

Chapter 689

1975 REPLACEMENT PART

Pharmacists and Pharmacies; Drug Manufacturers and Wholesalers; Generic Name

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DEFINITIONS

689.010 Definitions. As used in this chapter, unless the context requires otherwise:

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

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

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

(4) "Consulting pharmacist" means a licensed pharmacist who assists an inpatient care facility in establishing the procedures, rules and regulations for the distribution and storage of drugs in an inpatient care facility and who visits the inpatient care facility on a regularly scheduled basis to generally supervise the distribution and storage of drugs.

(5) "Continuing pharmacy education" means professional, pharmaceutical post-graduate 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.

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

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

(8) "Drug room" means a room in an inpatient care facility, that does not have a licensed pharmacy, where drugs previously compounded and dispensed in a pharmacy for individual patients or compounded and supplied by a manufacturer are stored prior to administration.

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

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

(11) "Inpatient care facility" means a place licensed by the Health Division as defined in ORS 441.005.

(12) "Legend drug" means a drug that bears the legend "Caution: Federal law prohibits dispensing without prescription", or an equivalent legend.

(13) "Licensed medical practitioner" means a person who is operating within the scope of his license and is licensed to prac-

tice dentistry, medicine, podiatry or veterinary medicine:

(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.

(14) "Manufacturer" includes any person who prepares, makes, compounds, repacks or imports any drug including a patent or proprietary medicine but does not include any pharmacy licensed by the board.

(15) "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.

(16) "Patent or proprietary medicines" means nonpoisonous, nonnarcotic, nonlegend, packaged medicinal preparations which are promoted or advertised by the manufacturer or primary distributor thereof directly to the general public under a trade-mark, trade name or other trade symbol, and which comply with the requirements of the laws of this state or of the Federal Government.

(17) "Pharmacist" means a person licensed by the board to practice pharmacy in this state.

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

(19) "Pharmacy" means a place used for the conduct of the retail sale, dispensing or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions and licensed by the board as a place wherein the practice of pharmacy may lawfully occur. "Pharmacy" includes apothecaries, drug stores, dispensaries, hospital pharmacies, pharmacy departments and prescription laboratories but does not include a place used by a manufacturer wholesaler.

(20) "Pharmacy intern" means a person licensed under ORS 689.280.

(21) "Physician" means a person licensed to practice medicine in this state.

(22) "Practice of pharmacy" means the art of preparing, compounding and dispensing of drugs and medicines, whether dispensed on the prescription of a licensed medical practitioner or lawfully dispensed and sold to the ultimate consumer, or any other act incidental to such preparing, compounding or dispensing but does not include manufacturing of drugs or medicines or the wholesale of drugs or medicines.

(23) "Prescription" means a written or oral direction, given by a licensed medical practitioner for the preparation and use of a

drug. When the context requires, "prescription" also means the drug prepared under such written or oral direction.

(24) "Wholesaler" includes any person who imports, stores, distributes or sells for resale any drug, including a legend drug and patent or proprietary medicines, but does not include any pharmacy licensed by the board. [Amended by 1963 c.586 s.1; 1967 c.629 s.1; 1969 c.514 s.1; 1973 c.743 s.1; 1975 c.369 s.1; 1975 c.686 s.8]

GENERAL REQUIREMENTS AND CHAPTER APPLICATION

689.110 License and licensed personnel required. Except as otherwise provided in this chapter, it is unlawful for any person to:

(1) Practice pharmacy unless he is a pharmacist.

(2) Conduct or operate a pharmacy or a place of business represented by a sign or by advertisement to have a business name or specialization that includes the words "drug," "drugs," "drug store," "druggist," "pharmacy," "apothecary," "pharmacist," "pharmaceutical chemist," or any combination thereof, or by the characteristics show bottles or globes, or by other insignia or devices that might indicate to the public that the place is a pharmacy, unless:

(a) The pharmacy is licensed by the board under this chapter; and

(b) A pharmacist is at all times present and in active personal charge of the pharmacy while it is in operation.

(3) Permit anyone in his employ or under his supervision to practice pharmacy as a part of his employment unless the employe or person subject to supervision is a pharmacist or a pharmacy intern supervised by a pharmacist.

(4) Sell or otherwise distribute substances and preparations described in ORS 689.330 or 689.350 without first securing the appropriate license from the board.

(5) Manufacture or sell at wholesale any drug or medicine without first securing a license as provided in ORS 689.720.

[Amended by 1963 c.586 s.2; 1965 c.580 s.4; 1967 c.159 s.1; 1969 c.514 s.2]

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

689.130[Repealed by 1969 c.514 s.57]

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

689.150 Display of certificate, permit or license. The holder of any certificate,

license or permit granted under ORS 689.010 to 689.660 shall display it conspicuously in the pharmacy, store or place of business to which it applies.

[Amended by 1969 c.514 s.46]

689.160 Exemption of medical practitioners from certain applications of chapter. Nothing in this chapter applies to any licensed medical practitioner who supplies by personal administration or otherwise his own patients with such remedies as he may believe appropriate or who compounds, manufactures, or repackages any substance within the scope of his license unless he operates a pharmacy.

[Amended by 1969 c.514 s.4]

689.170 Application of chapter to inpatient care facilities, pharmacies and drug rooms. (1) In an inpatient care facility having a pharmacy and employing a pharmacist, the pharmacy and pharmacist are subject to the requirements of this chapter. 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 Health Division, the drug room is not subject to the requirements of this chapter relating to pharmacies. However, a drug room must be supervised by a consulting pharmacist.

