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ENROLLED SENATE

BILL NO. 1181 By: Jolley of the Senate
and
Cox of the House

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 353.1, as last amended by Section 1, Chapter 18, O.S.L. 2005, 353.1b, 353.3, 353.5, as amended by Section 2, Chapter 419, O.S.L. 2005, 353.6, 353.7, as last amended by Section 17, Chapter 523, O.S.L. 2004, 353.9, as amended by Section 18, Chapter 523, O.S.L 2004, 353.10, 353.11, as last amended by Section 19, Chapter 523, O.S.L. 2004, 353.12, 353.13, as amended by Section 2, Chapter 18, O.S.L. 2005, 353.13A, as last amended by Section 1, Chapter 523, O.S.L 2004, 353.17, 353.18, as last amended by Section 2, Chapter 285, O.S.L. 2005, 353.20, 353.22, 353.24, as last amended by Section 1, Chapter 40, O.S.L. 2005, 353.25, 353.26, as last amended by Section 22, Chapter 523, O.S.L. 2004, 353.29, as amended by Section 23, Chapter 523, O.S.L. 2004, Section 5, Chapter 408, O.S.L. 2002, as amended by Section 1, Chapter 307, O.S.L. 2003, 354, 355.2, 366 and 587 (59 O.S. Supp. 2008, Sections 353.1, 353.5, 353.7, 353.9, 353.11, 353.13, 353.13A, 353.18, 353.24, 353.26, 353.29 and 353.30), which relate to the Oklahoma Pharmacy Act; modifying and adding definitions; clarifying and updating language throughout act; modifying membership of Board of Pharmacy; requiring certain minimum

1 standards for hospital drug rooms; providing certain
2 qualifications for the Executive Director; changing the terms
3 registration or registered to licensing, licensure or licensed as
4 appropriate throughout act; authorizing certain action for certain
5 inspectors or compliance officers; modifying and adding duties of
6 the Board of Pharmacy; modifying certain fines; modifying certain
7 fees; adding certain requirements for assistant pharmacists;
8 modifying certain procedures relating to renewal of licenses;
9 deleting certain requirement for assistant pharmacists; requiring
10 certain notice to be in writing; making it unlawful for an
11 assistant pharmacist to certify certain prescriptions; making
12 language gender neutral; deleting certain requirements for the
13 Oklahoma Board of Examiners in Optometry; modifying prohibition
14 relating to use of certain titles; making it unlawful to
15 impersonate a pharmacist; making certain impersonation a felony;
16 making internet, web or online pharmacies subject to certain
17 licensure; stating when certain requirement for licensure applies;
18 deleting authorization for assistant pharmacists to manage or
19 control a pharmacy; modifying certain requirement for new and
20 renewal applications for certain licensure; modifying requirements
21 for the acceptance of certain prescription drug returns;
22 clarifying and adding certain unlawful acts; modifying procedures
23 for revocation or suspension of certain licenses or permits;
24 providing for when certain information becomes a public record;
25 prohibiting certain information from being subject to subpoena or
26 discovery in certain proceedings; providing exception; providing
27 when a respondent may acquire certain information; providing

1 exception for acquiring an investigative report under certain
2 circumstances; requiring the Board to mail certain sworn complaint
3 with certain notice; providing alternative to such mailing;
4 modifying procedures for revoking or suspending certain
5 certificate, license or permit; raising certain fees; deleting
6 provision relating to a pharmacist administering both immunization
7 and therapeutic injections and certain rules to be promulgated;
8 deleting requirement for assistant pharmacists to supply certain
9 reference copy of a prescription; modifying limit on certain fee;
10 repealing 59 O.S. 2001, Section 355, as amended by Section 2,
11 Chapter 523, O.S.L. 2004, which relates to certain definitions;
12 providing for codification; and providing an effective date.

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

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

17 Section 353.1 For the purposes of the Oklahoma Pharmacy
18 Act:

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

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

25 3. "Assistant pharmacist" means any person presently
26 licensed as an assistant pharmacist in the State of Oklahoma by
27 the Board pursuant to Section 353.10 of this title and for the

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

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

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

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

10 a. in accordance with a licensed practitioner's
11 prescription drug order under an initiative based on the
12 practitioner/patient/pharmacist relationship in the course of
13 professional practice, or

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

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

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

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

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

1 statements:

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

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

6 (3) "Rx Only", or

7 b. is required by any applicable federal or state law
8 or regulation to be dispensed on prescription only or is
9 restricted to use by licensed practitioners only;

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

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

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

25 12. "Drugs" means all medicinal substances and preparations
26 recognized by the United States Pharmacopoeia and National
27 Formulary, or any revision thereof, and all substances and

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

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

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

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

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

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

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18. "Medical gas" means those gases including those in

