Chapter 689

2005 EDITION

Pharmacists; Drug Outlets; Drug Sales

GENERAL PROVISIONS

689.005 Definitions
689.015 "Practice of pharmacy" defined
689.025 Policy; purpose
689.035 Short title
689.045 Severability

STATE BOARD OF PHARMACY

689.115 Membership; qualifications; appointment; vacancy
689.125 Term of office; removal
689.135 General powers of board; fees
689.139 State Board of Pharmacy Account; disposition of receipts
689.145 Enforcement powers of board
689.151 Board control over licensing, standards and discipline
689.155 Authority of board over medications, drugs, devices and other materials; rules
689.165 Officers; executive director
689.175 Compensation of board members and executive director
689.185 Meetings
689.195 Employees
689.205 Rulemaking
689.207 Authority of board to require fingerprints

PRACTICE OF PHARMACY

689.225 When license required; exceptions; possession of drugs; regulation of pharmacy technicians; rules; penalty
689.255 Qualifications for licensure by examination
689.265 Qualifications for licensure by reciprocity
689.275 Renewal of licenses; rules; fees
689.285 Continuing pharmacy education; rules; fees

REGULATION OF DRUG OUTLETS

689.305 Registration of drug outlets; rules
689.315 Application; rules
689.325 Required information
689.335 Certificate required; reinstatement

DIVERSION PROGRAM

689.342 Pharmacy Diversion Program Supervisory Council; appointment; term; compensation and expenses
689.344 Program director; duties
689.346 Contract for services to chemically dependent licensees; rules
689.348 Referral in addition to or in lieu of disciplinary action
689.352 Records and information confidential; participant not subject to other sanctions
689.354 Civil immunity of board, council, employer and contractors
689.356 Rules; fees and charges

DISCIPLINE

689.405 Grounds for discipline; investigation; procedure as contested case
689.445 Penalties and reinstatement
689.455 Report of suspected violations; liability for reporting; confidentiality of report

PHARMACY TECHNICIANS

689.486 When license required; qualifications for licensure; renewal; supervision required
689.490 Board to establish licensing system; rules; fees
689.495 Provision of licensing information
689.497 Report required upon termination of pharmacy technician
689.499 Pharmacy technician specialized education program; rules

REQUIREMENTS RELATING TO SALES

689.505 Labeling requirements; rules
689.508 Prescription records
689.515 Regulation of generic drugs; substitutions; rules
689.525 Out-of-state prescriptions
689.555 Agricultural drugs, nonprescription drugs and certain other substances
689.565 Discounts from pharmacies for prescription drug purchases; requirements; limitations; actions for violations; remedies

MISCELLANEOUS

689.605 Authority to dispense drugs from hospital pharmacies, drug rooms and penal institutions; rules
689.615 Display of certificate or license
689.635 Dispensing according to naturopathic formulary; effect of filling prescription of naturopath
689.645 Authority to administer vaccines and immunizations; Immunization and Vaccination Advisory Committee; rules
689.655 Authority to flush intravenous lines and to administer drugs and medical devices; rules; limitations

PROHIBITED PRACTICES

689.765 Prohibited practices; complimentary samples; rules

PENALTIES

689.832 Civil penalties
689.854 Civil penalty for violation of ORS 689.515
689.995 Criminal penalties

GENERAL PROVISIONS

689.005 Definitions. As used in this chapter:

(1) "Administer" means the direct application of a drug or device whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or the authorized agent thereof; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Approved continuing pharmacy education program" means those seminars, classes, meetings, workshops and other educational programs on the subject of pharmacy approved by the board.

(3) "Board of pharmacy" or "board" means the State Board of Pharmacy.

(4) "Continuing pharmacy education" means professional, pharmaceutical postgraduate education in the general areas of socio-economic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the etiology, characteristics and therapeutics of the disease state.

(5) "Continuing pharmacy education unit" means the unit of measurement of credits for approved continuing education courses and programs.

(6) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device other than by administration from one person to another, whether or not for a consideration.

(7) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(8) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(9) "Distribute" means the delivery of a drug other than by administering or dispensing.

(10) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in a human or other animal;

(c) Articles (other than food) intended to affect the structure or any function of the body of humans or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(11) "Drug order" means a written order, in a hospital or other inpatient care facility, for an ultimate user of any drug or device issued and signed by a practitioner, or an order transmitted by other means of communication from a practitioner, that is immediately reduced to writing by a pharmacist, licensed nurse or other practitioner.

(12) "Drug outlet" means any pharmacy, nursing home, shelter home, convalescent home, extended care facility, drug abuse treatment center, penal institution, hospital, family planning clinic, student health center, retail store, wholesaler, manufacturer, mail-order vendor or other establishment with facilities located within or out of this state that is engaged in dispensing, delivery or distribution of drugs within this state.

(13) "Drug room" means a secure and lockable location within an inpatient care facility that does not have a licensed pharmacy.

(14) "Electronically transmitted" or "electronic transmission" means a communication sent or received through technological apparatuses, including computer terminals or other equipment or mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(15) "Institutional drug outlet" means hospitals and inpatient care facilities where medications are dispensed to another health care professional for administration to patients served by the hospitals or facilities.

(16) "Intern" means any person who has completed the junior or third academic year of a course of study at an approved college of pharmacy and is licensed with the board as an intern.

(17) "Internship" means a professional and practical experience program approved by the board under the supervision of a licensed pharmacist registered with the board as a preceptor.

(18) "Itinerant vendor" means all persons who sell or otherwise distribute nonprescription drugs by passing from house to house, or by haranguing the people on the public streets or in public places, or who use the customary devices for attracting crowds and

therewith recommending their wares and offering them for sale.

(19) "Labeling" means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation.

(20) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or a drug, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for their own use or the preparation, compounding, packaging or labeling of a drug:

(a) By a practitioner as an incident to administering or dispensing of a drug in the course of professional practice; or

(b) By a practitioner or by the practitioner's authorization under supervision of the practitioner for the purpose of or as an incident to research, teaching or chemical analysis and not for sale.

(21) "Manufacturer" means a person engaged in the manufacture of drugs.

(22) "Nonprescription drug outlet" means shopkeepers and itinerant vendors registered under ORS 689.305.

(23) "Nonprescription drugs" means drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this state and the federal government.

(24) "Person" means an individual, corporation, partnership, association or any other legal entity.

(25) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(26) "Pharmacy" means a place that meets the requirements of rules of the board, is licensed and approved by the board where the practice of pharmacy may lawfully occur and includes apothecaries, drug stores, dispensaries, hospital outpatient pharmacies, pharmacy departments and prescription laboratories but does not include a place used by a manufacturer or wholesaler.

(27) "Pharmacy technician" means a person licensed by the State Board of Pharmacy who assists the pharmacist in the practice of pharmacy pursuant to rules of the board.

(28) "Practitioner" means a person licensed and operating within the scope of such license to prescribe, dispense, conduct research with respect to or administer drugs in the course of professional practice or research:

(a) In this state; or

(b) In another state or territory of the United States not residing in Oregon and registered under the federal Controlled Substances Act.

(29) "Preceptor" means a pharmacist licensed and in good standing, registered by the board to supervise the internship training of a licensed intern.

(30) "Prescription drug" or "legend drug" means a drug which is:

(a) Required by federal law, prior to being dispensed or delivered, to be labeled with either of the following statements:

(A) "Caution: Federal law prohibits dispensing without prescription"; or

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

(b) Required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioners only.

(31) "Prescription" or "prescription drug order" means a written, oral or electronically transmitted direction, given by a practitioner authorized to prescribe drugs, for the preparation and use of a drug. When the context requires, "prescription" also means the drug prepared under such written, oral or electronically transmitted direction.

(32) "Retail drug outlet" means a place used for the conduct of the retail sale, administering or dispensing or compounding of drugs or chemicals or for the administering or dispensing of prescriptions and licensed by the board as a place wherein the practice of pharmacy may lawfully occur.

(33) "Shopkeeper" means a business or other establishment, open to the general public, for the sale or nonprofit distribution of drugs.

(34) "Unit dose" means a sealed single-unit container so designed that the contents are administered to the patient as a single dose, direct from the container. Each unit dose container must bear a separate label, be labeled with the name and strength of the medication, the name of the manufacturer or distributor, an identifying lot number and, if

applicable, the expiration date of the medication.

(35) "Wholesale drug outlet" means any person who imports, stores, distributes or sells for resale any drugs including legend drugs and nonprescription drugs.

(36) "Class I wholesaler" means any person operating or maintaining a wholesale distribution center, wholesale business or any other business in which drugs, medicinal chemicals, or poisons are sold, dispensed, stocked, exposed or offered for sale at wholesale to a pharmacy or other legally licensed drug outlets or persons.

(37) "Class II wholesaler" means any person operating or maintaining a wholesale distribution center, wholesale business or any other business in which nonprescription drugs are offered for sale at wholesale to a drug outlet legally authorized to resell. [1979 c.777 §5; 1983 c.402 §1; 1985 c.565 §94; 1987 c.108 §1; 1989 c.608 §1; 1991 c.682 §1; 1993 c.272 §1; 1993 c.571 §1; 1997 c.729 §1; 1999 c.350 §2; 2001 c.623 §6; 2005 c.313 §11]

689.010 [Amended by 1963 c.586 §1; 1967 c.629 §1; 1969 c.514 §1; 1973 c.743 §1; 1975 c.369 §1; 1975 c.686 §8; 1979 c.785 §7; repealed by 1977 c.842 §2 and 1979 c.777 §59]

689.015 "Practice of pharmacy" defined. The "practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing, labeling of drugs and devices (except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices); the administering of vaccines and immunizations pursuant to ORS 689.645; the administering of drugs and devices to the extent permitted under ORS 689.655; the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefor; the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices; the monitoring of therapeutic response or adverse effect to drug therapy; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of pharmacy. [1979 c.777 §4; 1999 c.350 §3]

689.025 Policy; purpose. (1) The practice of pharmacy in the State of Oregon is declared a professional practice affecting the public health, safety and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in this chapter, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of pharmacy in the State of Oregon. This chapter shall be liberally construed to carry out these objects and purposes.