(2) In a hospital having a drug room, any drug may be withdrawn from storage in the drug room by a licensed professional nurse on the written order of a physician in such volume or amount as needed for administration to and treatment of a patient.

(3) A hospital having a drug room shall cause accurate and complete record to be kept of the receipt, withdrawal from stock and use or other disposal of all legend drugs, including narcotic, habit-forming or dangerous 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 Health Division.

[Amended by 1963 c.586 s.4; 1969 c.514 s.5; 1973 c.743 s.2]

689.180 Application of chapter to sale of agricultural chemicals, patent medicines 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 prevents any shopkeeper or itinerant vendor from selling at retail patent or 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 thereto.

(3) 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.

(4) No license is required under this chapter for any dealer selling 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 of camphor, almond oil, witch hazel, spirits of 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 689.010 to 689.660 by rule of the board. However, the products listed in this subsection must be sold in original unbroken packages only.

[Amended by 1969 c.514 s.3]

LICENSING OF PHARMACISTS

689.210 Qualifications for pharmacist license. Every applicant for licensing as a pharmacist must:

- (1) Be not less than 18 years of age and of good moral character.
- (2) Hold an earned degree in pharmacy from a university accredited by the American Council on Pharmaceutical Education.
- (3) Have completed the practical experi-

ence as a pharmacy intern under rules of the board.

[Amended by 1961 c.216 s.1; 1965 c.580 s.5; 1967 c.287 s.1; 1969 c.514 s.6; 1973 c.743 s.3a; 1973 c.827 s.75]

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

689.220[Repealed by 1969 c.514 s.57]

689.230 Licensing of nonresident pharmacists. The board may license as a pharmacist any person who is registered or licensed by examination in some other state, if that state, under like conditions, grants reciprocal registration or licensing as pharmacists, without examination, to pharmacists licensed by examination in this state, and if such person:

(1) Provides evidence sufficient to prove to the satisfaction of the board that the applicant is of good moral character as required of applicants under ORS 689.210; and

(2) Produces evidence satisfactory to the board of having had the professional education and training required under ORS 689.210.

[Amended by 1967 c.287 s.2; 1969 c.514 s.7]

689.235 Pre-1935 nonresident pharmacist requirements. Notwithstanding ORS 689.230, a person registered or licensed as a pharmacist by examination in another state prior to June 12, 1935, shall be required to meet only the requirements which existed in this state at the time the person became registered or licensed in the other state.

[1969 c.514 s.8]

689.240 Examination and licensing fees; issuance of certificates. (1) Every applicant for examination and licensing as a pharmacist shall pay to the board at the time of filing application a nonrefundable examination fee as prescribed in ORS 689.290. If the applicant satisfactorily passes an examination and meets the requirements of ORS 689.210, the board shall issue to the applicant a certificate as a pharmacist evidencing his standing as a pharmacist eligible to be licensed under ORS 689.250.

(2) Every applicant for a license under ORS 689.230 shall pay a nonrefundable fee as prescribed in ORS 689.290 for the application and expense of making an investigation of his character, general reputation and pharmaceutical standing in the state in which he has been registered or licensed as a pharmacist. Upon payment of the required fee, a permit to practice pharmacy in this state may be issued to an applicant who is eligible for reciprocity pending the comple-

tion of the licensing procedure. The permit shall be valid only until the next regularly scheduled board meeting or for 90 days, whichever occurs first. A second permit shall not be issued. Upon completion of the licensing procedure, the applicant shall be issued a certificate as a pharmacist or the permit, if still in effect, shall be canceled. Upon receipt of the certificate, the applicant is eligible to be licensed under ORS 689.250.

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

[Amended by 1963 c.96 s.3; 1967 c.183 s.2; 1969 c.514 s.9]

689.250 License required for practice of pharmacy; renewals; effect of nonpayment of fees. (1) Before practicing pharmacy in this state, a pharmacist must hold a certificate under ORS 689.240 and shall obtain an annual license. The license shall be issued by the board and shall expire on June 30 following the date of issuance.

(2) Commencing on July 1, 1977, no annual license issued pursuant to the requirements of subsection (1) of this section shall be renewed until the holder thereof has paid the fees required under this section and has certified to the board upon the prescribed form that he has satisfactorily complied with the requirements of ORS 689.675.

(3) The annual license fee shall be as prescribed in ORS 689.290. The fee is payable on or before July 21.

(4) If the license fee is unpaid after July 21 of any year, the holder of the lapsed license may be reinstated as a pharmacist only upon payment of a delinquent renewal fee as prescribed in ORS 689.290, in addition to the annual license fee.

(5) If the annual license fee and delinquent renewal fee are not paid before July 1 of the year following the expiration of the license issued under subsection (1) of this section, the license of the delinquent pharmacist shall be reinstated only as follows:

(a) Upon payment of the annual license fees for all years during which the license has been lapsed and for the year in which he seeks a license and the delinquent fees assessed under subsection (3) of this section, the pharmacist shall receive a temporary permit to practice pharmacy under the supervision of a licensed pharmacist for a period not to exceed 90 days.

(b) The person granted a permit under this section must take a special examination to practice pharmacy given by the board not

less than 60 days nor more than 90 days after the granting of the temporary permit. A permit granted under this subsection shall be canceled if the holder fails to take or pass the examination given by the board. However, if the person passes the examination, he shall be granted a license without further payment of fees for the year for which the license is issued.