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1 liquid state upon which the manufacturer or distributor has placed
2 one of several cautions, such as "Rx Only", in compliance with
3 federal law;

4 19. "Medical gas order" means an order for medical gas
5 issued 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
10 patient or ultimate user;

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

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

25 24. "Packager" means any person, firm or corporation,
26 except a pharmacy, who transfers dangerous drugs including, but

27 not limited to, compressed medical gases from one container to

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1 another of any type;

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

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

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

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

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

25 ~~[5.]~~ 27. "Poison" means any substance which when

26 introduced into the ~~[system]~~ body, either directly or by
27 absorption, produces violent, morbid or fatal changes, or which

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1 destroys living tissue with which such substance comes into
2 contact;

3 ~~[6. "Chemical" means any medicinal substance, whether
4 simple or compound or obtained through the process of the science
5 and art of chemistry, whether of organic or inorganic origin;]~~

6 ~~[7.]~~ 28. "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 manufacturer,
11 packer or distributor of nonprescription drugs and commercially
12 packaged legend drugs and devices,

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

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

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

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

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

26 29. "Prescription" means and includes any order for drug
27 or medical supplies written or signed, or transmitted by word of

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1 mouth, telephone or other means of communication by:

2 a. a licensed practitioner of allopathic or
3 osteopathic medicine, [~~including physician assistants~~] dentistry,
4 podiatry, optometry, or veterinary medicine, or

5 b. under the supervision of [~~a~~] an Oklahoma licensed
6 physician, [~~dentistry, optometry certified by the Board of~~
7 ~~Examiners in Optometry, podiatry, or veterinary medicine, licensed~~
8 ~~by law to prescribe such drugs and medical supplies intended to be~~
9 ~~filled, compounded, or dispensed by a pharmacist, or by a~~] an
10 Oklahoma licensed advanced practice nurse or an Oklahoma licensed
11 physician assistant, or

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

14 ~~[8. "Filled prescription" means a packaged prescription~~
~~15 medication to which a label has been affixed, which shall contain~~
~~16 such information as is required by the Oklahoma Pharmacy Act;~~

~~17 9. "Nonprescription drugs" means medicines or drugs which~~
~~18 are sold without a prescription and which are prepackaged for use~~
~~19 by the consumer and labeled in accordance with the requirements of~~
~~20 the statutes and regulations of this state and the federal~~
~~21 government. Such items shall also include medical and dental~~
~~22 supplies, and bottled or nonbulk chemicals which are sold or~~
~~23 offered for sale to the general public, if such articles or~~
~~24 preparations meet the requirements of the Federal Food, Drug and~~

~~25~~ ~~Cosmetic Act, 21 U.S.C.A., Section 321 et seq.;~~

~~26~~ ~~10. "Hospital" means any institution licensed by this state~~
~~27~~ ~~for the care and treatment of patients;~~

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~~1~~ ~~11. "Person" means every individual, copartnership,~~
~~2~~ ~~corporation or association, unless the context otherwise requires;~~

~~3~~ ~~12. "Board" or "State Board" means the Board of Pharmacy;~~

~~4~~ ~~13. "Administer" means the direct application of a drug,~~
~~5~~ ~~whether by injection, inhalation, ingestion or any other means, to~~
~~6~~ ~~the body of a patient;~~

~~7~~ ~~14. "Dispense" includes sell, distribute, leave with, give~~
~~8~~ ~~away, dispose of, deliver, or supply;~~

~~9~~ ~~15. "Wholesaler" or "Distributor" means a person engaged in~~
~~10~~ ~~the business of distributing dangerous drugs or medicines at~~
~~11~~ ~~wholesale to pharmacies, hospitals, practitioners, government~~
~~12~~ ~~agencies, or other lawful drug outlets permitted to sell or use~~
~~13~~ ~~drugs or medicines, or as authorized in subsection C of Section~~
~~14~~ ~~353.13 of this title;~~

~~15~~ ~~16. "Dangerous drug", "legend drug", "prescription drug" or~~
~~16~~ ~~"Rx Only" means a drug which:~~

~~17~~ ~~a.] [under federal law, is required, prior to being~~
~~18~~ ~~dispensed or delivered, to be labeled with one of the following~~
~~19~~ ~~statements:]~~

~~20~~ ~~[(1)] ["Caution: Federal law prohibits dispensing~~
~~21~~ ~~without prescription",]~~

~~22~~ ~~[(2)] ["Caution: Federal law restricts this drug to use~~
~~23~~ ~~by or on the order of a licensed veterinarian", or]~~

~~24~~ ~~[(3)] ["Rx Only", or]~~

25 [b.] [~~is required by any applicable federal or state law~~
26 ~~or regulation to be dispensed on prescription only or is~~
27 ~~restricted to use by practitioners only;~~]