(2) It is the purpose of this chapter to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy and of the registration of drug outlets engaged in the manufacture, production, sale and distribution of drugs, medications, devices and such other materials as may be used in the diagnosis and treatment of injury, illness and disease. [1979 c.777 §§2,3; 1985 c.565 §95]

689.035 Short title. This chapter shall be known as the "Oregon Pharmacy Act." [1979 c.777 §1; 1985 c.565 §96]

689.045 Severability. If any provision of ORS 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.840, 475.906 and 616.855 and ORS chapter 689 is declared unconstitutional or illegal, or the applicability of ORS 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.840, 475.906 and 616.855 and ORS chapter 689 to any person or circumstances is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of ORS 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.840, 475.906 and 616.855 and ORS chapter 689 and the application of ORS 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.840, 475.906 and 616.855 and ORS chapter 689 to other persons and circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application. [1979 c.777 §63; 1999 c.605 §6; 1999 c.1051 §137]

Note: 689.045 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 689 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

689.110 [Amended by 1963 c.586 §2; 1965 c.580 §4; 1967 c.159 §1; 1969 c.514 §2; repealed by 1977 c.842 §45 and 1979 c.777 §59]

STATE BOARD OF PHARMACY

689.115 Membership; qualifications; appointment; vacancy. (1) The State Board of Pharmacy shall consist of seven members, two of whom shall be representatives of the public, and the remaining five of whom shall be licensed pharmacists. The members shall possess the qualifications specified in subsections (2) and (3) of this section.

(2) The public members of the State Board of Pharmacy shall be residents of this state who have attained the age of majority and shall not be nor shall they ever have been a member of the profession of pharmacy, or persons who have any immediate family in the profession of pharmacy or persons who have ever had any material finan-

cial interest in the providing of pharmacy service or who have engaged in any activity directly related to the practice of pharmacy.

(3) The licensed pharmacist members of the board shall at the time of their appointment:

(a) Be residents of this state;

(b) Be licensed and in good standing to engage in the practice of pharmacy in this state;

(c) Be engaged in the practice of pharmacy in this state; and

(d) Have five years of experience in the practice of pharmacy in this state after licensure.

(4) The Governor shall appoint the members of the State Board of Pharmacy, subject to the advice and consent of the Senate, and in accordance with the other provisions of subsection (5) of this section.

(5) At least five recommendations for appointment to each vacancy on the board may be made to the Governor by a task force assembled by the Oregon State Pharmacists Association to represent all of the interested pharmacy groups. Such nominations shall be recommendations only and shall not be binding in any manner upon the Governor.

(6) Any vacancy which occurs in the membership of the board for any reason, including expiration of term, removal, resignation, death, disability or disqualification, shall be filled by the Governor in the manner prescribed by subsections (4) and (5) of this section. The Governor shall fill vacancies which occur by expiration of full terms within 90 days prior to each date of expiration, and shall fill vacancies which occur for any other reason within 60 days after each such vacancy occurs. [1979 c.777 §§7,8,9,11; 1987 c.108 §2]

689.120 [Amended by 1967 c.159 §2; repealed by 1969 c.514 §57]

689.125 Term of office; removal. (1) Except as provided in subsection (2) of this section, members of the State Board of Pharmacy shall be appointed for a term of four years, except that members of the board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the unexpired portion of such term.

(2)(a) The terms of the members of the board shall be staggered, so that the terms of no more than two members shall expire in any year.

(b) The present members of the board shall serve the balance of their terms.

(c) Any present board member appointed initially for a term of less than four years shall be eligible to serve for two additional full terms.

(3) No member of the board shall serve more than two consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for purposes of this section.

(4) An appointee to a full term on the board shall be appointed by the Governor before the expiration of the terms of the member being succeeded, and shall become a member of the board on the first day of the state fiscal year next following the appointment. Appointees to unexpired portions of full terms shall become members of the board on the day next following such appointment. In the event the number of board members is increased, the term of any new member shall commence at such time as is designated in the statute providing for the enlargement of the board.

(5) Each term of office on the board shall expire at midnight on the last day of the state fiscal year in the final year of the board member's term or on the date the successor is appointed and qualified, except for Senate confirmation, whichever shall later occur.

(6) The Governor may remove a member of the board, pursuant to the procedures set forth in subsection (7) of this section upon one or more of the following grounds:

(a) The refusal or inability for any reason of a board member to perform the duties of a member of the board in an efficient, responsible and professional manner;

(b) The misuse of office by a member of the board to obtain personal, pecuniary or material gain or advantage for self or for another through such office; or

(c) The violation by any member of this chapter or any of the rules adopted hereunder.

(7) The procedures shall be as stated in ORS chapter 183 to remove a member of the board from office for any of the grounds specified by subsection (6) of this section. [1979 c.777 §§10,12; 1985 c.565 §97]

689.130 [Repealed by 1969 c.514 §57]

689.135 General powers of board; fees. (1) The State Board of Pharmacy shall have such other duties, powers and authority as may be necessary to the enforcement of this chapter and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

(a) Cause to have printed and circulated annually copies of any changes in the laws relating to pharmacy, controlled substances, drugs and poisons and the rules adopted to

enforce such laws, and set reasonable charges therefor.

(b) Appoint advisory committees.

(2) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(3) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(4) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(5) The board shall determine within 30 days prior to the beginning of each state fiscal year the fees to be collected for:

(a) Examinations and reexaminations, which fee shall not exceed $400.

(b) Pharmacist licenses, which fee shall not exceed $250.

(c) Pharmacist licensing by reciprocity, which fee shall not exceed $300.

(d) Intern license, which fee shall not exceed $50.

(e) Duplicate pharmacist certificate, which fee shall not exceed $50.

(f) Pharmacist license, delinquent renewal fee, which fee shall not exceed $50.

(g) Certification of approved providers of continuing education courses, which fee shall not exceed $300.

(h) Registration of drug outlets other than pharmacies and renewal of registration, which fee shall not exceed $500.

(i) Initial pharmacy or institutional drug outlet, which fee shall not exceed $300.

(j) Annual pharmacy or institutional drug outlet, which fee shall not exceed $300.

(k) Pharmacy or institutional drug outlet delinquent renewal fee, which fee shall not exceed $200.

(L) Nonprescription drug outlets, which fee shall not exceed $50.

(m) Nonprescription drug outlet delinquent renewal fee, which fee shall not exceed $50.

(n) Reinspection fee, which fee shall not exceed $100.

(o) Drug outlets, other than pharmacies or institutional drug outlets, delinquent renewal fee, which fee shall not exceed $100.

(6) All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185 and 453.990 and this chapter shall be paid by the magistrate or other officer receiving them to the treasurer of the county where the prosecution is conducted. These moneys shall be applied, first, to the payment of the costs of such prosecution. The remainder shall be paid by the county treasurer into the State Treasury and, in the case of:

(a) All moneys except criminal fines, placed to the credit of the State Board of Pharmacy Account established in ORS 689.139 to be used only for the administration and enforcement of ORS 435.010 to 435.130 and this chapter.

(b) Criminal fines, placed to the credit of the Criminal Fine and Assessment Account.

(7) Except as provided in subsection (6) of this section, all moneys received under ORS 435.010 to 435.130, 453.185 and 453.990 and this chapter shall be paid into the State Treasury and placed to the credit of the State Board of Pharmacy Account to be used only for the administration and enforcement of ORS 435.010 to 435.130 and this chapter.

(8) The board may receive and expend funds, in addition to its biennial appropriation, from parties other than the state, provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such funds do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this chapter;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the Governor concerning the board's receipt and expenditure of such moneys.

(9) The board may assign to each drug outlet under its jurisdiction, a uniform state number, coordinated where possible with all other states which adopt the same uniform numbering system.

(10) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the board.

(11) The president and vice president of the board may administer oaths in connection with the duties of the board.

(12) The books, registers and records of the board as made and kept by the executive director or under the supervision of the executive director, subject to the direction of the board, shall be prima facie evidence of the matter recorded therein, in any court of law.

(13) The board may administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under this chapter.

(14)(a) Notwithstanding anything in this chapter to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the representative shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection has been declared by such representative to be adulterated, misbranded or a new drug, or rendered unsafe, the board shall, as soon as practical thereafter, petition the judge of the circuit court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded or rendered unsafe, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded or rendered unsafe, such drug or device, after entry of the judgment, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the judgment and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the Attorney General to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(15) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with ORS chapter 183. [1979 c.777 §20; 1981 c.277 §2; 1983 c.402 §2; 1985 c.565 §98; 1987 c.108 §3; 1991 c.460 §9; 1993 c.571 §3; 2001 c.457 §1; 2003 c.576 §543; 2005 c.726 §11]

689.139 State Board of Pharmacy Account; disposition of receipts. The State Board of Pharmacy Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the State Board of Pharmacy shall be deposited into the account and are continuously appropriated to the board to carry out the duties, functions and powers of the board. Any interest or other income from moneys in the account shall be credited to the account. [2005 c.726 §10]

689.140 [Amended by 1963 c.586 §3; repealed by 1969 c.514 §57]

689.145 Enforcement powers of board. The responsibility for enforcement of the provisions of this chapter is vested in the State Board of Pharmacy. The board shall have all of the duties, powers and authority specifically granted by and necessary and proper to the enforcement of this chapter, as well as such other duties, powers and authority as it may be granted from time to time by law. [1979 c.777 §6; 1985 c.565 §99]

689.150 [Amended by 1969 c.514 §46; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.151 Board control over licensing, standards and discipline. The State Board of Pharmacy shall be responsible for the control and regulation of the practice of pharmacy in this state including, but not limited to, the following:

(1) The licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of pharmacy under the provisions of this chapter;

(2) The renewal of licenses to engage in the practice of pharmacy;

(3) The determination and issuance of standards based on nationally recognized standards of practice and accreditation criteria for recognition and approval of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training, including internship;

(4) The enforcement of those provisions of this chapter relating to the conduct or competence of pharmacists practicing in this state, and the suspension, revocation or restriction of licenses to engage in the practice of pharmacy;

(5) The training, qualifications and employment of pharmacy interns; and

(6) The licensing of pharmacy technicians. [Formerly 689.245; 2001 c.595 §1; 2005 c.313 §10]

689.155 Authority of board over medications, drugs, devices and other materials; rules. The State Board of Pharmacy shall also have the following responsibilities in regard to medications, drugs, devices and other materials used in this state in the diagnosis, mitigation and treatment or prevention of injury, illness and disease:

(1) The regulation of the sale at retail, the administering by pharmacists to the extent provided in ORS 689.645 and 689.655 and the dispensing of medications, drugs, devices and other materials including the right to seize any such drugs, devices and other materials found to be detrimental to the public health and welfare by the board after appropriate hearing as required under ORS chapter 183.

(2) The specifications of minimum professional and technical equipment, environment, supplies and procedures for the compounding, administering and dispensing of such medications, drugs, devices and other materials within the practice of pharmacy and any drug outlet.

(3) The control of the purity and quality of such medications, drugs, devices and other materials within the practice of pharmacy and any drug outlet.