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

689.260 Exemption for retired pharmacists; payment of fees prior to resumption of practice. (1) All pharmacists in good standing who have been paying their annual renewal fees 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 he resumes practice and producing evidence satisfactory to the board of his continued professional competence.

(2) Failure to comply with the requirements of subsection (1) of this section shall be considered the practice of pharmacy without a license.

[Amended by 1969 c.514 s.12]

689.270 Notice of change of address. Within 30 days after changing his residence or business address as shown in the records of the board, a pharmacist or a pharmacy intern shall notify the secretary of the board of his new address.

[Amended by 1963 c.586 s.5; 1969 c.514 s.14]

689.280 Pharmacy intern license. (1) Every applicant for and holder of a pharmacy intern license shall:

(a) Have successfully completed the junior or third academic year of a course recognized under subsection (2) of ORS 689.210.

(b) Be engaged in good faith in maintaining and fulfilling the requirements of ORS 689.210.

(2) The board shall issue the pharmacy intern license to qualified applicants upon written application, accompanied by such information as the board may require and payment of the fee prescribed in ORS 689.290. Each license shall expire on June 30 of the year of issuance.

(3) A pharmacy intern may practice pharmacy only under the supervision of a pharmacist and subject to such conditions or

limitations as the board by rule may impose.

(4) Filing of the initial application for a license as a pharmacy intern authorizes the applicant to act as a pharmacy intern for a period of not to exceed 30 days from the date of acknowledgment of the filing by the board unless the authorization is sooner revoked by the board.

[1965 c.580 s.2; 1967 c.183 s.4; 1969 c.514 s.13; 1973 c.743 s.4]

Note: 689.280 was not added to and made a part of 689.010 to 689.340 by legislative action but was added to and made a part of 689.010 to 689.640.

689.290 Fees. The fees for licenses, permits and certificates issued under this chapter are as follows:

- (1) Pharmacist's examination fee, \$45.
 - (2) Reciprocity licensing fee, \$60.
 - (3) Annual pharmacist license fee, \$20.
 - (4) Pharmacist license, delinquent renewal fee, \$5.
 - (5) Pharmacy intern license, \$5.
 - (6) Initial pharmacy license, \$25.
 - (7) Annual pharmacy license, \$25.
 - (8) Reinspection fee, \$25.
 - (9) Pharmacy license, delinquent renewal fee, \$25.
 - (10) Shopkeeper fee, for all outlets distributing six or less items, \$10; for all outlets distributing more than six items, \$15.
 - (11) Itinerant vendor fee, \$10.
 - (12) Manufacturer's license fee and annual renewal thereof, \$50.
 - (13) Wholesaler's license fee and annual renewal thereof, \$50.
 - (14) Duplicate pharmacist certificate, \$3.
- [1969 c.514 s.56; 1971 c.92 s.2; 1973 c.743 s.5]

**LICENSING OF PHARMACIES
AND OTHER VENDORS OF
DRUGS**

689.310 Licensing of pharmacies. (1) Any person who operates or maintains a pharmacy must obtain a license to do so.

(2) The application for a license or for renewal thereof shall be made to the board on a form prescribed and furnished by the board, and shall indicate:

- (a) The owner, trustee, receiver or other person applying for the license.
- (b) The names and signatures of the applicant, and of the pharmacist in personal charge of the pharmacy, if known at the time of application.
- (c) The location of the pharmacy, including street name and number.
- (d) Any other information the board may require.

(3) Any person who operates or maintains more than one pharmacy shall make separate application for each pharmacy and if the pharmacies meet the applicable requirements of this chapter, separate license shall be issued for each.

(4) Every application for an initial license for a pharmacy or for the renewal of a license of a pharmacy in a location other than that at which its initial license was issued shall be accompanied by the fee prescribed in ORS 689.290.

(5) Except as provided in subsection (4) of this section, every application for the renewal of a license under this section shall be accompanied by the fee prescribed in ORS 689.290.

(6) If an application for a license or for renewal thereof is found to be satisfactory by the board, the secretary shall issue to the applicant a license for each pharmacy for which an application is made.

(7) After notice by mail to the person making application for the license at the address shown in the application, the board shall cause physical inspection of the premises of every pharmacy for which an initial license is sought and every pharmacy in a location other than that at which its initial license was issued. If the premises fail to meet the requirements of ORS 689.010 to 689.660, they must be reinspected until they are found to be in compliance with ORS 689.010 to 689.660. Reinspection shall be made at the request of the applicant and upon payment of the reinspection fee prescribed in ORS 689.290.

[Amended by 1953 c.126 s.2; 1963 c.96 s.5; 1967 c.183 s.5; 1969 c.514 s.15]

689.320 Expiration of pharmacy license; renewal fees. (1) Licenses issued under ORS 689.310 are not transferable and shall expire on December 31 of each calendar year. Notice of the expiration date and the delinquent renewal fee shall be mailed each licensee on or before December 1 of each calendar year.

(2) If the annual renewal fee is not paid by January 1 of any calendar year, the license shall be renewed only upon payment of the delinquent renewal fee prescribed in ORS 689.290 and the annual license fee. Failure to pay the renewal and delinquent renewal fees by February 20 of any calendar year may result in the closure of the pharmacy for nonpayment of license fees. However, the board must give 30 days' written notice informing such pharmacy of its intention to close the pharmacy.