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

3 [~~18. "Practice of pharmacy" means:~~]

4 [a.] [~~the interpretation and evaluation of prescription~~
5 ~~orders;~~]

6 [b.] [~~the compounding, dispensing, administering and~~
7 ~~labeling of drugs and devices, except labeling by a manufacturer,~~
8 ~~packer or distributor of nonprescription drugs and commercially~~
9 ~~packaged legend drugs and devices;~~]

10 [c.] [~~the participation in drug selection and drug~~
11 ~~utilization reviews;~~]

12 [d.] [~~the proper and safe storage of drugs and devices~~
13 ~~and the maintenance of proper records thereof;~~]

14 [e.] [~~the responsibility for advising by counseling and~~
15 ~~providing information, where professionally necessary or where~~
16 ~~regulated, of therapeutic values, content, hazards and use of~~
17 ~~drugs and devices;~~]

18 [f.] [~~the offering or performing of those acts,~~
19 ~~services, operations, or transactions necessary in the conduct,~~
20 ~~operation, management and control of a pharmacy, and]~~

21 [g.] [~~the provision of those acts or services that are~~
22 ~~necessary to provide pharmaceutical care;~~]

23 [~~19. "Drug outlet" means all pharmacies, wholesalers,~~

24 ~~manufacturers, or wherever dangerous drugs are stored, and~~
25 ~~facilities which are engaged in dispensing, delivery or~~
26 ~~distribution of dangerous drugs;]~~

27 [20. ~~"Manufacturing" means the production, preparation,~~

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

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

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

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

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

27 ~~[25.]~~ 30. "Professional samples" means complimentary drugs

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1 packaged in accordance with federal and state statutes and
2 regulations;

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

15 ~~[26. "Compounding" means the preparation, mixing,~~
16 ~~assembling, packaging, or labeling of a drug or device;]~~

17 ~~[a.] [as the result of a practitioner's prescription~~
18 ~~drug order or initiative based on the~~
19 ~~practitioner/patient/pharmacist relationship in the course of~~
20 ~~professional practice, or]~~

21 ~~[b.] [for the purpose of, or incident to, research,~~
22 ~~teaching, or chemical analysis and not for sale or dispensing.]~~

23 ~~[Compounding also includes the preparation of drugs or~~
24 ~~devices in anticipation of prescription drug orders based on~~
25 ~~routine, regularly observed prescribing patterns;]~~

26 ~~[27. "Medical gas" means those gases and liquid oxygen upon~~
27 ~~which the manufacturer or distributor has placed one of several~~

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1 ~~cautions, such as "Rx Only", in compliance with federal law;]~~

2 ~~[28. "Medical gas order" means an order for medical gas~~
3 ~~issued by a licensed medical practitioner;]~~

4 ~~[29. "Medical gas distributor" means a person who~~
5 ~~distributes, transfers, wholesales, delivers or sells medical~~
6 ~~gases to a person and may also include a patient or ultimate user;]~~

7 ~~[30. "Medical gas supplier" means a person who dispenses~~
8 ~~medical gases only to a patient or ultimate user; and]~~

9 ~~[31.]~~ 32. "Supportive personnel" means technicians and
10 auxiliary supportive persons who are regularly paid employees of a
11 pharmacy who work and perform tasks in the pharmacy as authorized
12 by Section 353.29 of this title; and

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

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

22 Section 353.1b ~~[Authority]~~ A certified registered nurse

23 anesthetist has authority to order, select, obtain and administer
24 drugs [~~shall be allowed for a certified registered nurse~~
25 ~~anesthetist,~~] pursuant to rules adopted by the Oklahoma Board of
26 Nursing, only when engaged in the preanesthetic preparation or
27 evaluation; anesthesia induction, maintenance or emergence; or

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

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

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

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

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

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

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

21 a. be a resident of the State of Oklahoma for not less

22 than five (5) years, and

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

25 B. The present members of the [~~board~~] Board shall
26 continue to serve the remainder of their terms. Successors shall
27 be appointed for a term of five (5) years. The [~~lay~~] public

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

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

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

22 required by the Board.

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

26 C. The Executive Director of the Board shall receive an
27 annual salary to be fixed by the Board. The Board shall determine

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1 and base the annual salary of the Executive Director upon data
2 obtained from a survey of U. S. regional average annual salaries
3 for [~~registered~~] licensed pharmacists, compiled and published
4 each year by the National Community Pharmacist's Association
5 [~~Pfizer Pharmacy Digest~~].