(4) The issuance and renewal of certificates of registration of drug outlets for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs, receiving and collecting annual fees therefrom and suspending, revoking or refusing to renew such registration in the manner provided in this chapter.

(5) In conjunction with the regularly constituted law enforcement agencies of this state, enforce all laws of the state which pertain to the practice of pharmacy, the manufacture, production, sale or distribution of drugs, chemicals and poisons, and to their standard of strength and purity.

(6) Investigate all complaints of alleged violations of this chapter and take necessary action as the board may require or direct.

(7) Pursuant to ORS chapter 183, make such rules as are necessary and feasible for carrying out ORS 453.175, 453.185, 475.005, 475.135 and 475.185 and this chapter and make rules relating to controlled substances, designated as such pursuant to ORS 475.025 and 475.035.

(8) At all reasonable hours, in performance of the duties imposed by this section, enter, or cause its authorized representatives to enter upon, and examine the premises or records required by law of any drug outlet under the jurisdiction of the board.

(9) Assist the regularly constituted law enforcement agencies of this state in enforcing ORS 453.005 to 453.135, 475.005 and 475.135 and this chapter by prosecution in the courts of this state or otherwise.

(10) Cause to have made a regular inspection of all pharmacies.

(11) Pursuant to ORS chapter 183, make such rules as are necessary for pharmacies, drug manufacturers and wholesalers to sell or otherwise lawfully distribute designated pharmaceutical agents to licensed optometrists consistent with the provisions of ORS 683.010 to 683.335. [1979 c.777 §19; 1985 c.565 §100; 1999 c.350 §4; 2001 c.632 §5]

689.160 [Amended by 1969 c.514 §4; 1979 c.785 §8; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.165 Officers; executive director. (1) The State Board of Pharmacy shall elect from its members a president and vice president and such other officers as it deems appropriate and necessary to the conduct of its business. The President of the State Board of Pharmacy shall preside at all meetings of the board and shall be responsible for the performance of all of the duties and functions of the board required or permitted by this chapter. If the president is absent or unable to preside, the vice president shall

preside. Each additional officer elected by the board shall perform those duties normally associated with their position and such other duties assigned from time to time by the board.

(2) Officers elected by the board shall serve terms of one year commencing with the day of their election, and ending upon election of their successors and shall serve no more than one consecutive full term in each office to which they are elected.

(3) The board shall employ a licensed pharmacist who shall be an ex officio member of the board without vote to serve as a full-time employee of the board in the position of executive director. The executive director shall be responsible for the performance of the regular administrative functions of the board and such other duties as the board may direct. The executive director shall not perform any discretionary or decision-making functions for which the board is solely responsible. [1979 c.777 §13; 1985 c.565 §101]

689.170 [Amended by 1963 c.586 §4; 1969 c.514 §5; 1973 c.743 §2; 1979 c.514 §1; 1979 c.744 §61; 1979 c.785 §9; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.175 Compensation of board members and executive director. (1) Each member of the State Board of Pharmacy shall receive compensation for each day on which the member is engaged in performance of the official duties of the board, and reimbursement for all expenses incurred in connection with the discharge of such official duties as provided in ORS 292.495.

(2) The Executive Director of the State Board of Pharmacy shall receive, as compensation, an annual salary payable monthly, the amount of which shall be determined by the board, and reimbursement for all expenses incurred in connection with performance of official duties, subject to applicable law and to the rules of the Oregon Department of Administrative Services. [1979 c.777 §14]

689.180 [Amended by 1969 c.514 §3; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.185 Meetings. (1) The State Board of Pharmacy shall meet at least once every three months to transact its business. One such meeting held during each fiscal year of the state shall be designated by rule as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the president of the board or by majority of members of the board.

(2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate subsequent notice.

(3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable rules.

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by ORS 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.840, 475.906 and 616.855 and this chapter, or by any rule of the board, all actions of the board shall be by a majority of a quorum.

(5) All board meetings and hearings shall be open to the public. The board may, in its discretion and according to law, conduct any portion of its meeting in executive session closed to the public. [1979 c.777 §15; 1999 c.605 §7; 1999 c.1051 §138]

689.195 Employees. (1) The State Board of Pharmacy may, in its discretion, employ persons in addition to the executive director in such other positions or capacities as it deems necessary to the proper conduct of board business and to the fulfillment of the board's responsibilities as defined by this chapter.

(2) The employees of the board other than the executive director shall receive, as compensation, an annual salary payable monthly, the amount of which shall be determined by law, and reimbursement for expenses incurred in connection with performance of their official duties. [1979 c.777 §16; 1985 c.565 §102]

689.205 Rulemaking. The State Board of Pharmacy shall make, adopt, amend and repeal such rules as may be deemed necessary by the board, from time to time, for the proper administration and enforcement of this chapter. Such rules shall be adopted in accordance with the procedures specified in ORS chapter 183. [1979 c.777 §17; 1985 c.565 §103]

689.207 Authority of board to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the State Board of Pharmacy may require the fingerprints of a person who is:

(1) Applying for a license or certificate that is issued by the board;

(2) Applying for renewal of a license or certificate that is issued by the board; or

(3) Under investigation by the board. [2005 c.730 §68]

Note: 689.207 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 689 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

689.210 [Amended by 1961 c.216 §1; 1965 c.580 §5; 1967 c.287 §1; 1969 c.514 §6; 1973 c.743 §3a; 1973 c.827 §75; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.215 [1965 c.580 §3; repealed by 1967 c.287 §3]

689.220 [Repealed by 1969 c.514 §57]

PRACTICE OF PHARMACY

689.225 When license required; exceptions; possession of drugs; regulation of pharmacy technicians; rules; penalty. (1) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of this chapter. Nothing in this section prevents physicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of this state from dispensing and administering prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by law of this state.

(2) It shall be unlawful for any person, not legally licensed as a pharmacist, to take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import.

(3) In the practice of pharmacy, a pharmacist is licensed to practice as defined in ORS 689.015, but is not authorized to possess personally or to store drugs other than in a licensed pharmacy except for those drugs legally prescribed for the personal use of the pharmacist. An employee, agent or owner of any registered manufacturer, wholesaler or pharmacy may lawfully possess legend drugs if the person is acting in the usual course of the business or employment of the person.

(4) The State Board of Pharmacy shall adopt rules relating to the use of pharmacy technicians working under the supervision, direction and control of a licensed pharmacist. For retail and institutional drug outlets, the board shall adopt rules which include requirements for training, including provisions for appropriate on-the-job training, guidelines for adequate supervision, standards and appropriate ratios for the use of pharmacy technicians. Improper use of pharmacy technicians shall be subject to the reporting requirements of ORS 689.455.

(5) The mixing of intravenous admixtures by pharmacy technicians working under the supervision, direction and control of a licensed pharmacist is authorized and does not constitute the practice of pharmacy by the pharmacy technicians.

(6) Any person who is found to have unlawfully engaged in the practice of pharmacy is guilty of a Class A misdemeanor. [1979 c.777 §21; 1983 c.402 §3; 1985 c.565 §104; 1989 c.608 §2; 1997 c.729 §2; 2001 c.278 §1]

689.230 [Amended by 1967 c.287 §2; 1969 c.514 §7; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.235 [1969 c.514 §8; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.240 [Amended by 1963 c.96 §3; 1967 c.183 §2; 1969 c.514 §9; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.245 [1979 c.777 §18; 1985 c.565 §105; renumbered 689.151 in 1997]

689.250 [Amended by 1955 c.132 §1; 1963 c.96 §4; 1965 c.580 §6; 1967 c.183 §3; 1969 c.514 §10; 1973 c.612 §24; 1975 c.686 §9; repealed by 1979 c.777 §59]

689.255 Qualifications for licensure by examination. (1) To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(a) Have submitted a written application in the form prescribed by the State Board of Pharmacy.

(b) Have attained the age of 18 years.

(c) Be of good moral character and temperate habits.

(d) Have completed requirements for the first professional undergraduate degree as certified by a school or college of pharmacy which has been approved by the board.

(e) Have completed an internship or other program which has been approved by the board, or demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or exceeds the minimum internship requirements of the board.

(f) Have successfully passed an examination given by the board.

(g) Have paid the fees specified by the board for examination and issuance of license.

(2)(a) The examination for licensure required under subsection (1)(f) of this section shall be given by the board at least two times during each fiscal year of the state. The board shall determine the content and subject matter of each examination, the place, time and date of administration of the examination and those persons who shall have successfully passed the examination.

(b) The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(3)(a) All applicants for licensure by examination shall obtain professional and practical experience in the practice of pharmacy concurrent with or after college attendance,

or both, under such terms and conditions as the board shall determine.

(b) The board shall establish standards for internship or any other program necessary to qualify an applicant for the licensure examination based on nationally recognized standards of practice and shall also determine the necessary qualifications of any preceptors used in any internship or other program.

(4) Any person who has received a first professional undergraduate degree from a school or college of pharmacy located outside the United States which has not been approved by the board, but who is otherwise qualified to apply for a license to practice pharmacy in the State of Oregon may be deemed to have satisfied the degree requirements of subsection (1)(d) of this section by verification to the board of the academic record and graduation of the person and by meeting such other requirements as the board may establish. The board may require such person to successfully pass an examination or examinations given or approved by the board to establish proficiency in English and equivalency of education of such person with qualified graduates of a degree program referred to in subsection (1)(d) of this section as a prerequisite of taking the licensure examination provided for in subsection (1)(f) of this section. [1979 c.777 §22; 1987 c.108 §4; 1999 c.59 §205]

689.260 [Amended by 1969 c.514 §12; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.265 Qualifications for licensure by reciprocity. (1) To obtain a license as a pharmacist by reciprocity, an applicant for licensure shall:

(a) Have submitted a written application in the form prescribed by the State Board of Pharmacy.

(b) Have attained the age of 18 years.

(c) Have good moral character and temperate habits.

(d) Have possessed at the time of initial licensure as a pharmacist such other qualifications necessary to have been eligible for licensure at that time in this state.

(e) Have engaged in the practice of pharmacy for a period of at least one year or have met the internship requirements of this state within the one-year period immediately previous to the date of such application.

(f) Have presented to the board proof of initial licensure by examination and proof that such license and any other license or licenses granted to the applicant by any other state or states have not been suspended, revoked, canceled or otherwise restricted for any reason except nonrenewal or the failure to obtain required continuing education credits in any state where the applicant is licensed but not engaged in the practice of pharmacy.

(g) Have successfully passed an examination in jurisprudence given by the board.

(h) Have paid the fees specified by the board for issuance of a license.