(3) Change of ownership, management, location or pharmacist in charge must be reported within 10 days of the change to the board in writing.

[Amended by 1963 c.586 s.6; 1965 c.157 s.1; 1967 c.261 s.1; 1969 c.514 s.16]

689.330 Shopkeeper licenses. The board shall issue to shopkeepers who are not pharmacists licenses to sell or otherwise distribute simple Pharmacopoeia, Homeopathic Pharmacopoeia and Formulary substances or preparations not of a poisonous nature, in the original unbroken packages only, upon application therefor, accompanied by the annual fee prescribed in ORS 689.290. Such substances or preparations shall be sold under such rules as the board may from time to time adopt. The board may include under such licenses authority to sell other remedies not prohibited to be sold by shopkeepers by law or by rule of the board. No license issued under this section 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.

[Amended by 1955 c.94 s.1; 1957 c.598 s.1; 1963 c.96 s.6; 1969 c.514 s.18]

689.340 Expiration and renewal of shopkeeper licenses. A license issued under ORS 689.330 expires on December 31 of the year in which it is issued.

[Amended by 1969 c.514 s.19; 1973 c.612 s.25]

689.350 Itinerant vendor licenses. (1) An itinerant vendor may obtain a license to sell or otherwise distribute the same substances or preparations authorized for sale under ORS 689.180 and 689.330 in the original unbroken packages by obtaining a license therefor. The board shall issue the license upon application by the itinerant vendor, accompanied by the annual license fee prescribed in ORS 689.290. The license expires December 31 of the year of issuance.

(2) "Itinerant vendor," 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 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.

[Amended by 1965 c.356 s.1; 1967 c.183 s.6; 1969 c.514 s.20]

689.360 Notification required upon closure of pharmacy, certain events affecting drugs or change in ownership. A pharmacist in charge of a pharmacy shall notify the secretary-treasurer of the board by certified mail of the following happenings within 10 days of their occurrence:

(1) Permanent closure of such pharmacy.

(2) Any accident, disaster or other event that affects the strength, purity or labeling of drug stock of such pharmacy.

(3) Change of ownership, location or pharmacist in active personal charge of such pharmacy.

[1965 c.580 s.8; 1969 c.514 s.17]

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

689.410 Grounds for suspension, revocation or refusal to reissue certificates or licenses of pharmacists or pharmacy interns. (1) The board may suspend, revoke or refuse to renew the license of any pharmacist or pharmacy intern or may suspend or revoke the certificate of a pharmacist:

(a) When the certificate or license has been obtained by fraudulent means.

(b) When the pharmacist or pharmacy intern has been convicted of a felony, evidenced by the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is entered.

(c) When the pharmacist or pharmacy intern is found to have violated any provision of this chapter or ORS chapter 474 or of ORS 453.175, 453.185, 453.605 to 453.745 or 475.010 to 475.705 or any rule of the board promulgated under those sections or chapters, to have engaged in dishonest business practices, to have been grossly immoral, to have been incompetent in the preparation of prescriptions or to have habitually or excessively used intoxicants or drugs to such a degree as to render him unfit to practice pharmacy.

(2) Pardon and restoration of civil rights to any former pharmacist or former pharma-

cy intern do not obligate the board to restore revoked or suspended licenses.

[Amended by 1963 c.586 s.7; 1965 c.580 s.7; 1969 c.514 s.25]

689.413 Pharmacy license suspension, revocation, refusal to renew. The board may suspend, revoke or refuse to renew any pharmacy license issued under ORS 689.310 if it finds that the pharmacy is not being conducted according to law or board rules.

[1969 c.514 s.26]

689.415 Shopkeeper, itinerant vendor license suspension, revocation, refusal to reissue. (1) The board may suspend, revoke or refuse to renew any shopkeeper license if it finds that the shopkeeper has failed to comply with ORS 689.330 or applicable rules of the board.

(2) The board may suspend, revoke or refuse to renew any itinerant vendor's license if it finds that the vendor has failed to comply with ORS 689.350 or applicable rules of the board.

[1969 c.514 s.27]

689.420[Repealed by 1969 c.514 s.57]

689.423 License denial procedure. If the board proposes to revoke, suspend or refuse to issue or renew a license, permit or certificate under this chapter, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

[1971 c.734 s.143]

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

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

689.435 Promulgation of rules; conduct of hearings; issuance, review of rules and orders. Promulgation of rules regarding minimum requirements for facilities and personnel and labeling requirements for drugs or medicine, conduct of hearings and issuance of orders and judicial review of rules and orders shall be as provided in ORS 183.310 to 183.500.

[1971 c.734 s.144]

689.440[Repealed by 1969 c.514 s.57]

689.450 Replacement of lost or destroyed certificates. On payment by the applicant of the fee prescribed in ORS 689.290, the board may issue a new certificate to a pharmacist if the applicant has lost

his certificate or the certificate has been destroyed.

[Amended by 1969 c.514 s.47]

689.460 Restoration of revoked license. Any pharmacist's license which has been revoked by the board may be restored upon application, payment of fees, and the submission to the board of proof satisfactory to the board that the applicant for the restored license is no longer subject to the reasons which justified the revocation.

