Chapter 689

1961 REPLACEMENT PART

Pharmacists and Pharmacies; Drug Manufacturers and Wholesalers

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DEFINITIONS

689.010 Definitions for ORS 689.010 to 689.630 and 689.990. As used in ORS 689 010 to 689 630 and 689 990, unless the context requires otherwise

(1) "Board" means the State Board of Pharmacy.

(2) "Chemical" means definite chemical compounds or the chemical materials of medicines.

(3) "Drug" means any substance used as medicine or in the preparation of medicine.

(4) "Formulary" means the latest edition of the National Formulary.

(5) "Medicine" means drugs, chemicals, compounds or preparations thereof, in suitable form for use as a curative or remedial substance, either internally or externally by man or for animal.

(6) "New and Nonofficial Remedies" means the latest compilation of new remedies and formulas, as published by the American Medical Association.

(7) "Pharmacist" means a person duly registered or licensed by the board to practice pharmacy in this state.

(8) "Pharmacy," when not otherwise specifically designated, or "drug store" means a place, registered by the board, where drugs, medicines, prescriptions, chemicals or poisons are compounded, dispensed or retailed.

(9) "Pharmacopoeia" means the latest edition of the Pharmacopoeia of the United States.

689.020 to 689.100 [Reserved for expansion]

GENERAL REQUIREMENTS FOR REGISTRATION AND LICENSING OF PHARMACISTS AND PHARMACIES

689.110 Necessity for registered pharmacists and assistants in dispensing drugs and compounding prescriptions. (1) No person shall manufacture, sell or dispense any drug, poison, medicine or chemical, or dispense or compound any prescription of a medical practitioner, unless he is a registered pharmacist or a registered assistant pharmacist under ORS 689.010 to 689.640, except as provided in ORS 453.010 to 453.160, 689.010 to 689.640 and 689.990.

(2) Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners shall be in charge of a registered pharmacist. Every store or shop where drugs, medicines or chemicals are dispensed or sold at retail, or where prescriptions are compounded, which has upon it or as a sign the words "drug," "drugs," "drug store," "druggist," "pharmacy," "apothecary," "pharmacist," "pharmaceutical chemist," or any of these words or any combination thereof, or the characteristic show bottles or globes, either colored or filled with colored liquids, shall be deemed a "pharmacy" within the meaning of ORS 689.010 to 689.640 and 689.990.

(3) No person shall permit the compounding of prescriptions of medical practitioners, or the selling of drugs, medicines, chemicals or poisons in his store or pharmacy, except by a registered pharmacist or a registered assistant pharmacist. This subsection does not apply to the exclusively wholesale business of any dealer, nor to the manufacture or sale of proprietary or patent medicines, nor to the sale of any household remedies and medicines, by shopkeepers not druggists, in the original packages, when properly labeled, except as otherwise provided in ORS 453.010 to 453.160, 689.010 to 689.640 and 689.990.

689.120 Pharmacies and sale of drugs to be under supervision of registered pharmacist. No proprietor of a pharmacy shall:

(1) Fail to place in charge of such pharmacy a registered pharmacist.

(2) By himself or any other person permit the compounding of prescriptions or the vending of drugs, medicines or poisons, in his place of business, except by a registered pharmacist or a registered assistant pharmacist.

(3) Without being a registered pharmacist or registered assistant pharmacist, retail, compound or dispense drugs, medicines or poisons.

689.130 Registered pharmacist to be in charge of drug business. No person shall carry on, conduct or transact business under a name which contains as part thereof the words "drug," "drug store," "druggist," "pharmacy," "apothecary," "pharmacist," "pharmaceutical chemist," or any combination thereof, or the characteristic show bottles or globes, or other insignia or devices that might indicate to the public that the place of business is a drug store, or in any manner by advertisement, circular, poster,

sign or otherwise, within or without the place of business, describe or refer to the place of business conducted by such person by any of such quoted words, or any combination thereof, unless the place of business is at all times in active personal charge of a registered pharmacist or in temporary charge of a registered assistant pharmacist.

689.140 Required equipment of pharmacies. (1) There shall be kept in every pharmacy or drug store a copy of Pharmacopoeia, Formulary, and the New and Nonofficial Remedies. These books must be available for the inspection of the board or its duly authorized agents and employes together with any other books and equipment which the board may designate from time to time by promulgation, as provided in ORS 689.630.

(2) There shall also be kept in every pharmacy or drug store, subject to testing by the board or its duly authorized agent, modern prescription scales with weights, the necessary graduates, mortars and pestles, all in good condition for compounding prescriptions, and such other equipment as the board may provide by regulation.

689.150 Display of certificate or license; display of name of registered pharmacist. (1) The holder of any certificate of registration, license or permit granted under ORS 689.010 to 689.640 shall display the same conspicuously in the pharmacy, drug store, pharmacy department, dispensary, apothecary, store or place of business to which it applies.