6 D. The Executive Director shall:

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

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

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

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

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

24 Section 353.7 The State Board of Pharmacy shall have the
25 power and duty to:

- 26 1. Regulate the practice of pharmacy;
27 2. Regulate the sale of drugs, medicines, chemicals and

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1 poisons;

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

5 4. Enter and inspect, by its members or by its duly
6 authorized representatives, any and all places, including
7 premises, equipment, contents and records, where drugs, medicines,
8 chemicals or poisons are stored, sold, vended, given away,
9 compounded, dispensed or manufactured;

10 5. Administer oaths in all matters pertaining to the
11 affairs of the Board and to take evidence and compel the
12 attendance of witnesses on questions pertaining to the enforcement
13 of the Oklahoma Pharmacy Act;

14 6. Employ the number of inspectors and/or pharmacist
15 compliance officers necessary to carry out the provisions of the
16 Oklahoma Pharmacy Act at an annual salary to be fixed by the
17 Board, and to authorize necessary expenses. Such inspectors shall
18 have the same powers and authority as that granted to peace
19 officers by the laws of this state for the purpose of enforcing
20 the Oklahoma Pharmacy Act. In addition, such inspectors or

21 pharmacist compliance officers shall have the authority to take
22 and copy records and the duty to confiscate all drugs, medicines,
23 chemicals or poisons found to be stored, sold, vended, given away,
24 compounded, dispensed or manufactured contrary to the provisions
25 of the Oklahoma Pharmacy Act;

26 7. Prescribe minimum standards with respect to floor space
27 and other physical characteristics of pharmacies~~[7]~~ and hospital

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1 drug rooms as may be reasonably necessary to the maintenance of
2 professional surroundings and to the protection of the safety and
3 welfare of the public, and to refuse the issuance of new or
4 renewal licenses for failure to comply with such standards.

5 Minimum standards for hospital drug rooms shall be consistent with
6 the State Department of Health, Hospital Standards, as defined in
7 OAC 310:667;

8 8. Examine and issue appropriate certificates of
9 ~~[registration]~~ licensure as Doctor of Pharmacy to all applicants
10 ~~[whom it shall deem]~~ who the Board deems are qualified to be
11 such under the provisions of the Oklahoma Pharmacy Act;

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

14 10. Initiate prosecution;

15 11. Reprimand ~~[or]~~, place on probation ~~[any holder of a~~
16 ~~certificate, license or permit;]~~, suspend ~~[or]~~, revoke
17 ~~[certificates, licenses or permits;]~~ or take other disciplinary
18 action and/or levy fines not to exceed ~~[One Thousand Dollars~~
19 ~~(\$1,000.00)]~~ Three Thousand Dollars (\$3,000.00) for each count

20 for which any holder of a certificate, license or permit has been
21 convicted in Board hearings. [~~Provided, as a condition of~~
22 ~~corrective disciplinary sanctions, the~~] The Board may impose as
23 part of any disciplinary action the payment of costs expended by
24 the Board for any legal fees and costs, including, but not limited
25 to, staff time, salary and travel expense, witness fees and
26 attorney fees. The Board may also require [extra] additional
27 continuing education [~~or~~], including attendance at a live

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1 continuing education program, and may require participation in a
2 rehabilitation program for the impaired. The Board may take such
3 actions singly or in combination, as the nature of the violation
4 requires;

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

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

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

19 15. Establish and collect appropriate fees for licenses,

20 permits, inspections and [~~service~~] services provided and such
21 fees shall be nonrefundable. Such fees shall be promulgated to
22 implement the provisions of the Oklahoma Pharmacy Act under the
23 provisions of the Administrative Procedures Act; [~~and~~]

24 16. Regulate:

25 a. personnel working in a pharmacy, such as interns and
26 supportive personnel, including technicians,

27 b. interns, preceptors and training areas through which

21

1 the training of applicants in the practice of pharmacy occurs for
2 licensure as a pharmacist, and

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

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

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

16 Section 353.9 A. [~~Registered~~] Licensed pharmacists shall
17 be persons regularly [~~registered~~] licensed as such in the State
18 of Oklahoma on or before the effective date of this act. All

19 other qualified persons may become [~~registered~~] licensed as a
20 Doctor of Pharmacy upon passing [~~a satisfactory~~] an examination
21 approved by the State Board of Pharmacy. Before any applicant
22 is allowed to sit for such examinations, such applicant shall
23 submit to the Board sufficient proof that the applicant:

- 24 1. Is of good moral character;
- 25 2. Is a graduate of an accredited School or College of
26 Pharmacy approved by the Board, or is a foreign pharmacy school
27 graduate who has received an FPGEC equivalency certification by

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1 the National Association of Boards of Pharmacy; and

- 2 3. Has attained experience in the practice of pharmacy,
3 obtained in a place and in a manner prescribed and approved by the
4 Board [~~of Pharmacy~~].