[1973 c.743 s.11]

Note: 689.460 was added to and made a part of ORS chapter 689 but not of any series therein by legislative action

DESTRUCTION OF UNSAFE DRUGS

689.475 Board to apply for court order to destroy unsafe drugs or medicines. Whenever the board believes that a drug or medicine of any type has been contaminated, adulterated or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster or by an accidental occurrence or by any other means, the board may apply by duly verified petition to the circuit court in the county in which the drug or medicine is located, for an order directing the pharmacist or other person possessing such drug or medicine to appear and show cause why such drug or medicine should not be destroyed.

[1967 c.636 s.2; 1969 c.514 s.32]

689.480 Hearing; order; seizure pending hearing. (1) The order entered pursuant to ORS 689.475 shall be returnable within 10 days from the date of entry and shall direct the respondent to show cause before the judge why the drug or medicine that is possessed by the respondent should not be destroyed by the board.

(2) Upon the return of such order, the judge shall give the respondent an opportunity to be heard.

(3) If the judge determines that the drug or medicine in question is unsafe for use, he may enter an order allowing the board to destroy such drug or medicine.

(4) If it appears from the petition that the drug or medicine in question may present an immediate hazard to human health, the judge may enter an order directing the sheriff forthwith to seize the drug or medicine and deliver it to the board for examination and storage pending the determination by the court of the issue in accord-

ance with subsections (2) and (3) of this section.

[1967 c.636 s.3; 1969 c.514 s.33]

689.485 Board to destroy unsafe drugs or medicines; salvage permitted; costs. (1) When any drug or medicine of any type is ordered destroyed, the board shall prescribe the methods and procedures by which the destruction shall be accomplished and shall supervise any such destruction.

(2) When, in the opinion of the board, any drug or medicine that is ordered destroyed can be destroyed in a manner which will permit some salvage to be realized, without endangering human health and welfare, the board may authorize such method of destruction and prescribe the conditions upon which it may be carried out. In no case shall a method of destruction be authorized merely because it permits salvage, unless it can be accomplished within seven days from the date the destruction order is entered.

(3) Costs of storage and destruction, as determined by the board, and court costs under ORS 689.480, if any, shall be paid to the board by the respondent.

[1967 c.636 s.4; 1969 c.514 s.34]

STATE BOARD OF PHARMACY; ORGANIZATION; POWERS; DUTIES

689.510 State Board of Pharmacy; membership; terms; vacancies; confirmation. (1) There is established the State Board of Pharmacy in the Health Division, consisting of five members appointed by the Governor for a term of four 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.

(4) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

[Amended by 1953 c.433 s.1; 1971 c.650 s.39; 1973 c.792 s.44]

689.520 Oath of office; compensation and expenses. (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 faith-

fully and impartially perform the duties of their office.

(2) A member is entitled to compensation and expenses as provided in ORS 292.495.

[Amended by 1965 c.466 s.2; 1967 c.291 s.2; 1969 c.314 s.89; 1969 c.514 s.35]

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

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

[Amended by 1969 c.514 s.36]

689.540 Nominating candidates for board membership. On or before May 1 of each year, the State Pharmaceutical Association may nominate from among its members 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.

[Amended by 1969 c.514 s.37]

689.550 Officers; appointment of secretary-treasurer. (1) The board shall organize by electing a president and a vice president, both of whom shall be elected annually from its members.

(2) The board shall appoint a secretary-treasurer who shall not be a member of the board.

[Amended by 1965 c.466 s.1; 1967 c.291 s.3]

689.560 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 persons who are licensed by or who hold certificates from the board under this chapter.

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

(3) 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.

(4) Receive a salary to be fixed by the board, and all necessary expenses incurred in the performance of his official duties, subject to applicable law and to the rules of the Executive Department.
[Amended by 1969 c.514 s.42]

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

(2) The secretary-treasurer of the board shall give notice in writing to each member of each meeting to be held by depositing such notice in the United States Post Office, properly addressed to the 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.
[Amended by 1969 c 514 s.40, 1973 c 829 s 69]

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

689.590 Disposition of costs and fines. All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185, 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 to the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 435.010 to 435.130, 475.010 to 475.110 and this chapter.
[Amended by 1965 c.580 s.9; 1969 c.514 s.44; 1973 c.427 s.35]

689.595[1969 c.514 s 43; repealed by 1973 c 427 s.36 (689.596 enacted in lieu of 689 595)]

689.596 Disposition of receipts. All moneys received by the Health Division under ORS 435.010 to 435.130, 453.185, 453.990 and this chapter shall be paid into the General Fund in the State Treasury and

placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 435.010 to 435.130, 475.010 to 475.110 and this chapter.

[1973 c.427 s.37 (enacted in lieu of 689.595)]

689.600 Enforcement of statutes. The board, 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.
[Amended by 1969 c.514 s.39]

689.610 Officers may administer oaths; evidentiary effect of records. (1) The president and vice president 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.
[Amended by 1969 c 514 s 41]

689.620 Powers of board. The board may:

(1) Cause to have printed and circulated copies of the laws relating to pharmacy, drugs and poisons and the rules promulgated to enforce such laws, and set reasonable charges therefor.

(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 Homeopathic Pharmacopoeia as the standard.

(5) Investigate all complaints as to the quality and strength of all pharmaceutical preparations, drugs and medicines, and take necessary action to prevent the sale of preparations and medicines not conforming to the standards and tests prescribed in the latest editions or revisions of the Pharmacopoeia, Formulary, Homeopathic Pharmacopoeia or rules of the board.

(6) Fix standards and requirements for licensing of pharmacists, pharmacy interns and pharmacies.

