

7 2. Regulate the sale of drugs, medicines, chemicals and
8 poisons;

9 3. Regulate the dispensing of drugs and medicines in all places
10 where drugs and medicines are compounded, or dispensed or both
11 compounded and dispensed;

12 4. Enter and inspect, by its members or by its duly authorized
13 representatives, any and all places, including premises, equipment,
14 contents and records, where drugs, medicines, chemicals or poisons
15 are stored, sold, vended, given away, compounded, dispensed or
16 manufactured;

17 5. Administer oaths in all matters pertaining to the affairs of
18 the Board and to take evidence and compel the attendance of
19 witnesses on questions pertaining to the enforcement of the Oklahoma
20 Pharmacy Act;

21 6. Employ the number of inspectors and/or pharmacist compliance
22 officers necessary to carry out the provisions of the Oklahoma
23 Pharmacy Act at an annual salary to be fixed by the Board, and to
24 authorize necessary expenses. Such inspectors shall have the same

1 powers and authority as that granted to peace officers by the laws
2 of this state for the purpose of enforcing the Oklahoma Pharmacy
3 Act. In addition, such inspectors or pharmacist compliance officers
4 shall have the authority to take and copy records and the duty to
5 confiscate all drugs, medicines, chemicals or poisons found to be
6 stored, sold, vended, given away, compounded, dispensed or
7 manufactured contrary to the provisions of the Oklahoma Pharmacy
8 Act;

9 7. Prescribe minimum standards with respect to floor space and
10 other physical characteristics of pharmacies and hospital drug
11 rooms, as may be reasonably necessary to the maintenance of
12 professional surroundings and to the protection of the safety and
13 welfare of the public, and to refuse the issuance of new or renewal
14 licenses for failure to comply with such standards;

15 8. Examine and issue appropriate certificates of ~~registration~~
16 licensure as Doctor of Pharmacy to all applicants whom ~~it shall deem~~
17 the Board deems qualified to be such under the provisions of the
18 Oklahoma Pharmacy Act;

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

21 10. Initiate prosecution;

22 11. Reprimand, ~~or~~ place on probation any holder of a
23 certificate, license or permit, ~~+~~ suspend, or revoke certificates,
24 licenses or permits, take other disciplinary action and/or levy

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

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

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

22 14. Make and publish uniform rules such as may be necessary for
23 carrying out and enforcing the provisions of the Oklahoma Pharmacy
24 Act, Oklahoma drug laws and rules, federal drug laws and

1 regulations, and make such other ~~areas~~ rules as in its discretion
2 may be necessary to protect the health, safety and welfare of the
3 public;

4 15. Establish and collect appropriate fees for licenses,
5 permits, inspections and ~~service~~ services provided. The fees shall
6 be nonrefundable. Such fees shall be promulgated to implement the
7 provisions of the Oklahoma Pharmacy Act under the provisions of the
8 Administrative Procedures Act; and

9 16. Regulate:

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

18 17. Acquire by purchase, lease, gift, solicitation of gift or
19 by any other manner, and to maintain, use and operate or to contract
20 for the maintenance, use and operation of or lease of any and all
21 property of any kind, real, personal or mixed or any interest
22 therein unless otherwise provided by this act; provided, that all
23 contracts for real property shall be subject to the provisions of
24 Section 63 of Title 74 of the Oklahoma Statutes.

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

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

- 12 1. Is of good moral character;
- 13 2. Is a graduate of an accredited School or College of Pharmacy
14 approved by the Board, or a foreign pharmacy school graduate who has
15 received an FPGEC equivalency certification by the National
16 Association of Boards of Pharmacy; and
- 17 3. Has attained experience in the practice of pharmacy,
18 obtained in a place and in a manner prescribed and approved by the
19 Board ~~of Pharmacy~~.

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

23 C. All applicants shall make application in the form and manner
24 prescribed by the Board, and deposit with the Executive Director of

1 the Board a fee set by the Board not to exceed ~~One Hundred Fifty~~
2 ~~Dollars (\$150.00)~~ Two Hundred Fifty Dollars (\$250.00) plus the
3 purchase price of the examination. Upon ~~satisfactory passage of~~
4 passing an examination and meeting such other requirements specified
5 by the Board pursuant to the Oklahoma Pharmacy Act, the applicant
6 shall be granted an appropriate certificate setting forth the
7 qualifications to practice pharmacy. Any applicant failing an
8 examination shall not sit for an additional examination until such
9 applicant has made a new application and paid the fee provided
10 herein.