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

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

19 sit for an additional examination until such applicant has made a
20 new application and paid the fee provided herein.

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

27 E. The Board shall have the power to issue original

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1 certificates of [~~registration~~] licensure to applicants for the
2 score transfer process administered by the National Association of
3 Boards of Pharmacy; provided, such applicants shall provide
4 sufficient proof of compliance with the requirements of paragraphs
5 1 through 3 of subsection A of this section[~~, and for which the~~
6 ~~Board~~]. Such applicants shall [~~charge~~] be charged a fee not
7 to exceed [~~Two Hundred Dollars (\$200.00)~~] Two Hundred Fifty
8 Dollars (\$250.00).

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

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

15 B. Assistant pharmacists shall not manage a pharmacy.

16 C. Every assistant pharmacist shall meet the same
17 requirements for pharmacists listed in Sections 353.11, 353.12 and

18 353.16A of this title.

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

22 Section 353.11 A. 1. Every ~~[registered]~~ licensed
23 pharmacist ~~[and assistant pharmacist]~~ who desires to continue in
24 the profession of pharmacy in this state shall ~~[annually]~~, ~~[after~~
25 ~~the expiration of the registration, and]~~ on or before the
26 expiration date ~~[each year]~~ of the license, complete a renewal
27 form and remit to the State Board of Pharmacy a renewal fee for

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1 each year to be fixed by the Board. Upon compliance with the
2 provisions of the Oklahoma Pharmacy Act and payment of such
3 renewal fee, a renewal certificate of ~~[registration]~~ licensure
4 shall be issued.

5 2. Every ~~[registered]~~ licensed pharmacist who fails to
6 complete a renewal form and remit the required renewal fee to the
7 Board by the fifteenth day after the expiration of the license
8 shall pay a late fee to be fixed by the Board.

9 B. If any ~~[person]~~ pharmacist fails or neglects to
10 procure ~~[an annual registration or permit]~~ the renewal of his or
11 her license, as herein required, ~~[notice of such failure having~~
12 ~~been mailed to such person's post office address,]~~ the Board may,
13 after the expiration of thirty (30) days following the issue of
14 the notice, deprive the person of his or her ~~[registration]~~
15 license and all other privileges conferred by the Oklahoma
16 Pharmacy Act. In order to regain ~~[registration]~~ licensure, ~~[it~~
17 ~~shall be necessary for such person to make application]~~ the

18 pharmacist shall apply in writing to the Board requesting
19 reinstatement. The Board may require [~~such person~~] the
20 pharmacist to appear before the Board at a regular meeting.

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

23 Section 353.12 A. Every person upon receiving a
24 certificate of [~~registration~~] licensure pursuant to the Oklahoma
25 Pharmacy Act, or who has heretofore received a certificate of
26 [~~registration~~] licensure in this state, shall keep such
27 certificate conspicuously displayed in the pharmacy where such

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1 pharmacist is actively engaged in the practice of pharmacy or in
2 such a location as is otherwise prescribed by the State Board
3 of Pharmacy. The current receipt for [~~registration~~] licensure
4 shall be attached to the lower left corner of the original
5 certificate. Every [~~registered~~] licensed pharmacist [~~or~~
6 ~~assistant pharmacist~~] shall, within ten (10) days after
7 discontinuing or changing his or her place of practice, remove
8 his or her certificate and notify the Executive Director of the
9 Board, in writing, of his or her new place of practice. Upon
10 receipt of [~~said~~] the notification, the Executive Director shall
11 make the necessary change in the [~~register~~] Board records.

12
13 B. Any member of the Board [~~of Pharmacy~~], [~~or~~] inspector
14 or pharmacist compliance officer duly authorized by [~~said~~] the
15 Board shall have authority to confiscate and void any certificate
16 issued by [~~said~~] the Board which has been displayed in any place

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

20 SECTION 11. AMENDATORY 59 O.S. 2001, Section 353.13,
21 as amended by Section 2, Chapter 18, O.S.L. 2005 (59 O.S. Supp.
22 2008, Section 353.13), is amended to read as follows:

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

26

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

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

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

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

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

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

27 1. [~~Prescriptions dispensed~~] Drugs supplied pursuant to

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1 the provisions of this subsection shall not be required to be
2 certified by a pharmacist prior to being [~~dispensed~~] supplied by
3 a wholesaler or distributor.

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

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

13 4. Compliance [~~of this act~~] with the Oklahoma Pharmacy
14 Act as it relates to veterinary prescription-labeled drugs
15 shall be [~~done in accordance with and~~] pursuant to rules [~~that~~

16 ~~shall be~~] promulgated by the Oklahoma State Board of Veterinary
17 Medical Examiners and in consultation with the State Veterinarian
18 in accordance with state law.