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

(8) Pursuant to ORS chapter 183, make such rules as are necessary and feasible for carrying out ORS 453.175 and 453.185 and this chapter, and make rules relating to drugs that the Committee on Drug Problems designates by order to the board as dangerous drugs pursuant to ORS 689.660.

(9) Examine and certify as pharmacists all applicants who meet the requirements of law and of the board and collect and receive application fees from such applicants.

(10) Issue and renew licenses of pharmacists and pharmacy interns and revoke or suspend such licenses upon violation by the holder thereof of any of the provisions of ORS 453.175, 453.185 or of this chapter.

(11) Appoint advisory committees.

(12) Issue and renew licenses to all shopkeepers, pharmacies, itinerant vendors, manufacturers and wholesalers, receive and collect annual license fees therefrom and suspend or revoke such licenses in the manner provided in this chapter.

(13) 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 pharmacy, shopkeeper, itinerant vendor, manufacturing plant or wholesale warehouse under the jurisdiction of the board.

(14) Assist the regularly constituted law enforcement agencies of this state in enforcing ORS 453.010 to 453.170, and this chapter by prosecution in the courts of this state or otherwise.

(15) Designate the minimum requirements for equipment in each pharmacy and fix the standards therefor.

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

[Amended by 1965 c.545 s.4; 1969 c.514 s.38; 1973 c.697 s.10; 1975 c.686 s.10]

689.625 Distribution of topical pharmaceutical agents to optometrists. Pursuant to ORS chapter 183, the board may make such rules as are necessary for pharmacies, drug manufacturers and wholesalers to sell or otherwise lawfully distribute designated, diagnostic topical pharmaceutical agents to licensed optometrists consistent with the provisions of ORS chapter 683. [1975 c.686 s.12]

Note: 689.625 was added to and made a part of ORS chapter 689, but was not made a part of any series therein, by legislative action.

689.630[Repealed by 1965 c.46 s.1]

689.640[Repealed by 1969 c.514 s.57]

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

689.660 Committee on Drug Problems to designate dangerous drugs. (1) The Committee on Drug Problems may, after investigation, designate as a dangerous drug any drug which contains any quantity of:

(a) Barbituric acid, salts of barbituric acid or derivative of barbituric acid, which derivative may be habit forming;

(b) Amphetamine or any of its optical isomers, salt of amphetamine or salt of an optical isomer of amphetamine or any substance which the committee has determined to be habit forming because of its medically stimulant effect on the central nervous system; or

(c) Any substance which the committee finds as substantially affecting or altering consciousness, the ability to think, critical judgment, motivation, psychomotor coordination or sensory perception, and having potential for abuse.

(2) The designation of drugs as dangerous drugs shall be in accordance with the provisions of ORS 183.310 to 183.500 for issuance of rules.

[1965 c.545 s.7; 1971 c.650 s.40; 1971 c.734 s.141; 1973 c.697 s.8]

689.665 Prescription written by out-of-state licensed medical practitioner; proof of validity; limitation of authorization; applicability of generic name law.

(1) A prescription written by a licensed medical practitioner of 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 his professional judgment:

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

(b) That it is authentic.

(2) However, if the licensed medical 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 authorization contained in this section to fill out-of-state prescriptions does not apply to medications covered by the Federal Controlled Substances Act.

(4) The provisions of ORS 689.830 to 689.850 and 689.865 do not apply to any prescription described in subsections (1) to (3) of this section.

[1975 c.369 ss.3, 5]

CONTINUING EDUCATION

689.670 Legislative findings. The Legislative Assembly finds and declares that:

(1) 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 his professional competency and improve his professional skills;

(2) 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

(3) It is the purpose of ORS 689.010, 689.250, 689.620, 689.625 and 689.670 to protect the health and welfare of Oregon citizens and to assure uniform qualifications and continued competency of licensed pharmacists by requiring participation in a continuing pharmacist education program as a condition for renewal of licenses to practice pharmacy.

[1975 c.686 s.2]

689.675 Continuing education courses; examination; effect of failing examination. (1) All pharmacists now or hereafter licensed in the State of Oregon shall satisfactorily complete courses of study and satisfactorily continue their education by other means as determined by the board in subjects relating to the practice of the profession of pharmacy in order to be eligible for renewal of licenses. However, a pharmacist may elect to meet the continuing pharmacy education requirements by satisfactorily passing an examination given by the board for such purpose. The examinations shall be given no later than 10 months prior to the next date for renewal of the annual licenses and the results made known soon thereafter.

(2) A pharmacist who elects to take an examination as provided in subsection (1) of this section and fails to satisfactorily pass such examination shall be entitled to satisfy the continuing pharmacy education requirements by completing within the year preceding the date of the renewal of his license, courses of study as provided under paragraph (a) of subsection (1) of ORS 689.680.

[1975 c.686 s.3]

689.680 Rules for courses and examination. (1) 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 ORS 689.010, 689.250, 689.620, 689.625 and 689.670 to 689.695.

(2) In promulgating rules pursuant to subsection (1) 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 assure satisfactory completion of the continuing pharmacy education program.

[1975 c.686 s.4]

689.685 Advisory council; members; expenses; quorum; term; vacancy. (1) The board shall appoint an Advisory Council on Continuing Pharmacy Education, consisting of not less than six nor more than 10 members who because of their employment, professional practice, affiliations or public interests are qualified to study and develop approved continuing pharmacy education programs and standards for their use consistent with the purpose and policy of ORS 689.670. The council shall also make recommendations to the board regarding the implementation of such programs.