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

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

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

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

7 B. Assistant pharmacists shall not manage a pharmacy.

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

11 SECTION 9. AMENDATORY 59 O.S. 2001, Section 353.11, as
12 last amended by Section 19, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
13 2008, Section 353.11), is amended to read as follows:

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

23 2. Every ~~registered~~ licensed pharmacist who fails to complete a
24 renewal form and remit the required renewal fee to the Board by the

1 fifteenth day after the expiration of the license shall pay a late
2 fee to be fixed by the Board.

3 B. If any ~~person~~ pharmacist fails or neglects to procure an
4 ~~annual registration or permit~~ the renewal of his license, as herein
5 required, ~~notice of such failure having been mailed to such person's~~
6 ~~post office address~~, the Board may, after the expiration of thirty
7 (30) days ~~following the issue of the notice~~, deprive the person of
8 his or her ~~registration~~ license and all other privileges conferred
9 by the Oklahoma Pharmacy Act. In order to regain ~~registration~~, it
10 ~~shall be necessary for~~ licensure such ~~person to make application~~
11 pharmacist shall apply in writing to the Board requesting
12 reinstatement. The Board may require such person to appear before
13 the Board at a regular meeting.

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

16 Section 353.12 A. Every person upon receiving a certificate of
17 ~~registration~~ licensure pursuant to the Oklahoma Pharmacy Act, or who
18 has heretofore received a certificate of ~~registration~~ licensure in
19 this state, shall keep such certificate conspicuously displayed in
20 the pharmacy where such pharmacist is actively engaged in the
21 practice of pharmacy or in such a location as is otherwise
22 prescribed by the Board. The current receipt for ~~registration~~
23 licensure shall be attached to the lower left corner of the original
24 certificate. Every ~~registered~~ licensed pharmacist ~~or assistant~~

1 ~~pharmacist~~ shall, within ten (10) days after discontinuing or
2 changing his place of practice, remove his certificate and notify
3 the Executive Director of the Board, in writing, of his new place of
4 practice. Upon receipt of said notification, the Executive Director
5 shall make the necessary change in the ~~register~~ Board records.

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

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

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

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

24

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

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

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

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

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

22 1. ~~Prescriptions dispensed~~ Drugs supplied pursuant to the
23 provisions of this subsection shall not be required to be certified
24

1 by a pharmacist prior to being ~~dispensed~~ supplied by a wholesaler or
2 distributor.

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

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

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

17 SECTION 12. AMENDATORY 59 O.S. 2001, Section 353.13A, as
18 last amended by Section 1, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
19 2008, Section 353.13A), is amended to read as follows:

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

24

1 B. ~~1-~~ Pharmacists may dispense prescriptions for dangerous
2 drugs and controlled dangerous substances specified in Section 581
3 of this title for ocular abnormalities prescribed by ~~qualified~~
4 optometrists ~~certified~~ licensed by the Oklahoma Board of Examiners
5 in Optometry ~~to use such dangerous drugs and controlled dangerous~~
6 ~~substances.~~

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

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

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

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

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

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

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

24

1 It shall be unlawful to impersonate a pharmacist; where such
2 impersonation causes patient harm it shall be a felony.

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

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

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

21 a. the place for which the license is sought will be
22 conducted in full compliance with the law and the
23 rules of the Board,
24

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

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

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

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

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

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

18 b. An application for each initial or renewal license
19 shall be accompanied by a licensing fee not to exceed

20 ~~One Hundred Fifty Dollars (\$150.00)~~ Three Hundred
21 Dollars (\$300.00) for each period of one (1) year.

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

24 Applicants shall pay an inspection fee not to exceed

1 ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars
2 (\$200.00); provided however, that no charge shall be
3 made for the licensing of any Federal Veterans
4 Hospital in the State of Oklahoma.

5 c. A license issued pursuant to the provisions of this
6 subsection shall be valid for a period set by the
7 Board and shall contain the name of the licensee and
8 the address of the place at which such business shall
9 be conducted.

10 4. A retail pharmacy that prepares sterile therapeutic
11 preparations that shall be free from living microorganisms (aseptic)
12 shall obtain a pharmacy license, and shall also obtain a parenteral
13 permit at a fee set by the Board, not to exceed Seventy-five Dollars
14 (\$75.00). Such pharmacy shall meet requirements set by the Board by
15 rule for parenteral permits.