(i) Have submitted to the board proof of a professional undergraduate degree that meets the requirements of ORS 689.255 (4), if the applicant has received a first professional undergraduate degree from a school or college of pharmacy located outside the United States.

(2) No applicant shall be eligible for licensure by reciprocity unless the state in which the applicant was initially licensed as a pharmacist also grants reciprocal licensure to pharmacists duly licensed by examination in this state, under like circumstances and conditions. [1979 c.777 §23; 2001 c.585 §1]

689.270 [Amended by 1963 c.586 §5; 1969 c.514 §14; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.275 Renewal of licenses; rules; fees. (1) Each pharmacist shall apply for renewal of license annually no later than June 30. The State Board of Pharmacy shall renew the license of each pharmacist who is qualified to engage in the practice of pharmacy.

(2) The board shall specify by rule the procedures to be followed, in addition to those specified by ORS 689.285, and the fees to be paid for renewal of licenses.

(3)(a) All pharmacists in good standing who have been licensed pharmacists for at least 20 years and who are retired from practice of pharmacy are exempt from further payment of license fees until they again engage in the practice of pharmacy. No retired pharmacist shall engage in the practice of pharmacy without first paying all fees for the year in which the pharmacist resumes practice and producing evidence satisfactory to the board of continued professional competence.

(b) Failure to comply with the requirements of paragraph (a) of this subsection shall be considered the practice of pharmacy without a license. [1979 c.777 §24]

689.280 [1965 c.580 §2; 1967 c.183 §4; 1969 c.514 §13; 1973 c.743 §4; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.285 Continuing pharmacy education; rules; fees. (1) The Legislative Assembly finds and declares that:

(a) The continuous introduction of new medical agents and the changing concepts of the delivery of health care services in the practice of pharmacy make it essential that a pharmacist undertake a continuing education program in order to maintain profes-

sional competency and improve professional skills;

(b) The state has a basic obligation to regulate and control the profession of pharmacy in order to protect the public health and welfare of its citizens; and

(c) It is the purpose of this chapter to protect the health and welfare of Oregon citizens and to ensure uniform qualifications and continued competency of licensed pharmacists by requiring participation in a continuing pharmacy education program as a condition for renewal of licenses to practice pharmacy.

(2) All pharmacists licensed in the State of Oregon on and after October 3, 1979, shall satisfactorily complete courses of study and satisfactorily continue their education by other means as determined by the State Board of Pharmacy in subjects relating to the practice of the profession of pharmacy in order to be eligible for renewal of licenses.

(3) In accordance with applicable provisions of ORS chapter 183, the board shall make reasonable rules:

(a) Prescribing the procedure and criteria for approval of continuing pharmacy education programs, including the number of hours of courses of study necessary to constitute a continuing pharmacy education unit and the number of continuing pharmacy education units required annually for renewal of a pharmacist license.

(b) Prescribing the scope of the examinations given by the board including grading procedures.

(c) Prescribing the content of the form to be submitted to the board certifying completion of an approved continuing pharmacy education program.

(d) Necessary to carry out the provisions of this chapter.

(e) Prescribing the completion of:

(A) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 409.500; or

(B) An equivalent pain management education program, as determined by the board.

(4) In adopting rules pursuant to subsection (3) of this section, the board shall consider:

(a) The need for formal regularly scheduled pharmacy education programs.

(b) Alternate methods of study including home-study courses, seminars or other such programs for those persons who, upon written application to the board and for good cause shown, demonstrate their inability to attend regularly scheduled formal classroom programs.

(c) The necessity for examinations or other evaluation methods used to ensure satisfactory completion of the continuing pharmacy education program.

(5) The board may contract for the providing of educational programs to fulfill the requirements of this chapter. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance shall the board require a greater number of hours of study than it provides or approves in the State of Oregon and which are available on the same basis to all licensed pharmacists.

(6) The board may levy an additional fee of up to $10 for each license renewal to carry out the provisions of this chapter. [1979 c.777 §26; 1983 c.402 §5; 1985 c.565 §106; 1993 c.571 §6; 1993 c.742 §55; 2001 c.281 §1; 2005 c.162 §3]

689.290 [1969 c.514 §56; 1971 c.92 §2; 1973 c.743 §5; 1977 c.745 §43; repealed by 1977 c.842 §45 and 1979 c.777 §59]

REGULATION OF DRUG OUTLETS

689.305 Registration of drug outlets; rules. (1) All drug outlets shall annually register with the State Board of Pharmacy.

(2)(a) Each drug outlet shall apply for a certificate of registration in one or more of the following classifications:

(A) Retail drug outlet.

(B) Institutional drug outlet.

(C) Manufacturing drug outlet.

(D) Wholesale drug outlet.

(E) Nonprescription drug outlet.

(b) No individual who is employed by a corporation which is registered under any classification listed in paragraph (a) of this subsection need register under the provisions of this section.

(3) The board shall establish by rule under the powers granted to it under ORS 689.155 and 689.205 the criteria which each drug outlet must meet to qualify for registration in each classification designated in subsection (2)(a) of this section. The board may issue various types of certificates of registration with varying restrictions to the designated outlets where the board deems it necessary by reason of the type of drug outlet requesting a certificate.

(4) It shall be lawful for a drug outlet registered under this section to sell and distribute nonprescription drugs. Drug outlets engaging in the sale and distribution of such

items shall not be deemed to be improperly engaged in the practice of pharmacy. [1979 c.777 §30; 1993 c.571 §8]

689.310 [Amended by 1953 c.126 §2; 1963 c.96 §5; 1967 c.183 §5; 1969 c.514 §15; 1979 c.336 §2; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.315 Application; rules. (1) The State Board of Pharmacy shall specify by rule the registration procedures to be followed, including but not limited to specification of forms for use in applying for such certificates of registration and times, places and fees for filing such application.

(2) Applications for certificates of registration shall include the following information about the proposed drug outlet:

(a) Ownership;

(b) Location;

(c) Identity of pharmacist licensed to practice in the state, who shall be the pharmacist in charge of the drug outlet, where one is required by this chapter, and such further information as the board may deem necessary; and

(d) The identity of any person who has incident of ownership in a pharmacy who also has a financial interest in any long term care facility, as defined in ORS 442.015.

(3) Manufacturers and wholesalers shall keep all records and files of their transactions for a period of three years from the date of the inception of such records and files.

(4)(a) Manufacturers and wholesalers shall acquire a separate registration for each place at which they carry on their business as a manufacturer or wholesaler within this state.

(b) Certificates of registration issued by the board pursuant to this chapter shall not be transferable or assignable and shall be conspicuously displayed at each registered place of business.

(5) The board shall specify by rule minimum standards for the professional responsibility in the conduct of any drug outlet that has employees or personnel engaged in the practice of pharmacy. The board is specifically authorized to require that the portion of the facility to which such certificate of registration applies be operated only under the direct supervision of no less than one pharmacist licensed to practice in this state and not otherwise, and to provide such other special requirements as deemed necessary. [1979 c.777 §31a; 1985 c.565 §107; 1993 c.571 §9]

689.320 [Amended by 1963 c.586 §6; 1965 c.157 §1; 1967 c.261 §1; 1969 c.514 §16; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.325 Required information. (1) All registered drug outlets shall report to the State Board of Pharmacy the occurrence of any of the following changes within the times specified by the board by rule:

(a) Permanent closing;

(b) Change of ownership, management, location or pharmacist in charge; or

(c) Any and all other matters and occurrences as the board may require by rule.

(2) Disasters, accidents and emergencies which may affect the strength, purity or labeling of drugs, medications, devices or other materials used in the diagnosis or the treatment of injury, illness and disease shall be immediately reported to the board. [1979 c.777 §32; 1993 c.571 §10]

689.330 [Amended by 1955 c.94 §1; 1957 c.598 §1; 1963 c.96 §6; 1969 c.514 §18; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.335 Certificate required; reinstatement. (1) No drug outlet designated in ORS 689.305 shall be operated until a certificate of registration has been issued to said facility by the State Board of Pharmacy. Upon the finding of a violation of ORS 689.305 or 689.405, the board may impose one or more of the penalties under ORS 689.445.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified by ORS 689.445 (2). [1979 c.777 §33; 1981 c.277 §3]

689.340 [Amended by 1969 c.514 §19; 1973 c.612 §25; repealed by 1977 c.842 §45 and 1979 c.777 §59]

DIVERSION PROGRAM

689.342 Pharmacy Diversion Program Supervisory Council; appointment; term; compensation and expenses. (1) There is established a Pharmacy Diversion Program Supervisory Council consisting of five members appointed by the State Board of Pharmacy for the purpose of developing and implementing a diversion program for chemically dependent licensees regulated under this chapter. No current board member or staff shall serve on the council.

(2) The term of office of each member is two years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor whose term begins July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(4) The council shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers the council determines necessary for the performance of the functions of such office.

(5) A majority of the members of the council constitutes a quorum for the transaction of business. [1989 c.667 §1; 2005 c.313 §1]

689.344 Program director; duties. (1) Subject to approval of the State Board of Pharmacy, the Pharmacy Diversion Program Supervisory Council may appoint a program director to serve at the pleasure of the council. The program director shall be an employee of the board.

(2) The program director shall administer, under the control and supervision of the council, the diversion program for chemically dependent licensees.

(3) The board may appoint such employees as may be necessary to carry out the duties of the council under the control and supervision of the council. [1989 c.667 §2; 2005 c.313 §2]

689.346 Contract for services to chemically dependent licensees; rules. The State Board of Pharmacy may enter into contracts to provide services for chemically dependent licensees and may, in accordance with ORS chapter 183, adopt rules necessary for the administration of a diversion program for chemically dependent licensees. [1989 c.667 §3]

689.348 Referral in addition to or in lieu of disciplinary action. (1) In addition to or in lieu of any disciplinary action under ORS 689.405, the State Board of Pharmacy may refer a licensee who is chemically dependent to a diversion program administered by the Pharmacy Diversion Program Supervisory Council.

(2) The council shall report to the board and provide all pertinent information concerning any licensee who is referred to the council under subsection (1) of this section and fails to complete the diversion program or fails to participate in the diversion program in good faith. [1989 c.667 §4; 2005 c.313 §3]

689.350 [Amended by 1965 c.356 §1; 1967 c.183 §6; 1969 c.514 §20; repealed by 1977 c.842 §2 and 1979 c.777 §59]

689.352 Records and information confidential; participant not subject to other sanctions. (1) All records of the Pharmacy Diversion Program Supervisory Council are confidential and shall not be subject to public disclosure, nor shall the records be admissible as evidence in any judicial proceeding.