19 SECTION 12. AMENDATORY 59 O.S. 2001, Section
20 353.13A, as last amended by Section 1, Chapter 523, O.S.L. 2004
21 (59 O.S. Supp. 2008, Section 353.13A), is amended to read as
22 follows:

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

27 B. ~~[1.]~~ Pharmacists may dispense prescriptions for

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

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

14 C. A filled prescription label shall include the name and
15 address of the pharmacy of origin, date of filling, name of

16 patient, name of prescriber, directions for administration, and
17 prescription number. The symptom or purpose for which the drug is
18 being prescribed may appear on the label, if [~~7~~ ~~after being~~
19 ~~advised~~] provided by the practitioner [~~7~~] and the patient or
20 the patient's authorized representative so requests. If the
21 symptom or purpose for which a drug is being prescribed is not
22 provided by the practitioner, the pharmacist may fill the
23 prescription order without contacting the practitioner, patient,
24 or the patient's representative. The label shall also include the
25 trade or generic name, and the quantity and strength of the drug
26 therein contained, except when otherwise directed by the
27 prescriber. This requirement shall not apply to [~~compounded~~]

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1 prescriptions or medicines and drugs supplied or delivered
2 directly to patients for consumption on the premises while
3 admitted to any hospital or mental institution.

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

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

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

14 B. No person, firm or corporation other than one licensed

15 under ~~[this act]~~ the Oklahoma Pharmacy Act shall take, use or
16 exhibit the title "Druggist", "Doctor of Pharmacy", "R.Ph.",
17 "D.Ph.", "Pharmacy", "Drug Store", "Drug Department", "Drugs",
18 "Drug Sundries", "Prescriptions", or any other term, sign or
19 device or any word in similitude thereof.

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

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

27 SECTION 15. AMENDATORY 59 O.S. 2001, Section 353.18,

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

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

15 medical gas distributors regulated pursuant to the provisions of
16 subsection B of this section.

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

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

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

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

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

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

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

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

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

14 applicants for an initial license or permit shall be inspected.
15 Applicants shall pay an inspection fee not to exceed [~~One Hundred~~
16 ~~Dollars (\$100.00)~~] Two Hundred Dollars (\$200.00); provided
17 however, that no charge shall be made for the licensing of any
18 Federal Veterans Hospital in the State of Oklahoma.

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

23 4. A retail pharmacy that prepares sterile therapeutic
24 preparations that shall be free from living microorganisms
25 (aseptic) shall obtain a pharmacy license, and shall also obtain a
26 parenteral permit at a fee set by the Board, not to exceed
27 Seventy-five Dollars (\$75.00). Such pharmacy shall meet

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1 requirements set by the Board by rule for parenteral permits.

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

12 2. a. An application for an initial or renewal
13 permit issued pursuant to the provisions of this subsection shall

14 be:

15 (1) made in writing, and

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

18 b. Prior to opening for business, all applicants for an
19 initial permit shall be inspected. Applicants shall pay an
20 inspection fee not to exceed [~~One Hundred Dollars (\$100.00)~~] Two
21 Hundred Dollars (\$200.00).

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

26 [~~4. A registered permittee who fails to complete an~~
27 ~~application for a renewal permit by the fifteenth day after the~~

1 ~~expiration of the permit shall pay a late fee to be fixed by the~~
2 ~~Board.]~~

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

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

12 a. provisions for new or renewal application

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

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

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1 designated managers' home state, and

2 (7) bond requirements, and

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

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

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

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

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

25 E. A wholesale distributor shall accept prescription drug
26 returns pursuant to the terms and conditions of the agreement
27 between the wholesale distributor and a hospital, pharmacy, chain

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

10 F. The Oklahoma Pharmacy Act shall not be construed to
11 prevent the sale of nonprescription drugs in original packages by

12 any merchant or dealer.

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

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

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

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

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

11 SECTION 17. AMENDATORY 59 O.S. 2001, Section 353.22,

12 is amended to read as follows:

13 Section 353.22 A. It shall be unlawful for:

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

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

27 B. The provisions of this section shall not apply to the

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1 dispensing of poisons in not unusual quantities or doses[~~7~~] upon
2 the prescription of practitioners of medicine.