(2) The registered pharmacist who conducts as proprietor or manages any pharmacy, drug store, pharmacy department, dispensary or apothecary shall conspicuously display his name as registered pharmacist in such pharmacy, pharmacy department or dispensary.

689.160 Exemptions from application of laws relating to preparation and sale of drugs. (1) ORS 453.010 to 453.160, 689.010 to 689.640 and 689.990 do not apply to or interfere with any practitioner of medicine or dentistry who is duly registered as such by his respective state board of examiners, with supplying his own patients, as their physician or dentist and by them employed as such, with such remedies as he may desire, and who does not keep a pharmacy, open shop or drug store, advertised or otherwise, for the retailing of medicines or poisons; nor to the supplying by veterinary surgeons duly registered under the laws of this state of remedies required in the practice of their profession.

(2) ORS 453.010 to 453.160, 689.010 to 689.640 and 689.990 shall not prevent:

(a) The personal administration of drugs and medicines carried by any licensee of the State Board of Medical Examiners, dentists or veterinarians, in order to supply the immediate needs of their patients.

(b) The sale of patent or proprietary medicines or remedies by shopkeepers not druggists as provided in ORS 689.330 and 689.340.

(c) The sale of drugs, medicines, chemicals, poisons, or patent and proprietary medicines, or household remedies at wholesale by wholesale dealers or manufacturers thereof, provided that no wholesaler or manufacturer may package such remedies except under the direct supervision of a registered pharmacist.

689.170 Dispensation of drugs in hospitals exempted; limitations. (1) ORS 689.110 to 689.160 shall not be construed as prohibiting:

(a) Any licensed hospital or state or county institution without the services of a registered pharmacist or registered assistant pharmacist from acquiring and having in its possession any drug, medicine or chemical which has been previously compounded by or under the supervision of a pharmaceutical manufacturer or a registered pharmacist or a registered assistant pharmacist.

(b) The withdrawal of any such pharmaceutical from stock by a registered nurse on the written order of a physician and in such volume or amount as needed for administration to and treatment of a patient.

(c) The extemporaneous preparation by a registered nurse on the written order of a physician of simple solutions for parenteral or other injection when such solution may be prepared from a quantity of drug, medicine or chemical that has been previously weighed accurately by or under the supervision of a pharmaceutical manufacturer or by a registered pharmacist or a registered assistant pharmacist and obtained by the hospital in a form suitable to the preparation of such solution.

(2) However, full responsibility for all such drugs, medicines and chemicals shall be vested in a registered nurse or other designated member of the hospital staff.

(3) Accurate and complete record shall be kept of the receipt, withdrawal from

stock and use or other disposal of any and all narcotic, habit-forming or otherwise dangerous drugs. Such record shall be open to inspection by duly qualified authorities.

(4) All prescriptions requiring the preparation of dosage forms or amounts of drugs, medicines or chemicals not available in the stock of the hospital or necessitating the compounding of two or more drugs, medicines or chemicals shall be compounded and dispensed only by a registered pharmacist for administration by or under the supervision of a registered nurse.

689.180 Construction of laws relating to preparation and sale of drugs. (1) ORS 453.010 to 453.160 and 689.010 to 689.640 shall not be construed to amend or repeal any of the laws which govern the manufacture, sale or distribution of narcotics.

(2) Nothing in ORS 453.010 to 453.160 or 689.010 to 689.340 or 689.410 to 689.640 shall be construed to amend ORS 689.350, nor to prevent any licensee under said section from transacting any of the business specified therein, nor to prevent or apply to the sale by vendors and dealers licensed under said section at retail of nonpoisonous and nonhabit-forming patent and proprietary medicines in the original unbroken packages, the composition and labeling of which are not in violation of the United States Food and Drug Act or any amendments thereof.

(3) Except as provided for in ORS 453.110, nothing in ORS 453.010 to 453.160 or 689.010 to 689.640 shall require or authorize 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.

689.190 to 689.200 [Reserved for expansion]

REGISTRATION OF PHARMACISTS

689.210 Requirements and qualifications of applicants for registration as pharmacists. (1) Every applicant for examination and registration as a pharmacist shall:

(a) Be a citizen of the United States, not less than 21 years of age and of good moral character.

(b) A graduate of a four-year course of a school or college of pharmacy or department of pharmacy of a university, recognized by the board.

(c) File proof satisfactory to the board, substantiated by proper affidavits, of sufficient service and experience in a retail pharmacy, hospital pharmacy, or manufacturing plant licensed under the provisions of ORS 689.720, under the supervision of a registered or licensed pharmacist or other service and experience of comparable quality approved by the board, to make a total, together with actual time of college attendance, of at least four years of pharmaceutical training

(d) Pass an examination by the board

(2) In all cases the actual time of attendance at a school or college of pharmacy, or a department of pharmacy of a university, to be credited on the required four years of pharmaceutical training, shall not exceed 36 months.