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

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

4 (1) made in writing, and

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

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

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

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

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

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

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

- 11 (1) type of ownership, whether individual,
12 partnership, limited liability company, or
13 corporation,
14 (2) names of principal owners or officers and their
15 Social Security numbers,
16 (3) names of designated managers and their Social
17 Security numbers,
18 (4) applicant's and designated managers'
19 fingerprints,
20 (5) criminal background check information for the
21 applicants and designated managers as required by
22 rule,
23 (6) a copy of the license from the applicant's or
24 designated managers' home state, and

1 (7) bond requirements, and

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

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

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

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

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

1 E. A wholesale distributor shall accept prescription drug
2 returns pursuant to the terms and conditions of the agreement
3 between the wholesale distributor and a hospital, pharmacy, chain
4 pharmacy warehouse or other healthcare entity and these returns
5 shall not be subject to any pedigree or electronic file requirement
6 unless the returns appear suspicious or are greater than the
7 purchases from the wholesale distributor. Wholesale distributors
8 shall be held accountable for maintaining their return process and
9 ensuring that items returned originated from their operations, that
10 the return process is secure, and that the return process does not
11 permit the entry of adulterated and/or counterfeit product.

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

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

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

24

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

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

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

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

18 Section 353.22 A. It shall be unlawful for:

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

23 2. Any ~~registered~~ licensed pharmacist, or other person, to sell
24 any poison without causing an entry to be made in a book kept for

1 that purpose before delivering the same to the purchaser, stating
2 the date of the sale, the name and address of the purchaser, the
3 name of the poison sold, the purpose for which it is represented by
4 the purchaser to be required, and the name of the dispenser, ~~such a.~~
5 Such book to be shall always ~~open~~ be available for inspection by the
6 proper authorities and to be preserved for at least five (5) years.

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

10 SECTION 18. AMENDATORY 59 O.S. 2001, Section 353.24, as
11 last amended by Section 1, Chapter 40, O.S.L. 2005 (59 O.S. Supp.
12 2008, Section 353.24), is amended to read as follows:

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

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

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

23
24

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

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

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

23 5. Sell, offer for sale or barter or buy any professional
24 samples except through a program pursuant to the Utilization of

1 Unused Prescription Medications Act. For purpose of this paragraph,
2 "professional samples" means complimentary drugs packaged in
3 accordance with federal and state statutes and regulations and
4 provided to a licensed practitioner free of charge by manufacturers
5 or distributors for the purpose of being distributed free of charge
6 in such package by the licensed practitioner to a patient;

7 6. Refuse to permit or otherwise prevent members of the Board
8 or such representatives thereof from entering and inspecting any and
9 all places, including premises, equipment, contents, and records,
10 where drugs, medicine, chemicals or poisons are stored, sold,
11 vended, given away, compounded, dispensed or manufactured; ~~or~~

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

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

22 9. Compromise the security of licensure examination materials;

23 or

24

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

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

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

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

12 SECTION 20. AMENDATORY 59 O.S. 2001, Section 353.26, as
13 last amended by Section 22, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
14 2008, Section 353.26), is amended to read as follows:

15 Section 353.26 A. The Board ~~of Pharmacy~~ may:

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

- 19 a. violates any provision of the Oklahoma Pharmacy Act,
- 20 b. violates any of the provisions of the Uniform
21 Controlled Dangerous Substances Act,
- 22 c. has been convicted of a felony or has pleaded guilty
23 or no contest to a felony,

24

- 1 d. engages in the practice of pharmacy while
2 incapacitated or abuses intoxicating liquors or other
3 chemical substances,
4 e. conducts himself or herself in a manner likely to
5 lower public esteem for the profession of pharmacy,
6 f. ~~has had his or her license placed on probation,~~
7 ~~suspended, or revoked, has been reprimanded~~ been
8 disciplined by another State Board of Pharmacy or ~~has~~
9 ~~had another disciplinary action~~ by another state or
10 federal entity,
11 g. has been legally adjudged to be not mentally
12 competent, or
13 h. exercises conduct and habits inconsistent with the
14 rules of professional conduct established by the
15 Board; and

16 2. Levy administrative fines not to exceed ~~One Thousand Dollars~~
17 ~~(\$1,000.00)~~ Three Thousand Dollars (\$3,000.00) for each count of
18 which any holder of a certificate, license, or permit has been
19 convicted in Board hearings.