(2) The members, employees, contractors and past or present clients of the council shall not be subject to the disclosure requirements in ORS 689.455, nor shall they disclose information or be examined regarding any participant in the program, except as provided in ORS 689.348 (2).

(3) Any licensee who in good faith voluntarily participates in an approved diversion program and successfully completes the program shall not be subject to sanction unless the licensee is suspected of a violation of this chapter other than ORS 689.405 (1)(d). [1989 c.667 §5; 2005 c.313 §4]

689.354 Civil immunity of board, council, employer and contractors. The State Board of Pharmacy, the Pharmacy Diversion Program Supervisory Council and their members, employees and contractors shall be immune from any civil liability arising from simple negligent acts taken pursuant to ORS 689.342 to 689.356. [1989 c.667 §6; 2005 c.313 §5]

689.356 Rules; fees and charges. In addition to any other powers granted by ORS 689.342 to 689.356, the State Board of Pharmacy may adopt necessary and proper rules for administration of ORS 689.342 to 689.356 including, but not limited to, establishing fees and charges to carry out its legal responsibilities, subject to prior approval by the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges. The fees and charges established under this section shall not exceed the cost of administering the program of the Pharmacy Diversion Program Supervisory Council, as authorized by the Legislative Assembly within the board's budget, or as the budget may be modified by the Emergency Board, and shall be maintained in an account separate from other funds of the board. [1989 c.667 §7; 1991 c.703 §32; 2005 c.313 §6]

689.360 [1965 c.580 §8; 1969 c.514 §17; repealed by 1977 c.842 §45 and 1979 c.777 §59]

DISCIPLINE

689.405 Grounds for discipline; investigation; procedure as contested case. (1) The State Board of Pharmacy may refuse to issue or renew, or may suspend, revoke or restrict the license of any person or the certificate of registration of any drug outlet upon one or more of the following grounds:

(a) Unprofessional conduct as that term is defined by the rules of the board.

(b) Repeated or gross negligence.

(c) Incapacity of a nature that prevents a person from engaging in the activity for which the person is licensed with reasonable skill, competence and safety to the public.

(d) Habitual or excessive use of intoxicants, drugs or controlled substances.

(e) Being found guilty by the board of a violation of subparagraph (B) of this paragraph, or by a court of competent jurisdiction of one or more of the following:

(A) A felony, as defined by the laws of this state; or

(B) Violations of the pharmacy or drug laws of this state or rules pertaining thereto, or of statutes, rules or regulations of any other state, or of the federal government.

(f) Fraud or intentional misrepresentation by a licensee or registrant in securing or attempting to secure the issuance or renewal of a license.

(g) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license, or falsely using the title of pharmacist.

(h) Aiding and abetting an individual in performing the duties of a pharmacy technician without licensing.

(i) Being found by the board to be in violation of any of the provisions of ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980 or this chapter or rules adopted pursuant to ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980 and this chapter.

(j) Disciplinary action by another state regarding a license, based upon acts by the licensee similar to acts described in this subsection. A certified copy of the record of disciplinary action of the state taking the disciplinary action is conclusive evidence thereof.

(2) Upon receipt of a complaint under this chapter, the board shall conduct an investigation as described under ORS 676.165.

(3) Actions taken under subsection (1) of this section shall be considered a contested case under ORS chapter 183. [1979 c.777 §§27,28; 1981 c.277 §4; 1985 c.131 §4; 1987 c.736 §1; 1995 c.440 §11; 1997 c.729 §3; 1997 c.791 §48; 2005 c.313 §12]

689.410 [Amended by 1963 c.586 §7; 1965 c.580 §7; 1969 c.514 §25; 1977 c.745 §44; repealed by 1979 c.777 §59]

689.413 [1969 c.514 §26; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.415 [1969 c.514 §27; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.420 [Repealed by 1969 c.514 §57]

689.423 [1971 c.734 §143; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.425 [1969 c.514 §30; repealed by 1971 c.734 §21]

689.430 [Amended by 1969 c.514 §29; repealed by 1971 c.734 §21]

689.435 [1971 c.734 §144; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.440 [Repealed by 1969 c.514 §57]

689.445 Penalties and reinstatement. (1) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license or renewal of a license under the provisions of ORS 435.010 to 435.030, 475.125 and 475.135 and this chapter, the State Board of Pharmacy may impose one or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;

(c) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;

(d) Imposition of a civil penalty not to exceed $1,000 for each offense;

(e) Refusal to renew offender's license; or

(f) Placement of the offender on probation and supervision by the board for a period to be determined by the board.

(2) Any person whose license issued pursuant to this chapter has been suspended, revoked or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. Pardon and restoration of civil rights to any person formerly licensed by the board does not obligate the board to restore revoked, restricted or suspended licenses.

(3) Nothing in this chapter shall be construed as barring criminal prosecutions for violations of ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980 and this chapter where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(5) All penalties recovered under ORS 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.840 to 475.980 and this chapter shall be deposited into the State Board of Pharmacy Account established in ORS 689.139. [1979 c.777 §29; 1985 c.131 §5; 1991 c.734 §75; 1995 c.440 §12; 1997 c.729 §4; 2005 c.726 §12]

689.450 [Amended by 1969 c.514 §47; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.455 Report of suspected violations; liability for reporting; confidentiality of report. (1) A pharmacist or pharmacy technician shall report to the State Board of Pharmacy any suspected violations of this chapter or of ORS 475.005 to 475.285 and 475.840 to 475.980.

(2) Any pharmacist or pharmacy technician who reports to the board as required by subsection (1) of this section in good faith shall not be subject to an action for civil damages as a result thereof.

(3) Any information that the board obtains pursuant to ORS 689.405 or 689.445 or this section is confidential as provided under ORS 676.175. [1985 c.131 §3; 1995 c.440 §40; 1997 c.791 §49; 2001 c.595 §4]

689.460 [1973 c.743 §11; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.475 [1967 c.636 §2; 1969 c.514 §32; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.480 [1967 c.636 §3; 1969 c.514 §33; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.485 [1967 c.636 §4; 1969 c.514 §34; repealed by 1977 c.842 §45 and 1979 c.777 §59]

PHARMACY TECHNICIANS

689.486 When license required; qualifications for licensure; renewal; supervision required. (1) It shall be unlawful for any person to perform the duties of a pharmacy technician or use the title of pharmacy technician unless licensed to do so under the provisions of this chapter.

(2) To be licensed to perform the duties of a pharmacy technician, a person shall:

(a) Submit a license application in the manner prescribed by the State Board of Pharmacy; and

(b) Pay the license fee established by the board.

(3) The license application prescribed by the board shall include, but not be limited to:

(a) The name and address of the applicant;

(b) The educational qualifications of the applicant;

(c) The work history of the applicant; and

(d) The applicant's criminal offender record of any conviction or of any arrest less than one year old on which there has been no acquittal or dismissal.

(4) A license under this section expires annually. To renew a license to perform the duties of a pharmacy technician, a person shall:

(a) Submit the application for renewal of a license in the form prescribed by the board;

(b) Pay the license renewal fee established by the board;

(c) Pay the fee for delinquent license renewal, if applicable;

(d) Provide updated information regarding educational qualifications, work history and criminal arrest and conviction history; and

(e) Comply with all other requirements for license renewal established by the board.

(5) No person may employ an individual to perform the duties of a pharmacy technician unless the individual is licensed to perform the duties of a pharmacy technician under this chapter.

(6) A person licensed to perform the duties of a pharmacy technician may perform the duties of a pharmacy technician only under the supervision, direction and control of a licensed pharmacist. [1997 c.729 §6; 2001 c.595 §2; 2005 c.313 §7]

Note: Section 14, chapter 313, Oregon Laws 2005, provides:

Sec. 14. A person registered as a pharmacy technician under ORS 689.486 on the effective date of this 2005 Act [June 28, 2005] shall be considered to be licensed as a pharmacy technician in accordance with the amendments to ORS 689.486 and 689.490 by sections 7 and 8 of this 2005 Act. [2005 c.313 §14]

689.490 Board to establish licensing system; rules; fees. (1) In accordance with any applicable provisions of ORS chapter 183, the State Board of Pharmacy, by rule, shall establish a licensing system for persons who perform the duties of a pharmacy technician. The licensing system shall include but not be limited to the following provisions:

(a) Prescribing the form and content of and the procedures for submitting an application for the issuance or renewal of a technician license.

(b) Prescribing the fee for the original license and for renewal of a license in an amount not to exceed $50 and the fee for delinquent license renewal in an amount not to exceed $50.

(2) The board may refuse to issue or renew, or may suspend, revoke or restrict a technician license:

(a) For any reason listed under ORS 689.405 (1);

(b) If the applicant is not authorized to work for hire under Oregon law; or

(c) For any other grounds that the board, in its discretion, believes would disqualify the applicant for a license.

(3) Denial of a license under subsection (2) of this section shall be considered a contested case under ORS chapter 183. [1997 c.729 §7; 2001 c.595 §3; 2005 c.313 §8]

689.495 Provision of licensing information. (1) Upon the written request of a pharmacist, the State Board of Pharmacy shall provide the name, address, educational qualifications, work history, technician license history and criminal arrest and conviction history of any pharmacy technician licensed with the board. Information provided by the board pursuant to a request under this section shall be in writing and may be provided to the requester by means of facsimile or other electronic transmission or the United States Postal Service.

(2) For purposes of this section:

(a) "Written request" includes but is not limited to a request received by means of facsimile or other electronic transmission.

(b) "Work history" includes but is not limited to information reported to the board pursuant to ORS 689.497 to the extent the information is not exempt from disclosure under ORS 676.175. [1997 c.729 §8; 2001 c.595 §5; 2005 c.313 §9]

689.497 Report required upon termination of pharmacy technician. (1) A pharmacy that terminates a pharmacy technician shall report the termination to the State Board of Pharmacy. In the sole discretion of the pharmacy, the pharmacy may report the reason for the termination.

(2) A pharmacy reporting the termination of a pharmacy technician under subsection (1) of this section shall provide the pharmacy technician an opportunity to issue a statement accompanying the report of termination. The statement of the pharmacy technician may include any mitigating factors or other information the pharmacy technician deems relevant to the termination.

(3) A pharmacy, pharmacist, pharmacy technician or any other person who, in good faith, submits a report of termination of a pharmacy technician under the provisions of this section is not liable for any civil damages as a result of submitting the report.

(4) The information provided to the board pursuant to this section is:

(a) Subject to disclosure as provided in ORS 689.495; and

(b) Admissible as evidence for any purpose in any civil proceeding before a court, agency, board or third-party dispute resolution tribunal.