(3) Twelve months of service and experience in a retail pharmacy, hospital pharmacy or manufacturing plant licensed under the provisions of ORS 689 720, under the supervision of a registered or licensed pharmacist or other service and experience of comparable quality approved by the board shall constitute one year's pharmaceutical training The board may, in its discretion, specify the minimum number of hours required for such 12 months' period and the time and manner in which such hours are completed.

(4) Service and experience in a retail pharmacy or hospital pharmacy under the supervision of a registered or licensed pharmacist, as required in this section, shall be related predominantly to the selling of drugs, compounding physicians' prescriptions, preparing pharmaceutical preparations, and keeping records and making reports required under the state and federal statutes. Service and experience in a manufacturing plant or other service and experience approved by the board shall be in a manner prescribed by the board.

[Amended by 1961 c 216 §1]

689.220 Status and rights of assistant pharmacists. (1) Any person duly registered as an assistant pharmacist prior to July 1, 1939, may continue to act as such.

(2) An assistant pharmacist may be employed in a retail pharmacy conducted under the active personal supervision of a registered or licensed pharmacist and may lawfully be left in charge of such retail pharmacy only during the temporary absence of the registered or licensed pharmacist.

(3) Temporary absence in this section means only those unavoidable absences which may occur during a day's work, not to exceed two hours in any 24 hours, and when the registered pharmacist in charge is within immediate call, ready and able to assume the direct supervision of the pharmacy.

(4) No assistant pharmacist shall own or operate a retail pharmacy unless he employs a registered pharmacist and places him in active personal charge thereof.

689.230 Registration of nonresident pharmacists. The board may, in its discretion, register as a pharmacist any person who is duly registered by examination in some other state, if that state, under like conditions, grants reciprocal registration as pharmacists, without examination, to pharmacists duly registered by examination in this state, and if such person:

(1) Is a citizen of the United States;

(2) Is possessed of a good moral character as demanded of applicants for registration under ORS 689.210; and

(3) Produces evidence satisfactory to the board of having had the secondary and professional education and training required under ORS 689.210, except that persons who were registered as pharmacists by examination in other states prior to June 12, 1935, shall be required to satisfy only the requirements which existed in this state at the time when they became registered in such other states.

689.240 Examination and registration fees; issuance of certificate. (1) Every applicant for examination and registration as pharmacist shall pay to the board at the time of filing application a fee of $20. If the applicant passes a satisfactory examination, the board shall issue to the applicant a certificate as registered pharmacist.

(2) Every applicant for registration under ORS 689.230 shall pay a fee of $25 for the application and expense of making an investigation of his character, general reputation and pharmaceutical standing in the state in which he has resided. A permit to practice pharmacy not to exceed 90 days in this state, pending the completion of reciprocity registration, may be issued to applicants provided they are eligible to reciprocity upon payment of the fee of $25. A second permit shall not be issued.

(3) All certificates issued by the board shall bear the signatures of all members and officers of the board.

689.250 Expiration, renewal, cancelation and reinstatement of certificates; fees and penalties. (1) Each certificate of registration issued by the board shall expire on May 21 following the date of issuance.

(2) Every registered pharmacist and every registered assistant pharmacist shall pay to the secretary of the board annually between May 21 and July 21 a renewal fee of $5.

(3) If the renewal fee for any pharmacist's certificate or assistant pharmacist's certificate is unpaid by July 21 of any year, such certificate is void and the holder thereof may be reinstated as a registered pharmacist or assistant pharmacist only upon payment of a penalty of $5 and all lapsed fees.

(4) If the renewal fee is not paid with all penalties due before the next regular meeting of the board after July 21, the certificate of the defaulting registered pharmacist or assistant pharmacist may be canceled. The certificate so canceled can only be renewed thereafter by an examination before the board as required by all persons presenting themselves for registration as registered pharmacists.

[Amended by 1955 c 132 §1]

689.260 Exemption for retired pharmacists. All registered pharmacists in good standing who have been paying their annual renewal fees for at least 20 years and who are retired from active practice are exempt from further payment of license fees until they again actively engage in the practice of pharmacy. No retired registered pharmacist shall actively engage in the practice of pharmacy without first paying all customary fees and any failure so to do is deemed practicing pharmacy without a license.

689.270 Notice of change of address. Every registered pharmacist and every registered assistant pharmacist shall, within 30 days after changing his address as shown on the books of the State Board of Pharmacy, notify the secretary of the board of his new address. Upon receipt of notification, the secretary shall make the necessary changes in his register.

689.280 to 689.300 [Reserved for expansion]

LICENSING OF PHARMACIES AND OTHER VENDORS OF DRUGS

689.310 Licensing of drug stores; application; fees. (1) The board shall require and provide for annual registration of every pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary in this state. Any person desiring to operate, maintain, open or establish a pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary in this state shall apply to the board for a permit or license so to do.

(2) The application for such permit or license shall be made on a form prescribed and furnished by the board, which, when properly executed, shall indicate:

(a) The ownership, trustee, receiver or other person desiring such permit or license.