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

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

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

11 by such forged, fictitious or altered prescription;

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

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

21 4. Enter into any arrangement whereby prescription orders
22 are received, or prescriptions delivered at a place other than the
23 pharmacy in which they are compounded and dispensed. However,
24 nothing in this paragraph shall prevent a pharmacist or an
25 employee of the pharmacy from personally receiving a prescription
26 or delivering a legally filled prescription at a residence, office
27 or place of employment of the patient for whom the prescription

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

11 dispensed only on prescription of a licensed veterinarian and only
12 when an existing 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
16 paragraph, "professional samples" means complimentary drugs
17 packaged in accordance with federal and state statutes and
18 regulations and provided to a licensed practitioner free of charge
19 by manufacturers or distributors for the purpose of being
20 distributed free of charge in such package by the licensed
21 practitioner to a patient;

22 6. Refuse to permit or otherwise prevent members of the
23 Board or such representatives thereof from entering and inspecting
24 any and all places, including premises, equipment, contents, and
25 records, where drugs, medicine, chemicals or poisons are stored,
26 sold, vended, given away, compounded, dispensed or manufactured;
27 [~~or~~]

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

- 10 8. Knowingly violate a Board order or agreed order;
11 9. Compromise the security of licensure examination
12 materials; or
13 10. Fail to notify the Board, in writing, within ten (10)
14 days of an address change.

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

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

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

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

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

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

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

6 b. violates any of the provisions of the Uniform
7 Controlled Dangerous Substances Act,

8 c. has been convicted of a felony or has pleaded guilty
9 or no contest to a felony,

- 10 d. engages in the practice of pharmacy while
11 incapacitated or abuses intoxicating liquors or other chemical
12 substances,
- 13 e. conducts himself or herself in a manner likely to
14 lower public esteem for the profession of pharmacy,
- 15 f. [~~has had his or her license placed on probation,~~
16 ~~suspended, or revoked,~~] has been [~~reprimanded~~] disciplined by
17 another State Board of Pharmacy or [~~has had another disciplinary~~
18 ~~action~~] by another state or federal entity,
- 19 g. has been legally adjudged to be not mentally
20 competent, or
- 21 h. exercises conduct and habits inconsistent with the
22 rules of professional conduct established by the Board; and
- 23 2. Levy administrative fines not to exceed [~~One Thousand~~
24 ~~Dollars (\$1,000.00)~~] Three Thousand Dollars (\$3,000.00) for each
25 count of which any holder of a certificate, license, or permit has
26 been convicted in Board hearings.
- 27 B. 1. The Board, its employees, or other agents of the

1 Board shall keep confidential information obtained during an
2 investigation into violations of the Oklahoma Pharmacy Act;
3 provided, however, such information may be introduced by the state
4 in administrative proceedings before the Board and the
5 information then becomes a public record.

6 [~~C.~~] To ensure the confidentiality of such information [~~for~~
7 ~~the protection of the affected individual or entity, the~~
8 ~~information~~] obtained during the investigation but not introduced

9 in administrative proceedings, this information shall not be
10 deemed to be a record as that term is defined in the Oklahoma Open
11 Records Act, nor shall the information be subject to subpoena or
12 discovery in any civil or criminal proceedings, except that the
13 Board may give such information to law enforcement and other state
14 agencies as necessary and appropriate in the discharge of the
15 duties of that agency and only under circumstances that ensure
16 against unauthorized access to the information.

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

25 C. 1. The Board[~~, upon a~~] shall mail by certified mail
26 to respondent at the last address provided by respondent to the
27 Board, at least ten (10) days before the hearing, the sworn

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1 complaint filed with its Executive Director[~~, and after giving~~
2 ~~at least ten (10) days' written notice by registered or certified~~
3 ~~mail of the filing of such complaint to the person accused~~
4 ~~therein] against respondent and notice of the date and place of
5 a hearing thereon[~~, to which notice shall be attached a statement~~
6 ~~of the charges contained in the complaint, is hereby authorized~~
7 ~~and empowered, if the]. Alternatively, the Board may serve
8 respondent personally by any person appointed to make service by~~~~

9 the Executive Director of the Board and in any manner authorized
10 by the law of this state for the personal service of summonses in
11 proceedings in a state court. If the Board finds that the
12 allegations of the complaint are supported by the evidence
13 rendered at the hearing, the Board is hereby authorized and
14 empowered to, by written order, revoke permanently or suspend for
15 a designated period, the certificate, license or permit of the
16 [~~person charged in the complaint~~] respondent and/or [~~to~~
17]reprimand, [~~or~~] place [~~such person~~] on probation and/or fine
18 the respondent.

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

21 3. A person whose certificate, license or permit has been
22 revoked or suspended or who has been reprimanded or placed on
23 probation or fined may appeal such Board order pursuant to the
24 Administrative Procedures Act.

25 [~~E.~~] D. A person, other than a pharmacy technician, whose
26 license or permit has been suspended by the Board or by operation
27 of law shall pay a reinstatement fee not to exceed [~~One Hundred~~

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1 ~~Dollars (\$100.00)]~~ One Hundred Fifty Dollars (\$150.00) as a
2 condition of reinstatement of the license.