(5) Nothing in subsection (3) of this section shall affect the admissibility in evidence of the records of a pharmacy or pharmacist that pertain to the work history or termination of employment of a pharmacy technician. [2001 c.595 §7]

689.499 Pharmacy technician specialized education program; rules. (1)(a) The State Board of Pharmacy may by rule identify activities performed by a pharmacy technician for which a specialized education program may be required.

(b) If the board identifies an activity requiring specialized education under this subsection, the board shall approve no fewer than two specialized education programs to provide the specialized education.

(c) Upon receipt of evidence satisfactory to the board that a pharmacy technician has satisfactorily completed a specialized education program approved by the board, the board shall note the specialized education on the license of the pharmacy technician.

(2) The board may establish standards for renewal or revocation of a notation of specialized education under this section.

(3) As used in this section, "specialized education program" means:

(a) A program providing education for persons desiring licensure as pharmacy technicians that is approved by the board and offered by an accredited college or university that grants a two-year degree upon successful completion of the program; or

(b) A structured program approved by the board and designed to educate pharmacy technicians in one or more specific issues of patient health and safety that is offered by:

(A) An organization recognized by the board as representing pharmacists or pharmacy technicians;

(B) An employer recognized by the board as representing pharmacists or pharmacy technicians; or

(C) A trade association recognized by the board as representing pharmacies. [2005 c.313 §16]

REQUIREMENTS RELATING TO SALES

689.505 Labeling requirements; rules. (1)(a) Except as specifically provided by law, no person shall distribute or dispense any drug without affixing to the authorized container a clear and legible label, either printed or written, bearing the name of the drug and the name and place of business of the person distributing or dispensing the drug, and any other information required by state law or rules or federal law or regulations under whose supervision the drug is delivered or dispensed.

(b) Labeling requirements regarding any drug may be changed or exemption therefrom granted by the State Board of Pharmacy in the form of a special permit if the board determines that a change or exemption is in the best interest of public health and safety.

(2)(a) No manufacturer or wholesaler subject to ORS 689.305 shall sell or otherwise distribute, or offer to sell or otherwise distribute, any drug for use in a:

(A) Parcel, package or container not bearing a label specifying the name, active ingredients or contents, quality and quantity of the drug.

(B) Misbranded parcel, package or container.

(b) A parcel, package or container is misbranded:

(A) If its labeling is false or misleading in any particular.

(B) Unless it bears a label containing the name and business address of the manufacturer, packer, distributor or wholesaler, and an accurate statement of the quantity of the drug in terms of weight, measure or numerical count, exclusive of wrappers, cartons, containers or other materials packed with such drug.

(C) In case it contains controlled substances which the board finds and by rule designates after reasonable notice and opportunity for hearing to be habit forming, unless it bears the statement "Warning--May Be Habit Forming."

(D) Unless it bears a label with adequate directions for the safe use of the drug for specified conditions, and adequate warning against use in those pathological conditions or by children where such use may be dangerous to the health or welfare of a user.

(E) Unless it bears a label with true representations of the intended uses of the drug and no false claims or representations are made of the drug in accompanying literature or advertising.

(3) This section does not apply to parcels, packages or containers containing:

(a) Drugs prepared and packaged solely for use by a pharmacist in compounding prescriptions or for dispensing in dosage unit form upon a prescription, except that such parcels, packages or containers must bear the name and business address of the manufacturer and, if different, the name and business address of the distributor of the drug, and the legend "Caution: Federal Law Prohibits Dispensing Without Prescription" or an equivalent legend.

(b) Drugs intended solely for use in the professional diagnosis of disease, except that such parcels, packages or containers shall bear the statement "Diagnostic Reagent--For Professional Use Only."

(c) Coloring agents, emulsifiers, excipients, flavorings, lubricants, preservatives and other like inactive ingredients used in the manufacture of drugs.

(4) The board shall by rule exempt from any labeling or packaging requirement of this section drugs which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed. However, such drugs must not be adulterated or misbranded upon removal from such processing, labeling or repacking establishment.

(5) A pharmacist or pharmacy intern shall not dispense, on the prescription of a practitioner, any drug without affixing to the container thereof a clear and legible label. The label may be printed or written. Except as provided in subsection (6) of this section, the pharmacist or pharmacy intern shall state or cause to be stated on the label the following:

(a) The name of the drug. If the dispensed drug does not have a brand name, the prescription label shall indicate the generic name of the drug dispensed along with the name of the drug distributor or manufacturer, its quantity per unit and the directions for its use stated in the prescription. However, if the drug is a compound, the quantity per unit need not be stated;

(b) The name of the practitioner prescribing the drug;

(c) The name and place of business of the pharmacist or the name and place of business of the pharmacy for which the pharmacist or pharmacy intern is acting;

(d) The name of the patient; and

(e) When applicable and as determined by the State Board of Pharmacy, an expiration date after which the patient should not use the drug.

(6) If the prescribing practitioner so directs, the prescription label shall not state the name and quantity per unit of the drug.

(7) The State Board of Pharmacy shall determine those drugs which must bear an expiration date under subsection (5)(e) of this section.

(8) As used in this section, "compound" means a drug containing two or more medically active ingredients.

(9) No person shall deliver or dispense any drug for use by the ultimate consumer without labeling the drug container as required in this section.

(10) In addition to the labeling requirements imposed by subsections (1) to (9) of this section, the board may impose by rule requirements for drug code imprints on solid dose legend drugs. [1979 c.777 §34a; 1993 c.571 §13]

689.508 Prescription records. The original record of every prescription filled by a pharmacy must be kept on file at the pharmacy. The prescription record must contain the date of the transaction and the brand name, or if the drug has no brand name, the generic name and the name of the manufacturer of any drug substituted pursuant to ORS 689.515. If the prescription may be communicated to the pharmacy by oral or electronic means, the prescription information may be recorded and stored in an electronic form that allows for ready retrieval. Prescriptions maintained in the file required under this section must be readily accessible to the State Board of Pharmacy for inspection. [2003 c.103 §2]

689.510 [Amended by 1953 c.433 §1; 1971 c.650 §39; 1973 c.792 §44; 1977 c.688 §1; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.515 Regulation of generic drugs; substitutions; rules. (1) As used in this section unless the context requires otherwise:

(a) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label or wrapping at the time of packaging.

(b) "Dosage form" means the physical formulation or medium in which the product is intended, manufactured and made available for use, including but not limited to tablets, capsules, oral solutions, aerosols, ointments, inhalers and suppositories, and the particular form of which utilizes a specific technology or mechanism to control, enhance or direct the release, targeting, systemic absorption or other delivery of a dosage regimen in the body.

(c) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of the official Pharmacopoeia, Homeopathic Pharmacopoeia or Formulary.

(d) "Substitute" means to dispense without the prescriber's express authorization a different drug product in place of the drug ordered or prescribed.

(e) "Therapeutically equivalent" means drugs that are approved by the United States Food and Drug Administration for interstate distribution and the Food and Drug Administration has determined that the drugs will provide essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen.

(2) Except as limited by subsections (3) and (5) of this section, unless the purchaser instructs otherwise, the pharmacist may substitute as follows:

(a) A drug product with the same generic name in the same strength, quantity, dose and dosage form as the prescribed drug which is, in the pharmacist's professional opinion, therapeutically equivalent.

(b) When the prescriber is not reasonably available for consultation and the prescribed drug does not utilize a unique delivery system technology, an oral tablet, capsule or liquid form of the prescribed drug so long as the form dispensed or administered has the same strength, dose and dose schedule and is therapeutically equivalent to the drug prescribed.

(3) A practitioner may specify in writing, by a telephonic communication or by electronic transmission that there shall be no substitution for the specified brand name drug in any prescription. The phrase "no substitution" or the notation "N.S." must be in the practitioner's handwriting or, if the prohibition was communicated by telephonic communication or electronic transmission, in the pharmacist's handwriting and shall not be preprinted or stamped or initialed on the prescription form.

(4) Every pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed or administered stating that, "This pharmacy may be able to substitute a less expensive drug which is therapeutically equivalent to the one prescribed by your doctor unless you do not approve." The printing on the sign shall be in block letters not less than one inch in height. If the pharmacist has reasonable cause to believe that the purchaser cannot read the sign or comprehend its content, the pharmacist shall endeavor to explain the meaning of the sign.

(5) A pharmacist shall substitute a drug product under this section only when there will be a savings in or no increase in cost to the purchaser.

(6) If the practitioner prescribes a drug by its generic name, the pharmacist shall, consistent with reasonable professional judgment, dispense or administer the lowest retail cost, effective brand which is in stock.

(7) Except as provided in subsection (8) of this section, when a pharmacist dispenses a substituted drug as authorized by subsection (2) of this section, the pharmacist must label the prescription container with the name of the dispensed drug. If the dispensed drug does not have a brand name, the prescription label shall indicate the generic name of the drug dispensed along with the name of the drug manufacturer.

(8) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container or shall be labeled as intended by the prescriber.

(9) The substitution of any drug by a licensed pharmacist or the pharmacist's employer pursuant to this section does not constitute the practice of medicine.

(10) No substitution of drugs made by a pharmacist or the pharmacist's employer in accordance with this section and any rules that the State Board of Pharmacy may adopt thereunder shall constitute evidence of negligence if the substitution was made within reasonable and prudent practice of pharmacy or if the substituted drug was accepted in a generally recognized formulary or government list.

(11) Failure of a practitioner to specify that no substitution is authorized does not constitute evidence of negligence unless the practitioner knows that the health condition of the patient for whom the practitioner is prescribing warrants the use of the brand name drug product and not the substituted drug. [1979 c.777 §35; 1983 c.402 §4; 1985 c.565 §110; 1987 c.108 §5; 1989 c.706 §22; 1991 c.734 §76; part renumbered 689.854 and 689.857 in 1991; 1993 c.534 §1; 1993 c.571 §14; 1999 c.350 §5; 2001 c.589 §1; 2001 c.623 §7a]

689.520 [Amended by 1965 c.466 §2; 1967 c.291 §2; 1969 c.314 §89; 1969 c.514 §35; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.525 Out-of-state prescriptions. (1) A prescription written by a practitioner licensed in a state or territory of the United States, other than Oregon, may be filled only if the pharmacist called upon to fill such prescription determines, in the exercise of professional judgment:

(a) That it was issued pursuant to a valid patient-practitioner relationship; and

(b) That it is authentic.

(2) However, if the practitioner writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of the prescription.