(b) The name of the registered pharmacist, owner, or manager in charge or to be placed in charge.

(c) The location of the pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary, including street name and number.

(d) Any other information the board may require.

(3) If it is desired to operate, maintain, open or establish more than one pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary, separate application shall be made and separate permit or license shall be issued for each.

(4) Every application for a permit shall be accompanied by the required fee of $10, which amount shall also be paid annually as the fee for renewal of such permit or license.

(5) If an application is found to be satisfactory by the board, the secretary shall issue to the applicant a permit or license for each pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary for which an application is made.

[Amended by 1953 c 126 §2]

689.320 Expiration, renewal and revocation of drug store license. (1) Permits or licenses issued under ORS 689.310 are not transferable and shall expire on December 31 of each calendar year.

(2) If application for renewal of permit or license is not made and a new one granted on or before the last day of February, the old permit or license shall lapse and become void.

(3) Change of ownership, management or registered pharmacist in charge must be reported promptly to the board in writing. The board may revoke any permit or license issued under ORS 689.310 at any time when examination or inspection of the pharmacy, drug store, pharmacy department, prescription laboratory, dispensary or apothecary, for the operation of which the permit or license was granted, discloses that such place is not being conducted according to law. In such case the licensee shall be notified 20 days in advance of the intention of the board and shall be requested to appear and show cause why revocation shall not be made.

689.330 Shopkeeper permits; fee; exempt substances. (1) In addition to the other permits authorized in this chapter, the board shall issue to shopkeepers not druggists permits to sell simple Pharmacopoeia, Formulary and New and Nonofficial Remedies, substances or preparations not of a poisonous nature, in the original unbroken packages only, upon payment in advance of an annual fee of $3. Such remedies shall be sold under such restrictions and regulations as the board may from time to time adopt. The board likewise may include in such permits permission to sell other remedies not prohibited by law or by order of the board. No permit issued under this subsection is valid if used or intended to be used in a room where a pharmacy is actually located or in a place so connected with a pharmacy as to form an integral or component part of it.

(2) Nothing in this section prohibits the sale by any person or shopkeeper 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.

(3) No license fee shall be required from any dealer for permission to sell olive oil, sweet oil, glauber salts, vaseline, condition powders, cream of tartar, carbonate of soda, bay rum, essence of peppermint, household ammonia, alum, castor oil, bicarbonate of soda, chloride of lime, glycerine, borax, sulphur, tincture arnica, spirits camphor, almond oil, witch hazel, spirits nitre, epsom salts, rochelle salts, senna leaves, quinine, compound cathartic pills, camomile, caraway seed, potassium chlorate, moth balls, gum camphor, asafetida, anise seed and saltpeter

and such other articles and items as may be specifically listed, enumerated and exempt from the provisions of ORS 453 010 to 453.160 and 689.010 to 689.640 by proper order and regulation of the board. However, the products listed in this subsection shall be sold in original unbroken packages only. [Amended by 1955 c 94 §1; 1957 c 598 §1]

689.340 Expiration, revocation and reinstatement of shopkeeper's permit. (1) Permits issued under ORS 689.330 shall expire on December 31 of each year.

(2) Any shopkeeper not a druggist selling any Pharmacopoeia, Formulary or New and Nonofficial Remedies, substances or preparations who fails to comply with ORS 689.330 or to renew his shopkeeper's permit on or before its expiration, shall, by reason of such default, have his permit revoked by the board on 30 days' notice from the secretary's office, unless within that time the regular fee is paid, together with a penalty not to exceed $5. Upon payment of such fee and penalty, the board may reinstate the delinquent dealer and reissue such shopkeeper's permit.

689.350 Licensing of itinerant vendors. (1) Any itinerant or traveling vendor or hawker of any drug, nostrum, face powder, face cream, face bleach, face lotion, cosmetic, tooth powder, tooth paste, dentifrice or other toilet preparation, or ointment or application of any kind for the treatment of any disease or injury or deformity, before offering for sale or selling any of such items shall pay to the secretary-treasurer of the board an annual fee of $50. Upon receipt of this fee, the secretary-treasurer shall issue a license for one year from the date of payment to defray the expenses of the board.

(2) Itinerant vendors, as used in this section, includes all persons who carry on the business described in subsection (1) of this section, by passing from house to house, or by haranguing the people on the public streets or in public places, or who use the various customary devices for attracting crowds and therewith recommending their wares and offering them for sale.

(3) This section does not prevent the collection of any tax or license that may be imposed by any county or municipal authority.

689.360 to 689.400 [Reserved for expansion]

REVOCATION AND SUSPENSION OF CERTIFICATES AND LICENSES; REPLACEMENT OF LOST OR DESTROYED CERTIFICATES

689.410 Grounds for suspension or revocation of certificates and licenses. (1) The certificate of registration or license of any pharmacist or assistant pharmacist may be revoked or suspended by the board:

(a) When the registration is proved to the board to have been obtained by fraudulent means.