3 SECTION 21. AMENDATORY 59 O.S. 2001, Section 353.29,
4 as amended by Section 23, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
5 2008, Section 353.29), is amended to read as follows:

6 Section 353.29 A. [~~The use of supportive~~] Supportive
7 personnel may be used in the practice of pharmacy [~~shall be~~

8 ~~acceptable within~~] if used in compliance with rules established
9 by the State Board of Pharmacy.

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

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

14 a. made in writing, and

15 b. accompanied by a permit fee not to exceed [~~Forty~~
16 ~~Dollars (\$40.00)~~] Seventy-five Dollars (\$75.00) for each period
17 of one (1) year.

18 [~~3.~~] A permit issued pursuant to this subsection shall be
19 valid for a period to be determined by the Board.

20 [~~4.~~] 3. A pharmacy technician who fails to complete an
21 application for a renewal permit by the fifteenth day after the
22 expiration of the permit shall pay a late fee to be fixed by the
23 Board.

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

27 Section 353.30 A. The use of agreements in the practice of

1 pharmacy shall be acceptable within the rules promulgated by the
2 State Board of Pharmacy and in consultation with the State Board
3 of Medical Licensure and Supervision and the State Board of
4 Osteopathic Examiners.

5 B. The Board [~~of Pharmacy~~] shall develop and prepare
6 permanent rules relating to training requirements and
7 administration of immunizations and therapeutic injections in

8 consultation within the State Board of Medical Licensure and
9 Supervision and the State Board of Osteopathic Examiners.

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

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

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

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

26 B. No pharmacist [~~or assistant pharmacist~~] shall refuse,
27 upon request by that customer in person or through an authorized

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1 pharmacist [~~or assistant pharmacist~~], to supply a reference copy
2 in writing or by telephone.

3 C. No [~~legally competent~~] licensed practitioner [~~of the~~
4 ~~healing arts~~] shall refuse to honor the request of his or her
5 patient to have his or her prescription transferred to the
6 [~~registered~~] licensed pharmacist or licensed pharmacy of the

7 patient's choice.

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

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

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

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

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

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

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

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

7 SECTION 26. AMENDATORY 59 O.S. 2001, Section 587, is
8 amended to read as follows:

9 Section 587. The fee for such examinations shall be set by
10 the Board of Examiners in Optometry rule, not to be less than One
11 Hundred Dollars (\$100.00) and not to exceed Two Hundred Dollars
12 (\$200.00), and a yearly license fee set by the Board of Examiners
13 in Optometry rule, not to [~~be less than Sixty five Dollars~~
14 ~~(\$65.00) and not to~~] exceed [~~Two Hundred Dollars (\$200.00)~~] Three
15 Hundred Dollars (\$300.00) shall be paid each fiscal year by all
16 persons holding a license to practice optometry in this state, and
17 shall be paid not later than the 30th day of June of each year.
18 In the event of default of payment of such license fee by any
19 person, his or her certificate shall be revoked by the Board of
20 Examiners who shall take such action only after notifying the
21 person in default by registered mail and allowing [~~him or her~~]
22 that person fifteen (15) days in which to comply with this
23 requirement. The Board shall be paid travel expenses as provided
24 in the State Travel Reimbursement Act, Section 500.1 et seq. of
25 Title 74 of the Oklahoma Statutes. The secretary-treasurer shall
26 receive [~~a~~] compensation fixed by the Board, [~~of~~] not to exceed
27 Two Hundred Dollars (\$200.00) per month. All fees and charges

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1 collected by the secretary-treasurer of the Board shall be paid on
2 the first day of each month into a revolving fund in the State
3 Treasury to be designated as the "Optometry Board Revolving Fund".
4 This fund shall consist of all monies received by the Board of
5 Optometry other than appropriated funds. The revolving fund shall

6 be a continuing fund not subject to fiscal year limitations and
7 shall be under the control and management of the Board of
8 Optometry. Expenditures from this fund shall be made pursuant to
9 the purposes of Sections 581 through 606 of this title and without
10 legislative approval. Warrants for expenditures shall be drawn by
11 the State Treasurer based on claims signed by an authorized
12 employee or employees of the Board of Optometry and approved for
13 payment by the Director of State Finance. The revolving fund
14 shall be audited at least once each year by the State Auditor and
15 Inspector.

16 SECTION 27. REPEALER 59 O.S. 2001, Section 355, as
17 amended by Section 2, Chapter 523, O.S.L. 2004 (59 O.S. Supp.
18 2008, Section 355), is hereby repealed.

19 SECTION 28. This act shall become effective November 1,
20 2009.

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

22 Presiding Officer of the Senate

23 Passed the House of Representatives the 19th day of May,
24 2009.

25

26 Presiding Officer of the House

27 of Representatives