(2) No member of the council so appointed shall receive compensation for his services as a member; but, subject to any applicable law regulating travel and other expenses of state officers and employes, he shall receive his actual and necessary travel and other expenses incurred in the performance of his duties.

(3) The council shall be composed of:

(a) At least three but not more than four members who are actively engaged in the practice of pharmacy and are representative of both retail and hospital pharmacy;

(b) At least one but not more than two members who are affiliated with a school of pharmacy;

(c) At least one but not more than two members who are representatives of the Division of Continuing Education; and

(d) At least one but not more than two members to represent the public interest and who have no commercial interest or affiliation with pharmacy or the practice of pharmacy.

(4) A majority of the council shall constitute a quorum for the transaction of business.

(5) Each member shall serve until his term has expired or until his successor is appointed. The terms of office shall include:

(a) A maximum of five members serving for a period of three years; and

(b) A maximum of five members serving for a period of four years.

(6) Upon a vacancy occurring for any reason, a successor shall be appointed for the unexpired term.

[1975 c.686 s.5]

689.690 Contract to provide programs; treatment of funds; hours of study. The board may contract for the providing of educational programs to fulfill the requirements of ORS 689.010, 689.250, 689.620, 689.625 and 689.670 to 689.695. 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.

[1975 c.686 s.6]

689.695 Fees. The board may levy an additional fee of up to \$10 for each license renewal to carry out the provisions of ORS 689.010, 689.250, 689.620, 689.625 and 689.670 to 689.695.

[1975 c.686 s.7]

DRUG MANUFACTURERS AND WHOLESALERS

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

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

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

689.720 License issuance; fee; display. (1) Application for a license to conduct a business in this state as a manufacturer or wholesaler of drugs or medicines shall be made on forms furnished by the board.

(2) Upon approval of the application by and payment to the board of the fee prescribed in ORS 689.290, the board shall issue the license.

(3) The license shall be renewed annually on or before July 1 upon payment to the board of the fee prescribed in ORS 689.290.

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

(5) Licenses issued under this section are not transferable and shall be conspicuously displayed at each licensed place of business. [1955 c.326 s.4; 1957 c.350 s.1; 1963 c.96 s.7; 1967 c.183 s.7; 1969 c.514 s.21]

689.725 Suspension, revocation or refusal to renew license. The board may suspend, revoke or refuse to renew any license issued under ORS 689.720 in accordance with ORS chapter 183 for any violation, attempt to violate or abetting any violation of any of the pharmacy laws of this state, or of any rule promulgated by the board under such laws.

[1955 c.326 s.5; 1969 c.514 s.28, 1973 c.743 s.7]

689.730 Prohibition against sale of drugs to unauthorized person. No manufacturer or wholesaler 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 s.6]

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

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

689.745 Records. Manufacturers and wholesalers 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 s.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 this chapter in accordance with the pharmacy laws of this state. However, 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 nonlegend drugs to employ a pharmacist.

[1955 c.326 s.10; 1969 c.514 s.24]

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

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

LABELING REQUIREMENTS

689.805 Labeling requirements for retail sale of drugs or medicines. (1) Except as specifically provided by law, no person shall sell or dispense at retail any drug or medicine without affixing to the container thereof a clear and legible label, either printed or written, bearing the name of the drug or medicine and the name and place of business of the pharmacist and any other information required by the United States Food and Drug Administration under whose supervision the drug or medicine is sold or dispensed.

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

[1969 c.514 s.49]

689.810 Labeling requirements for manufacturer or wholesaler. (1) No manufacturer or wholesaler subject to ORS 689.110 shall sell or otherwise dispense, or offer to sell or otherwise dispense, any drug or medicine 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 or medicine.

(b) Misbranded parcel, package or container.

(2) 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 manufac-

turer, 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 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 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.

[Formerly 689.735]

689.815 Exemptions from labeling requirement of ORS 689.810. (1) ORS 689.810 does not apply to parcels, packages or containers containing:

(a) Drugs or medicines 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 or medicine, and the legend "Caution: Federal Law Prohibits Dispensing Without Prescription" or an equivalent legend.

(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 shall by rule exempt from any labeling or packaging requirement of ORS 689.810 drugs which are, in accordance with the practice of the trade, to be pro-

cessed, 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. [Formerly 689.740; 1975 c.484 s.1]

689.825 Labeling requirement for drugs and medicines dispensed on prescription. (1) A pharmacist or pharmacy intern shall not dispense, on the prescription of a licensed medical practitioner, any drug or medicine without affixing to the container thereof a clear and legible label. The label may be printed or written. Except as provided in subsection (2) 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 or medicine, its quantity per unit and the directions for its use stated in the prescription. However, if the drug or medicine is a compound, the quantity per unit need not be stated;

(b) The name of the licensed medical practitioner prescribing the drug or medicine;

(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 or medicine.

(2) If the prescribing licensed medical practitioner so directs, the prescription label shall not state the name and quantity per unit of the drug or medicine.

(3) The State Board of Pharmacy shall determine those drugs and medicines which must bear an expiration date under paragraph (e) of subsection (1) of this section.