(b) When the registrant has been convicted of a felony, of violating the pharmacy law, or of selling denatured alcohol for beverage purposes.

(c) When the registrant is found by the board to be guilty of dishonest business practices or of gross immorality, incompetency in the preparation of prescriptions or to be addicted to the liquor or narcotic habit to such a degree as to render him unfit to compound, sell or dispense drugs and medicines.

(d) When the registrant, as a clerk or partner, has been convicted of taking money or merchandise not belonging to him.

(2) Pardon and restoration of citizenship do not obligate the board to restore revoked or suspended licenses.

689.420 Notice of hearing. Before his certificate or license may be revoked or suspended, the licensee or registrant shall be given written notice by the board at least 20 days prior to the date set for the hearing of the complaint made against him. The notice shall:

(1) Apprise him of the charges or complaint filed against him.

(2) Clearly state the time, date and place set for the hearing of charges and complaints.

(3) Cite him to appear at said time and place to show cause why the certificate of registration and all licenses should not be revoked or suspended.

689.430 Hearing; judicial powers of board; contempt. (1) At the hearing, any member of the board may sign and issue subpenas and administer oaths to witnesses and reduce testimony given him by any witness to writing.

(2) If a person fails to comply with any rule, regulation or order of the board, or to obey any subpena issued by the board, or

if any witness refuses to testify to any matter concerning which he may be lawfully interrogated by the board or its representative, the circuit court of any county, or judge thereof, upon application of the board, shall compel obedience by proceedings for contempt as in case of disobedience of an order or subpena of the court or refusal to testify therein. These proceedings are in addition to prosecutions under subsection (9) of ORS 689.990.

689.440 Appeal. Within 30 days after the revocation or suspension of a certificate of registration or license, the registrant may perfect an appeal to the circuit court of the county in which he resides. Pending the appeal, the decision of the board shall be suspended until the court renders judgment, which judgment shall be final. If the decision of the board is not sustained, the registrant shall be reinstated.

689.450 Replacement of lost or destroyed certificates. (1) On payment by the applicant of a fee of $3, the board may issue a new certificate of registration if the applicant has lost his certificate or the certificate has been destroyed, or if the applicant desires to renew the certificate, but the original certificate must be surrendered before renewal unless the certificate has been lost or destroyed. In addition, the board may require satisfactory evidence from the applicant of the loss or destruction of the certificate.

(2) Where the applicant is delinquent for annual fees required by ORS 689.010 to 689.640, he shall pay to the board sufficient fees to cover his delinquency before he is entitled to reissuance of a certificate under this section.

689.460 to 689.500 [Reserved for expansion]

STATE BOARD OF PHARMACY; ORGANIZATION; POWERS; DUTIES

689.510 The State Board of Pharmacy; membership; terms; vacancies. (1)There is established the State Board of Pharmacy, consisting of five members appointed by the Governor for a term of five years and until their successors are appointed and qualified.

(2) Upon the expiration of the term of one member of the board on May 20 of each year, the Governor shall appoint a member to fill the vacancy.

(3) Vacancies other than by expiration of a term shall be filled for the unexpired term only.

[Amended by 1953 c 433 §1]

689.520 Oath of office; compensation. (1) Appointees to the board shall, within 30 days after appointment, take and subscribe an oath or affirmation before the Secretary of State that they will faithfully and impartially perform the duties of their office.

(2) The members of the board shall be paid $10 per diem, and their necessary expenses while actually engaged in the performance of the duties of the board.

689.530 Qualification of board members. (1) Only registered pharmacists who have been licensed in this state for at least five years and are actively and continuously engaged in the retail drug business are eligible for appointment to the board. They remain eligible to serve only while actively engaged in retail pharmacy in this state.

(2) At least a majority of the members shall be graduates of a school or college of pharmacy generally recognized at the time of graduation, but they shall not be connected with any school or college of pharmacy in a professional teaching or executive capacity.

689.540 Nominating candidates for board membership. On or before May 1 of each year, the State Pharmaceutical Association may, from among its members, nominate five candidates for the next occurring vacancy on the board. From among these nominees when regularly submitted and certified by the president and secretary of the association, or from others having the necessary qualifications, the Governor shall make appointments for vacancies.

689.550 Officers; election and qualifications. The board shall organize by electing:

(1) A president and a vice president, both of whom shall be elected annually from its members.

(2) A secretary-treasurer who may, or may not, be a member of the board, but must be a registered pharmacist who has been licensed in this state for at least five years and actively engaged in the retail drug business at the time of his appointment or election.

689.560 The secretary-treasurer; duties; bond; salary. The secretary-treasurer shall be the executive officer in charge of the board's office and shall:

(1) Make, keep and be in charge of all records and record books required to be kept by the board, including a register of all registrants who are required to be registered under ORS 689.010 to 689.640.

(2) Attend to the correspondence of the board and perform such other duties as the board may require, in keeping with his office.