20 B. 1. The Board, its employees, or other agents of the Board
21 shall keep confidential information obtained during an investigation
22 into violations of the Oklahoma Pharmacy Act; provided, however,
23 such information may be introduced by the state in administrative
24

1 proceedings before the Board and the information then becomes a
2 public record.

3 ~~C.~~ To ensure the confidentiality of ~~such information for the~~
4 ~~protection of the affected individual or entity, the information~~
5 obtained during the investigation but not introduced in
6 administrative proceedings, this information shall not be deemed to
7 be a record as that term is defined in the Oklahoma Open Records
8 Act, nor shall the information be subject to subpoena or discovery
9 in any civil or criminal proceedings, except that the Board may give
10 such information to law enforcement and other state agencies as
11 necessary and appropriate in the discharge of the duties of that
12 agency and only under circumstances that ensure against unauthorized
13 access to the information.

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

21 ~~D. 1. The Board, upon a sworn complaint filed with its~~
22 ~~Director, and after giving at least ten (10) days' written notice by~~
23 ~~registered or certified mail of the filing of such complaint to the~~
24 ~~person accused therein of the date and place of a hearing thereon,~~

1 ~~to which notice shall be attached a statement of the charges~~
2 ~~contained in the complaint, is hereby authorized and empowered, if~~
3 ~~the Board finds that the allegations of the complaint are supported~~
4 ~~by the evidence rendered at the hearing to, by written order, revoke~~
5 ~~permanently or suspend for a designated period, the certificate,~~
6 ~~license or permit of the person charged in the complaint or to~~
7 ~~reprimand or place such person on probation.~~

8 C. 1. The Board shall mail by certified mail to respondent at
9 the last address provided by respondent to the Board at least ten
10 (10) days before the hearing the sworn complaint filed with its
11 Director against respondent and notice of the date and place of a
12 hearing thereon. Alternatively, the Board may serve respondent
13 personally by any person appointed to make service by the Director
14 of the Board and in any manner authorized by the law of this state
15 for the personal service of summonses in proceedings in a state
16 court.

17 2. If the Board finds that the allegations of the complaint are
18 supported by the evidence rendered at the hearing, the Board is
19 hereby authorized and empowered to, by written order, revoke
20 permanently or suspend for a designated period, the certificate,
21 license or permit of the respondent and/or reprimand, place on
22 probation and/or fine respondent.

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

1 ~~3-~~ 4. A person whose certificate, license or permit has been
2 revoked or suspended or who has been reprimanded or placed on
3 probation or fined may appeal such Board order pursuant to the
4 Administrative Procedures Act.

5 ~~E-~~ D. A person, other than a pharmacy technician, whose license
6 or permit has been suspended by the Board or by operation of law
7 shall pay a reinstatement fee not to exceed ~~One Hundred Dollars~~
8 ~~(\$100.00)~~ One Hundred Fifty Dollars (\$150.00) as a condition of
9 reinstatement of the license.

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

13 Section 353.29 A. ~~The use of supportive~~ Supportive personnel
14 may be used in the practice of pharmacy if used in compliance with
15 ~~shall be acceptable within~~ rules established by the Board ~~of~~
16 ~~Pharmacy.~~

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

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

- 21 a. made in writing, and
- 22 b. accompanied by a permit fee not to exceed ~~Forty~~
23 ~~Dollars (\$40.00)~~ Seventy-five Dollars (\$75.00) for
24 each period of one (1) year.

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

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

6 SECTION 22. AMENDATORY Section 5, Chapter 408, O.S.L
7 2002, as amended by Section 1, Chapter 307, O.S.L. 2003 (59 O.S.
8 Supp. 2008, Section 353.30), is amended to read as follows:

9 Section 353.30 A. The use of agreements in the practice of
10 pharmacy shall be acceptable within the rules promulgated by the
11 Board of ~~Pharmacy~~ and in consultation with the State Board of
12 Medical Licensure and Supervision and the State Board of Osteopathic
13 Examiners.

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

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

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

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

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

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

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

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

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

23 B. Rules ~~and regulations~~ relating to this act shall be adopted
24 by the appropriate licensing boards after consultation and review

1 with the Oklahoma State Board of Pharmacy prior to the effective
2 date of this act.

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

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

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

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

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

18 SECTION 26. This act shall become effective November 1, 2009.

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20 52-1-5517 LRB 01/07/09

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