(4) As used in this section, "licensed medical practitioner" means:

(a) A person licensed to practice dentistry under ORS chapter 679, a person licensed to practice medicine under ORS chapter 677 and a person licensed to practice podiatry under ORS chapter 682; or

(b) A person not residing in Oregon, licensed to practice dentistry, medicine or podiatry under the laws of another state or territory of the United States, provided that such person is registered under the Federal Controlled Substances Act.

(5) As used in this section, "compound"

means a drug or medicine containing two or more medically active ingredients.

[1973 c.533 s.2; 1975 c.369 s.2]

GENERIC NAME

689.830 Definitions for ORS 689.830 to 689.850. As used in ORS 689.830 to 689.850 and 689.865 unless the context requires otherwise:

(1) "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.

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

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

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

[1975 c.218 s.2]

689.835 Substitution of drugs; when no substitution allowed; notice to customers. (1) Except as limited by subsection (2) of this section and subsection (1) of ORS 689.840, unless the purchaser instructs otherwise, the pharmacist may substitute 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.

(2) A licensed medical practitioner may specify in writing or by a telephonic communication 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, in the pharmacist's handwriting, and shall not be preprinted or stamped or initialed on the prescription form.

(3) Every pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed 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.
[1975 c.218 s.3]

689.840 Substitution when no increased costs; generic name prescription; label for substituted drug; when no label permitted. (1) A pharmacist shall substitute a drug product under subsection (1) of ORS 689.835 only when there will be a savings in or no increase in cost to the purchaser.

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

(3) Except as provided in subsection (4) of this section, when a pharmacist dispenses a substituted drug as authorized by subsection (1) of ORS 689.835, he 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.

(4) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container except if the prescriber writes "do not label," or words of similar import, on the prescription or so designates in an oral transmission of the prescription.

[1975 c.218 s.4]

689.845 Substitution not practice of medicine; when substitution evidence of negligence. (1) The substitution of any drug by a registered pharmacist or his employer pursuant to ORS 689.830 to 689.850 and 689.865 does not constitute the practice of medicine.

(2) No substitution of drugs made by a pharmacist or his employer in accordance with ORS 689.830 to 689.850 and 689.865 and any rules that the board 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.

(3) Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence unless the practitioner has reasonable cause to believe that the health condition of the patient for whom the practi-

tioner is prescribing warrants the use of the brand name drug product and not another.
[1975 c.218 s.6]

689.850 Civil penalties; notice; hearing; execution. (1) In addition to all other penalties provided by law every person who violates ORS 689.835 or 689.840 or any rule promulgated thereunder shall incur a 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 board considers proper and consistent with the public health and safety.

(3) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing from the board. The notice referred to in this section shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the party's right to request a hearing.

(4) The person to whom the notice is addressed shall have 20 days from the date of the notice in which to make written application for a hearing before the commission.

(5) All hearings shall be conducted pursuant to the provisions of ORS chapter 183 relating to a contested case.

(6) Unless the amount of the penalty is paid within 10 days after the order becomes final, the order shall constitute a judgment and may be filed in accordance with the provisions of ORS 18.320 to 18.370. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(7) All penalties recovered under this chapter pursuant to ORS 689.830 to 689.850 and 689.865 shall be paid into the State Treasury and credited to the Board of Pharmacy Account in the Health Division Account.

[1975 c.218 s.5]

PROHIBITED PRACTICES

689.855 Dispensing of drugs or medicines from vending machines prohibited.

(1) No drugs or medicines 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 or medicines without the aid or assistance of another party.
[Formerly 453.310]

689.860 Adulteration of drugs or medicines prohibited. No person shall adulterate for the purpose of sale any drug or medicine in such manner as to render it injurious to health, or knowingly sell or offer for sale any adulterated drug or medicine.

[Formerly 453.320]

689.865 Compliance with standards of strength and purity required; prohibition on legend drugs. (1) No person shall manufacture, compound or sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale any drug, medicine, compound or preparation for internal or external use under or by a name recognized in the Pharmacopoeia, Homeopathic Pharmacopoeia or 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.

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

(3) The owner or manager of each pharmacy shall keep on file the original prescription on which shall be noted 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 689.835, the retail cost of the drug at the time of the transaction and the date of the transaction. The prescriptions shall be filed in such a manner as will make them be readily accessible to inspection by the board or its duly authorized agents.

(4) Except as provided in ORS 689.160, no person shall sell, give away, barter, distribute, buy, receive or possess any federal legend drug except:

(a) Upon a written prescription of a licensed medical practitioner;

(b) Upon an oral prescription of a licensed medical practitioner which is reduced promptly to writing and filed by the pharmacist; or

(c) By refilling the written or oral prescription if such refilling is authorized by the licensed medical practitioner either in the original prescription or by oral order which is reduced promptly to writing and shall include the date of the refill authorization, the initials of the pharmacist receiving the authorization and the filing by the pharmacist.

[Formerly 453.020; 1973 c.743 s.8; 1975 c.218 s.7]

PENALTIES

689.990 Penalties. (1) Violation of any provision of this chapter or of any rule of the board is a misdemeanor.

(2) Failure to comply with any notice, citation or subpoena issued by the board under ORS 689.430 is a misdemeanor. Each day during which the violation continues is a separate offense.

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

(4) Any attempt to secure or the securing of registration 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.

[Subsection (12) of 1965 Replacement Part enacted as 1955 c.326 s.13; 1967 c.158 s.1; 1969 c.514 s.54]

689.992[Repealed by 1967 c.158 s 2]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1975.

Thomas G. Clifford
Legislative Counsel