(3) Receive and receipt for all fees collected under ORS 689.010 to 689.640 and pay the same over to the State Treasurer for the use of the State Board of Pharmacy.

(4) Furnish a bond in an amount to be fixed by the board and conditioned upon the faithful performance and discharge of the duties of his office according to law.

(5) Receive a salary to be fixed by the board, and all necessary expenses incurred in the performance of his official duties.

689.570 Meetings of board; annual report to Governor. (1) The board shall hold meetings for the transaction of such business as legally may come before it, at least three times during each calendar year and may hold such additional meetings as are deemed necessary or expedient.

(2) The secretary-treasurer of the board shall give notice in writing of all meetings to be held by depositing such notice in the United States postoffice, properly addressed to each member and postpaid, at least 24 hours prior to the time set for the holding of the meeting.

(3) The president of the board shall preside at all meetings. In his absence or inability to preside, the vice president shall so act.

(4) Three members of the board shall constitute a quorum for the transaction of business.

(5) The board shall make a written report annually to the Governor.

689.580 Payment of compensation and expenses of officers and employes; disbursements. The compensation and expenses of the members, officers and employes of the board shall be paid out of the moneys paid over to the State Treasurer by the secretary-treasurer of the board pursuant to ORS 689.560. All disbursements shall be made by voucher signed by the president, vice president, and the secretary-treasurer of the board.

689.590 Disposition of costs and fines. All moneys collected either as costs or fines under ORS 453.010 to 453.160, subsections (1) to (5) of ORS 453.990, ORS 689.010 to 689.640 and subsections (1) to (11) of ORS 689.990 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 to the State Treasurer and by him credited to the fund for the use of the State Board of Pharmacy.

689.600 Enforcement of statutes; collection and disposition of fees. (1) The State Board of Pharmacy, in conjunction with the regularly constituted law enforcement agencies of this state, shall 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.

(2) All fees imposed and recovered under those laws shall, unless otherwise specified, be collected by and paid to the secretary-treasurer of the board to be turned over by him to the State Treasurer, as provided by ORS 689.560.

689.610 Officers may administer oaths; evidentiary effect of records. (1) The president and secretary-treasurer of the board may administer oaths in connection with the duties of the board.

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

689.620 Powers of board. The State Board of Pharmacy may:

(1) Make such bylaws and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(2) Regulate the practice of pharmacy.

(3) Regulate the sale of poisons.

(4) Regulate the quality of all pharmaceutical prescriptions and medicines dispensed in the state, using the Pharmacopoeia, Formulary, and New and Nonofficial Remedies as the standard.

(5) Investigate all complaints as to the

quality and strength of all pharmaceutical preparations and medicines, and take such action as may be necessary to prevent the sale of such as do not conform to the standard and tests prescribed in the Pharmacopoeia, Formulary or New and Nonofficial Remedies.

(6) Fix standards and requirements for pharmaceutical registration, except as otherwise specified.

(7) Employ inspectors, chemists, agents and clerical help for the proper conduct of the office.

(8) Make such regulations as are necessary and feasible for carrying out ORS 453.010 to 453.160 and 689.010 to 689.640, amend or repeal such regulations and make any further regulations relating to the sale of harmful, deleterious or poisonous preparations, chemicals or compounds that the board, with the State Board of Health acting in an advisory capacity, may deem necessary. When such regulations are promulgated, as provided in ORS 689.630, they shall be in full force and effect of law.

(9) Examine and register as pharmacists and assistant pharmacists all applicants whom it deems qualified to be such and who have the qualifications described in ORS 689.010 to 689.640 and collect and receive application fees from such applicants.

(10) Issue certificates of registration to registered pharmacists and assistant pharmacists, renew those certificates and cancel them upon violation by the holder thereof of any of the provisions of ORS 453.010 to 453.160 or 689.010 to 689.640 or subsections (1) to (11) of ORS 689.990.

(11) Issue licenses to all stores, drug stores and shopkeepers who sell or offer for sale or manufacture or compound any medicine, drug, poison or compound as defined and provided in ORS 453.010 to 453.160 and 689.010 to 689.640 and receive and collect annual license fees therefrom.

(12) Revoke all certificates and licenses for cause as provided in ORS 689.410.

(13) Assist the regularly constituted law enforcement agencies of this state in enforcing ORS 453.010 to 453.160, 689.010 to 689.640 and subsections (1) to (11) of ORS 689.990 by prosecution in the courts of this state or otherwise.

689.630 Promulgation of regulations. All regulations of the board shall be promulgated by posting them for six successive days in a prominent place in the principal office of the board and by mailing a copy to each licensed drug store or shopkeeper if they are affected, and by mailing a copy to the county clerk of each county for record. The certificate of the secretary-treasurer as to the posting and mailing shall be prima facie evidence thereof.