(3) The provisions of ORS 689.515 authorizing generic substitution shall not apply to prescriptions described in this section unless authorized on the prescription. [1979 c.777 §36; 1981 c.666 §10; 1987 c.108 §6; 1993 c.571 §15; 1997 c.153 §1]

689.530 [Amended by 1969 c.514 §36; 1977 c.688 §2; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.535 [1979 c.777 §37; 1981 c.217 §1; 1985 c.565 §111; repealed by 2003 c.102 §2]

689.540 [Amended by 1969 c.514 §37; 1977 c.688 §3; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.545 [1979 c.249 §1; 1981 c.388 §2; repealed by 2003 c.102 §2]

689.550 [Amended by 1965 c.466 §1; 1967 c.291 §3; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.555 Agricultural drugs, nonprescription drugs and certain other substances. (1) Nothing in this chapter prohibits the sale by any person of agricultural or garden spray, sheep dip, blue stone, copperas, squirrel poison, fly paper, ant poison, gopher poison, insect powder, poultry vermifuge and arsenic sprays when they are in original unbroken packages, prepared and labeled with official poison labels and showing antidotes.

(2) Nothing in this chapter requires or authorizes the licensing or regulation of the sale of economic poisons, which includes any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all insects, fungi, weeds, parasites, or other plant or animal pest, collectively or individually, which may infest or be detrimental to vegetation or any domestic animal or fowl life. [1979 c.777 §40; 1985 c.565 §112]

689.560 [Amended by 1969 c.514 §42; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.565 Discounts from pharmacies for prescription drug purchases; requirements; limitations; actions for violations; remedies. (1) A person shall not sell, market, promote, advertise or otherwise distribute any card or other purchasing mechanism or device that is not insurance that purports to offer discounts or access to discounts from pharmacies for prescription drug purchases when:

(a) Such card or other purchasing mechanism or device does not expressly state in bold and prominent type, prominently placed, that the discounts are not insurance;

(b) Such discounts are not specifically authorized by an individual and separate contract with each pharmacy listed in conjunction with the card or other purchasing mechanism or device; or

(c) The discounts or access to discounts offered, or the range of discounts or access to the range of discounts offered, are misleading, deceptive or fraudulent.

(2) Any person who sells, markets, promotes, advertises or otherwise distributes any card or other purchasing mechanism or device that is not insurance that purports to offer discounts or access to discounts from pharmacies for prescription drug purchases in this state shall designate a resident of this state as an agent for service of process and register the agent with the Secretary of State.

(3) The Attorney General or a person, firm, trade association, private corporation or municipal or other public corporation may maintain an action to enjoin any act in violation of subsections (1) to (7) of this section and for the recovery of damages.

(4) An action for violation of subsections (1) to (7) of this section may be brought:

(a) In the county where the plaintiff resides;

(b) In the county where the plaintiff conducts business; or

(c) In the county where the card or other purchasing mechanism or device was sold, marketed, promoted, advertised or otherwise distributed.

(5)(a) If the court finds that the defendant has violated any of the provisions of subsections (1) to (7) of this section, the court shall enjoin the defendant from continuing the acts that are in violation of subsections (1) to (7) of this section.

(b) It is not necessary, except to recover for actual damages under paragraph (c)(B) of this subsection, that actual damages to the plaintiff be alleged or proved in order to maintain an action under subsections (3) to (7) of this section.

(c) In addition to injunctive relief, the plaintiff in the action shall be entitled to recover from the defendant:

(A) $100 per card or other purchasing mechanism or device sold, marketed, promoted, advertised or otherwise distributed within this state, or $10,000, whichever is greater;

(B) Three times the amount of the actual damages, if any, sustained;

(C) Reasonable attorney fees;

(D) Costs; and

(E) Any other relief that the court deems proper.

(6) An action under subsections (3) to (7) of this section shall be commenced within two years after the date on which the violation of subsections (1) to (7) of this section occurred or within two years after the person bringing the action discovered, or in the exercise of reasonable diligence should have discovered, the occurrence of the violation of subsections (1) to (7) of this section. The period of limitation provided in this subsection may be extended for a period of 180 days if the person bringing the action proves by a preponderance of the evidence that the failure to timely commence the action was caused by conduct of the defendant that was solely calculated to induce the plaintiff to refrain from or postpone commencement of the action.

(7) The remedies prescribed in subsections (3) to (7) of this section are cumulative and in addition to any other applicable criminal, civil or administrative penalties.

(8) Nothing in subsections (1) to (7) of this section shall be construed to apply to:

(a) Eye or vision care services, glasses or contact lenses provided by an optometrist or ophthalmologist;

(b) A benefit administered by a health insurer, or health care service contractor or health maintenance organization as defined by ORS 750.005;

(c) A benefit administered by, or under contract with, the State of Oregon; or

(d) A customer discount or membership card issued by a store or buying club for use at that store or buying club. [1999 c.874 §§1,2,3,4]

Note: 689.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 689 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

689.570 [Amended by 1969 c.514 §40; 1973 c.829 §69; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.580 [Amended by 1969 c.514 §45; repealed by 1973 c.743 §9 and by 1973 c.829 §71]

689.590 [Amended by 1965 c.580 §9; 1969 c.514 §44; 1973 c.427 §35; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.595 [1969 c.514 §43; repealed by 1973 c.427 §36 (689.596 enacted in lieu of 689.595)]

689.596 [1973 c.427 §37 (enacted in lieu of 689.595); repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.600 [Amended by 1969 c.514 §39; repealed by 1977 c.842 §45 and 1979 c.777 §59]

MISCELLANEOUS

689.605 Authority to dispense drugs from hospital pharmacies, drug rooms and penal institutions; rules. (1) In a hospital or long term care facility having a pharmacy and employing a pharmacist, the pharmacy and pharmacist are subject to the requirements of this chapter, except that in a hospital when a pharmacist is not in attendance, pursuant to standing orders of the pharmacist, a registered nurse supervisor on the written order of a person authorized to prescribe a drug may withdraw such drug in such volume or amount as needed for administration to or treatment of an inpatient or outpatient until regular pharmacy services are available in accordance with the rules adopted by the board. However, the State Board of Pharmacy may grant an exception to the requirement for a written order by issuing a special permit authorizing the registered nurse supervisor in a hospital to dispense medication on the oral order of a person authorized to prescribe a drug. An inpatient care facility which does not have a pharmacy must have a drug room. In an inpatient care facility having a drug room as may be authorized by rule of the Department of Human Services, the drug room is not subject to the requirements of this chapter relating to pharmacies. However, a drug room must be supervised by a pharmacist and is subject to the rules of the State Board

of Pharmacy. When a pharmacist is not in attendance, any person authorized by the prescriber or by the pharmacist on written order may withdraw such drug in such volume or amount as needed for administration to or treatment of a patient, entering such withdrawal in the record of the responsible pharmacist.

(2) In a hospital having a drug room, any drug may be withdrawn from storage in the drug room by a registered nurse supervisor on the written order of a licensed practitioner in such volume or amount as needed for administration to and treatment of an inpatient or outpatient in the manner set forth in subsection (1) of this section and within the authorized scope of practice.

(3) A hospital having a drug room shall cause accurate and complete records to be kept of the receipt, withdrawal from stock and use or other disposal of all legend drugs stored in the drug room. Such record shall be open to inspection by agents of the board and other qualified authorities.

(4) In an inpatient care facility other than a hospital, the drug room shall contain only prescribed drugs already prepared for patients therein and such emergency drug supply as may be authorized by rule by the Department of Human Services.

(5) The requirements of this section shall not apply to facilities described in ORS 441.065.

(6) A registered nurse who is an employee of a local health department established under the authority of a county or district board of health and registered by the board under ORS 689.305 may, pursuant to the order of a person authorized to prescribe a drug or device, dispense a drug or device to a client of the health department for purposes of caries prevention, birth control or prevention or treatment of a communicable disease. Such dispensing shall be subject to rules jointly adopted by the board and the Department of Human Services.

(7) The board shall adopt rules authorizing a pharmacist to delegate to a registered nurse the authority to withdraw prescription drugs from a manufacturer's labeled container for administration to persons confined in penal institutions including, but not limited to, adult and juvenile correctional facilities. A penal institution, in consultation with a pharmacist, shall develop policies and procedures regarding medication management, procurement and distribution. A pharmacist shall monitor a penal institution for compliance with the policies and procedures and shall perform drug utilization reviews. The penal institution shall submit to the board for approval a written agreement between the pharmacist and the penal institution regarding medication policies and procedures. [1979 c.777 §38; 1979 c.785 §9d; 1985 c.565 §113; 1989 c.526 §1; 1993 c.272 §2; 1993 c.571 §16; 1995 c.523 §3; 2003 c.617 §2]

689.610 [Amended by 1969 c.514 §41; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.615 Display of certificate or license. (1) The holder of any certificate or license granted under this chapter shall display it conspicuously in the pharmacy or place of business to which it applies.

(2) All pharmacist certificates issued by the State Board of Pharmacy shall bear the signatures of all members and officers of the board.

(3) On payment by the applicant of the fee prescribed in ORS 689.135, the board may issue a new certificate to a pharmacist if the applicant has lost the certificate or the certificate has been destroyed. [1979 c.777 §25; 1985 c.565 §114; 1987 c.108 §7; 1993 c.571 §17]

689.620 [Amended by 1965 c.545 §4; 1969 c.514 §38; 1973 c.697 §10; 1975 c.686 §10; 1977 c.745 §45; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.625 [1975 c.686 §12; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.630 [Repealed by 1965 c.46 §1]

689.635 Dispensing according to naturopathic formulary; effect of filling prescription of naturopath. The dispensing of plant and animal substances prescribed by a naturopathic physician licensed under ORS chapter 685 in accordance with the formulary established by this section and ORS 685.010, 685.030, 685.145 and dispensed by a licensed pharmacist or the employee thereof may be filled by a pharmacist according to the terms of the prescription. The filling of such a prescription shall not constitute evidence of negligence on the part of the pharmacist or the employee if the prescription is dispensed within the reasonable and prudent practices of pharmacy. [1989 c.945 §4; 1993 c.571 §18]

689.640 [Repealed by 1969 c.514 §57]

689.645 Authority to administer vaccines and immunizations; Immunization and Vaccination Advisory Committee; rules. (1) In accordance with rules adopted by the State Board of Pharmacy under ORS 689.205, a pharmacist may administer:

(a) Vaccines and immunizations to persons who are at least 18 years of age; and

(b) Influenza vaccines to persons who are at least 15 years of age.

(2) The board is authorized to issue, to licensed pharmacists who have completed training accredited by the Centers for Disease Control and Prevention, the American Council on Pharmaceutical Education or a similar health authority or professional body, certificates of special competency in the ad-

ministration of vaccines and immunizations to persons more than 15 years of age.