689.640 Annual survey of drug stores. (1) The State Board of Pharmacy, by resolution, at least annually, shall request the chief of police, marshal or constable of every city, town or township in this state and the sheriff of every county in this state, to furnish a list of all drug stores, together with the names of the owners, managers and all employes in those stores, and a brief statement of the capacity in which those persons are employed in the stores, and also the firm name of all stores retailing drugs, medicines or poisons.

(2) Upon such request in writing, the local peace officers concerned shall require the patrolmen or deputies under their command to obtain such lists as are specified in subsection (1) of this section and deliver them to the board.

(3) The owner or manager of any drug store or other store dealing or retailing drugs, medicines or poisons, when called upon by a peace officer, by a member of the board or by a duly authorized inspector, shall furnish the requesting officer or authority with the information required by this section.

689.650 to 689.700 [Reserved for expansion]

DRUG MANUFACTURERS AND WHOLESALERS

689.705 Definitions for ORS 689.705 to 689.760. As used in ORS 689.705 to 689.760, unless the context requires otherwise:

(1) "Board" means the State Board of Pharmacy.

(2) "Manufacturer" includes any person engaged in the business of preparing, compounding, manufacturing or repacking any drug or medicine for human consumption or use, but does not include any pharmacy registered by the board.

(3) "Wholesaler" includes any person engaged in the business of jobber, dealer or wholesaler, selling or otherwise dispensing any drug or medicine for resale or otherwise redispensing for human consumption or use, which he has not himself derived, produced, manufactured or compounded, but does not

include any pharmacy registered by the board.
[1955 c 326 §1]

689.710 Business permit required to engage in business as a drug manufacturer or wholesaler. No person shall conduct a business in this state as a manufacturer or wholesaler of drugs or medicines for human consumption or use without first securing a business permit as provided in ORS 689.720.
[1955 c 326 §2]

689.715 Exemptions. ORS 687.705 to 689.760 do not apply to:

(1) Any person licensed to practice medicine, surgery, osteopathy, chiropractic, naturopathy or dentistry in this state who prepares, compounds, manufactures or repackages any substance within the scope of the licensing law of such person for the use of his patients.

(2) Any sales by a wholesaler, as defined in subsection (3) of ORS 689.705, who confines his sales to any person licensed to practice medicine, surgery, osteopathy, chiropractic, naturopathy or dentistry within the scope of the license laws of such persons in this state or to a bona fide agent of said licensee and to hospitals. As used in this subsection, "hospitals" means institutions for the care and treatment of the sick and injured which are approved and licensed by the State Board of Health.
[1955 c 326 §3]

689.720 Issuance of permit; renewal; permit required for each place of business; display; not transferable; fees. (1) Application for a permit to conduct a business in this state as a manufacturer or wholesaler of drugs or medicines for human consumption or use shall be made on forms furnished by the board.

(2) Upon approval of the application by and payment to the board of a fee of $10, the board shall issue a permit.

(3) The permit shall be renewed annually on or before July 1 upon payment to the board of a fee of $10.

(4) Manufacturers and wholesalers shall acquire a separate permit for each place at which they carry on their business as a manufacturer or wholesaler within this state and such permits shall be conspicuously displayed at each such place of business.

(5) The permit shall not be transferable.
[1955 c 326 §4, 1957 c 350 §1]

689.725 Suspension, revocation or refusal to renew permit. (1) The board may suspend, revoke or refuse to renew any permit issued under ORS 689.720 for any violation, attempt to violate or abetting any violation of ORS 689.705 to 689.760 or of any of the pharmacy laws of this state, or of any rule or regulation promulgated by the board under ORS 689.705 to 689.760 or such laws.

(2) Before the board suspends, revokes or refuses to renew a permit, it shall give written notice thereof to the permit holder. If the permit holder so desires, he shall be afforded a hearing before the board. The board shall give written notice of the time and place of the hearing to the permit holder at his last-known principal business address. Within 20 days after the hearing, the board shall give written notice to the permit holder of its final decision.

(3) Within 30 days after receiving written notice of the final decision of the board, the permit holder may appeal from such final decision to the circuit court of the county in this state in which he resides or in which his principal place of business in this state is located. The review shall be conducted by the circuit court as a suit in equity.
[1955 c 326 §5]

689.730 Prohibition against sale of drugs to unauthorized person. No manufacturer or wholesaler subject to ORS 689.710 shall sell or otherwise dispense, or offer to sell or otherwise dispense, any drug or medicine for human consumption or use except to a person legally authorized to resell or otherwise redispense such drug or medicine.
[1955 c 326 §6]

689.735 Labeling. No manufacturer or wholesaler subject to ORS 689.710 shall sell or otherwise dispense, or offer to sell or otherwise dispense, any drug or medicine for human consumption or use in a:

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

(2) Misbranded parcel, package or container. 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 or medicine in terms of weight,

measure or numerical count, exclusive of wrappers, cartons, containers or other materials packed with such drug or medicine.

(c) In case it contains habit-forming drugs or medicines or potentially dangerous drugs or medicines containing any quantity of narcotic or hypnotic substances or derivatives which the State Board of Pharmacy shall find and by regulation designate 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 or medicine 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 or medicine and no false claims or representations are made of the drug or medicine in accompanying literature or advertising.

[1955 c 326 §7]

689.740 Exemptions from labeling requirement. (1) ORS 689.735 does not apply to parcels, packages or containers containing:

(a) Drugs or medicines prepared and packaged solely for use by a registered pharmacist in compounding prescriptions or for dispensing in dosage unit form upon a prescription, except that such parcels, packages or containers shall bear the statement "Caution: Law Prohibits Dispensing Without Prescription."

(b) Drugs or medicines 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 or medicines.

(2) The board hereby is directed to promulgate regulations exempting from any labeling or packaging requirement of ORS 689.705 to 689.760 drugs and devices 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, on condition that such drugs and devices are not adulterated or misbranded, under the provisions of ORS 689.705 to 689.760 upon removal from such processing, labeling or repacking establishment

[1955 c 326 §8]

689.745 Records. Manufacturers and wholesalers subject to ORS 689.710 shall keep all records and files of their business transactions for a period of three years from the date of the inception of such records and files.

[1955 c 326 §9]

689.750 Minimum requirements for facilities and personnel of manufacturers. The board may specify minimum requirements for facilities and personnel of manufacturers subject to ORS 689.710 in accordance with the pharmacy laws of this state; provided no rule, regulation or minimum requirement shall be promulgated by the board, which would require persons who are engaged in the packing, repackaging or distribution of "over the counter drugs" to employ a pharmacist.

[1955 c 326 §10]

689.755 Disposition of moneys received under ORS 689.705 to 689.760. The secretary-treasurer of the board shall receive and receipt for the fees paid to the board under ORS 689.720 and pay the same over to the State Treasurer, who shall deposit them in the General Fund in the State Treasury to the credit of the State Board of Pharmacy Account. Such amount as may be necessary is continuously appropriated from the moneys deposited to the credit of the State Board of Pharmacy Account pursuant to this section for the payment of all expenses incurred by the board in administering and enforcing ORS 689 705 to 689.760

[1955 c 326 §11]

689.760 ORS 689.705 to 689.760 supplementary to other laws. ORS 689.705 to 689.760 are intended to be in addition and supplementary to the other laws of this state

[1955 c 326 §12]

689.770 to 689.980 [Reserved for expansion]

PENALTIES

689.990 Penalties. (1) Violation of ORS 689.110 is punishable, upon conviction, by a fine of not less than $20 nor more than $100 or by imprisonment for not exceeding 30 days, or by both.

(2) Violation of ORS 689.120 is punishable, upon conviction, by a fine of not less than $100 nor more than $200 or by imprisonment for not more than 50 days, or by both.

(3) Violation of ORS 689.130 is punishable, upon conviction, by a fine of not less than $20.

(4) Violation of ORS 689.140 is punishable, upon conviction, by a fine of not less than $20 nor more than $50.

(5) Violation of ORS 689.150 is punishable, upon conviction, by a fine of not less than $20 nor more than $50 and the cost of prosecution.

(6) Violation of ORS 689.310 or 689.320, by failing to secure a permit or license as required, is punishable, upon conviction, by a fine of not less than $20 and the cost of prosecution. Each day that the violation continues constitutes a separate offense.

(7) Violation of ORS 689.330 is punishable, upon conviction, by a fine of not less than $20 nor more than $50.

(8) Violation of ORS 689.350 is punishable, upon conviction, by a fine of not less than $100 nor more than $300. In default of payment of the fine, the offender shall be imprisoned in the county jail for a period of one day for each $2 of fine. In cases of prosecution under this subsection, it need not be proven that the defendant has no license, but the fact that he has a license may be a matter of defense.

(9) Failure to comply with any notice, citation or subpena issued by the board under ORS 689.430 or with any regulation or order of the board is punishable, upon conviction, by a fine of not more than $50 or by imprisonment for not more than 30 days, or both. Each day during which the violation continues is a separate offense.

(10) Refusal to furnish information under ORS 689.640 or wilfully furnishing false information, is punishable, upon conviction, by a fine of not less than $50 nor more than $100, or by imprisonment for not less than 10 days nor more than 35 days, or both.

(11) Any person who attempts to secure or secures registration for himself or any other person under ORS 689.010 to 689.640 by making or causing to be made any false representations, or who fraudulently represents himself to be registered is punishable, upon conviction, by a fine not exceeding $100 or by imprisonment for not exceeding 50 days, or both.

(12) Violation of any provision of ORS 689.705 to 689.760 is a misdemeanor.

[Subsection (12) enacted as 1955 c 326 §13]

689.992 Jurisdiction. Circuit courts, justice courts and district courts have concurrent original jurisdiction to try causes arising out of violations of the provisions of ORS 689.010 to 689.340 and 689.410 to 689.630 and subsections (1) to (11) of ORS 689.990.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1961.

Sam R. Haley
Legislative Counsel