(3) The board shall adopt rules relating to the reporting of the administration of vaccines and immunizations to a patient's primary health care provider and to the Department of Human Services.

(4) The board shall adopt rules requiring pharmacists to establish protocols for the administration of vaccines and immunizations to persons who are at least 18 years of age and for the administration of influenza vaccines to persons who are at least 15 years of age.

(5) The board shall convene a volunteer Immunization and Vaccination Advisory Committee consisting of no more than nine members for the purpose of advising the board in promulgating rules under this section. The committee shall consist of one representative from the Department of Human Services, two representatives from the Board of Medical Examiners, two representatives from the Oregon State Board of Nursing and two representatives from the State Board of Pharmacy and no more than two pharmacists other than the representatives from the State Board of Pharmacy. [1999 c.350 §3b; 2005 c.312 §1]

689.650 [1965 c.545 §6; 1969 c.314 §90; 1969 c.514 §31; repealed by 1973 c.697 §21]

689.655 Authority to flush intravenous lines and to administer drugs and medical devices; rules; limitations. (1) Only as provided in this section and in accordance with rules adopted by the State Board of Pharmacy under ORS 689.205, a pharmacist may:

(a) In collaboration with and under an order from a physician, nurse practitioner or physician assistant practicing within the scope of practice allowed by law, flush heparin or saline through existing intravenous lines that are connected to a person;

(b) In collaboration with and under an order from a physician, nurse practitioner or physician assistant practicing within the scope of practice allowed by law, attach an infusion pump or enteric feeding pump to existing intravenous lines or enteric feeding lines that are connected to a person, and activate the pump;

(c) Administer drugs and devices in a medical emergency within a health care facility in the presence of and under the direction of a physician or nurse practitioner; and

(d) Administer a drug or device to a person in the course of teaching the person to self-administer the drug or device that the person will be required routinely to self-administer as part of a course of therapy ordered by a physician, nurse practitioner or physician assistant practicing within the scope of practice allowed by law.

(2) Nothing in this section shall be construed to allow a pharmacist to establish an intravenous or enteric line or to attach or activate a pump for any intrathecal medication. [1999 c.350 §3e]

689.660 [1965 c.545 §7; 1971 c.650 §40; 1971 c.734 §141; 1973 c.697 §8; repealed by 1977 c.745 §54 and 1977 c.842 §45]

689.665 [1975 c.369 §§3,5; 1979 c.785 §10; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.670 [1975 c.686 §2; repealed by 1977 c.842 §43 and 1979 c.777 §59]

689.675 [1975 c.686 §3; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.680 [1975 c.686 §4; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.685 [1975 c.686 §5; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.690 [1975 c.686 §6; repealed by 1979 c.777 §59]

689.695 [1975 c.686 §7; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.705 [1955 c.326 §1; 1967 c.260 §1; repealed by 1969 c.514 §57]

689.710 [1955 c.326 §2; repealed by 1969 c.514 §57]

689.715 [1955 c.326 §3; 1967 c.345 §1; repealed by 1969 c.514 §57]

689.720 [1955 c.326 §4; 1957 c.350 §1; 1963 c.96 §7; 1967 c.183 §7; 1969 c.514 §21; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.725 [1955 c.326 §5; 1969 c.514 §28; 1973 c.743 §7; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.730 [1955 c.326 §6; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.735 [1955 c.326 §7; 1969 c.514 §22; renumbered 689.810]

689.740 [1955 c.326 §8; 1969 c.514 §23; renumbered 689.815]

689.745 [1955 c.326 §9; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.750 [1955 c.326 §10; 1969 c.514 §24; repealed by 1977 c.842 §45 and 1979 c.777 §59]

689.755 [1955 c.326 §11; repealed by 1969 c.514 §57]

689.760 [1955 c.326 §12; repealed by 1969 c.514 §57]

PROHIBITED PRACTICES

689.765 Prohibited practices; complimentary samples; rules. (1) No drugs shall be dispensed to the public by means of automatic vending machines.

(2) As used in this section, "automatic vending machine" means any mechanical device or contrivance whereby the purchaser is able to secure drugs.

(3) No person shall adulterate for the purpose of sale any drug in such manner as to render it injurious to health, or knowingly sell or offer for sale any adulterated drug.

(4) No person shall manufacture, compound or sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale any drug, compound or preparation

for internal or external use under or by a name recognized in the United States Pharmacopoeia, Homeopathic Pharmacopoeia or National Formulary which differs from the standard of strength and purity specified therein as official at the time of manufacture, compounding, sale or offering for sale.

(5) No person shall manufacture, compound, sell or offer for sale, or cause to be manufactured, sold or offered for sale, any drug, the strength and purity of which falls below the professed standard of strength and purity under which it is sold.

(6) No person shall sell, give away, barter, dispense, distribute, buy, receive or possess any prescription drug except as authorized by law.

(7) No manufacturer or wholesaler shall sell or otherwise distribute, or offer to sell or otherwise distribute, any drug or device except to a person legally authorized to resell, dispense or otherwise redistribute such drug or device. The board may grant an exemption from the requirement of this subsection in the form of a special permit if the board finds that an exemption is in the best interest of the public health and safety.

(8) Any practitioner who receives any complimentary samples of any controlled substance, as defined in ORS 475.005, shall keep the samples in a securely locked, substantially constructed cabinet and shall maintain a record of receipts and withdrawals from each inventory of samples. The record requirements shall be specified by rule of the licensing board that has jurisdiction over the practitioner's license. The licensing board may inspect the records and the inventory of samples.

(9)(a) No person may sell, purchase or trade or offer to sell, purchase or trade any drug sample.

(b) As used in paragraph (a) of this subsection, "drug sample" means a unit of a drug, subject to this chapter, that is not intended to be sold and is intended to promote the sale of the drug, and includes a coupon or other form which may be redeemed for a drug.

(10) For purposes of this section and ORS 678.375, distribution of prepackaged complimentary samples of medications by a nurse practitioner or clinical nurse specialist with prescription writing authority shall not constitute dispensing when the sample medication is within the established formulary for that nurse practitioner or clinical nurse specialist. [1979 c.777 §39; 1985 c.131 §6; 1987 c.108 §8; 1987 c.736 §2; 1993 c.571 §19; 2003 c.103 §3; 2005 c.462 §9]

Note: Section 3f, chapter 350, Oregon Laws 1999, provides:

Sec. 3f. Nothing in this 1999 Act shall be construed to allow a pharmacist to prescribe drugs or to dispense or administer any drug or device that requires a prescription without a prescription or order of a practitioner authorized to prescribe drugs. [1999 c.350 §3f]

689.805 [1969 c.514 §49; repealed by 1979 c.777 §59]

689.810 [Formerly 689.735; 1979 c.744 §62; repealed by 1979 c.777 §59]

689.815 [Formerly 689.740; 1975 c.484 §1; repealed by 1979 c.777 §59]

689.825 [1973 c.533 §2; 1975 c.369 §2; 1979 c.785 §11; repealed by 1979 c.777 §59]

689.830 [1975 c.218 §2; repealed by 1979 c.777 §59]

PENALTIES

689.832 Civil penalties. (1) In addition to any other liability or penalty provided by law, the State Board of Pharmacy may impose a civil penalty not to exceed $1,000 for each violation on any person who violates any provision of this chapter or ORS chapter 475 or any rule of the board.

(2) All penalties recovered under this section shall be deposited into the State Board of Pharmacy Account established in ORS 689.139.

(3) Any civil penalty under this section shall be imposed in the manner provided in ORS 183.745.

(4) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 10 days from the date of service of the notice in which to make written application for a hearing before the board. [1981 c.217 §3; 1991 c.734 §77; 1993 c.571 §20; 1995 c.79 §348; 2005 c.726 §13]

689.835 [1975 c.218 §3; 1979 c.785 §12; repealed by 1979 c.777 §59]

689.837 [1981 c.217 §4; repealed by 1993 c.571 §30]

689.840 [1975 c.218 §4; repealed by 1979 c.777 §59]

689.842 [1981 c.217 §5; repealed by 1993 c.571 §30]

689.845 [1975 c.218 §6; 1979 c.785 §13; repealed by 1979 c.777 §59]

689.847 [1981 c.217 §6; 1989 c.706 §23; repealed by 1991 c.734 §122]

689.850 [1975 c.218 §5; repealed by 1979 c.777 §59]

689.852 [1981 c.217 §7; 1991 c.734 §78; repealed by 1993 c.571 §30]

689.854 Civil penalty for violation of ORS 689.515. (1) In addition to all other penalties provided by law every person who violates ORS 689.515 or any rule adopted thereunder may incur a civil penalty of up to $250 for every such violation.

(2) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the State Board of Pharmacy considers proper and consistent with the public health and safety.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) Civil penalties recovered under this section shall be deposited into the State Board of Pharmacy Account established in

ORS 689.139. [Formerly part of 689.515; 2005 c.726 §14]

689.855 [Formerly 453.310; repealed by 1979 c.777 §59]

689.857 [1981 c.217 §8; 1991 c.734 §79; subsection (2) formerly part of 689.515; repealed by 1993 c.571 §30]

689.860 [Formerly 453.320; repealed by 1979 c.777 §59]

689.865 [Formerly 453.020; 1973 c.743 §8; 1975 c.218 §7; 1979 c.785 §14; repealed by 1979 c.777 §59]

689.880 [1977 c.611 §3; repealed by 1979 c.777 §59]

689.885 [1977 c.611 §2; repealed by 1979 c.777 §59]

689.890 [1977 c.611 §4; repealed by 1979 c.777 §59]

689.895 [1977 c.255 §2; 1979 c.249 §2; repealed by 1979 c.777 §59]

689.990 [Subsection (12) of 1965 Replacement Part enacted as 1955 c.326 §13; 1967 c.158 §1; 1969 c.514 §54; repealed by 1979 c.777 §59]

689.992 [Repealed by 1967 c.158 §2]

689.995 Criminal penalties. (1) Violation of any provision of this chapter or of any rule of the State Board of Pharmacy is a misdemeanor.

(2) Failure to comply with any notice, citation or subpoena issued by the board under ORS 689.135 (13) is a misdemeanor. Each day during which the violation continues is a separate offense.

(3) Refusal to furnish information required under this chapter or willfully furnishing false information, is a misdemeanor.

(4) Any attempt to secure or the securing of registration or licensure for any person under any certificate, license or permit authorized by this chapter by making or causing to be made any false representations is a misdemeanor. [1979 c.777 §41; 1985 c.131 §7; 1985 c.565 §115; 1993 c.571 §22]