Chapter 689

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GENERAL PROVISIONS

689.005 Definitions. As used in ORS 689.005 to 689.995:

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

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

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

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

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

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

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

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

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

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

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

(10) "Drug" means:

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

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

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

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

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

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

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

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

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

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

(17) "Itinerant vendor" means all persons who sell or otherwise distribute nonprescription drugs by passing from house to house, or by haranguing the people on the public streets or in public places, or who use the customary devices for attracting crowds and therewith recommending their wares and offering them for sale.

(18) "Labeling" means the process of preparing and affixing of a label to any drug container exclusive, however, of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such

label shall include all information required by federal and state law or regulation.

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

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

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

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

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

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

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

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

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

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

(a) In this state; or

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

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

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

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

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

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

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

(29) "Prescription" or "prescription drug order" means a written or oral direction, given by a 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.

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

(31) "Shopkeeper" means a business establishment, open to the general public, for the sale of nonlegend drugs, in the original and unbroken package, properly labeled according to state and federal laws, in conformity with the rules of the board.

(32) "Support personnel" means persons who are not pharmacists but who assist the pharmacist in the practice of pharmacy pursuant to rules of the board.

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

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

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

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

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

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

689.025 Policy; purpose. (1) The practice of pharmacy in the State of Oregon is declared a professional practice affecting the public health, safety and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in ORS 689.005 to 689.995, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of pharmacy in the State of Oregon. ORS 689.005 to 689.995 shall be liberally construed to carry out these objects and purposes.

(2) It is the purpose of ORS 689.005 to 689.995 to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy and of the registration of drug outlets engaged in the manufacture, production, sale and distribution of drugs, medications, devices and such other materials as may be used in the diagnosis and treatment of injury, illness and disease. [1979 c.777 §§2,3; 1985 c.565 §95]

689.035 Short title. ORS 689.005 to 689.995 shall be known as the "Oregon Pharmacy Act." [1979 c.777 §1; 1985 c.565 §96]

689.045 Severability. If any provision of ORS 51.040, 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.992, 475.995, 616.855 and 689.005 to 689.995 is declared unconstitutional or illegal, or the applicability ORS 51.040, 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.992, 475.995, 616.855 and 689.005 to 689.995 to any person or circumstances is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of ORS 51.040, 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.992, 475.995, 616.855 and 689.005 to 689.995 and the application of ORS 51.040, 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.992, 475.995, 616.855 and 689.005 to 689.995 to other persons and circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application. [1979 c.777 §63]

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

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

STATE BOARD OF PHARMACY

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

(2) The public members of the State Board of Pharmacy shall be residents of this state who have attained the age of majority and shall not be nor shall they ever have been a member of the profession of pharmacy, or persons who have any immediate family in the profession of pharmacy or persons who have ever had any material financial interest in the providing of pharmacy service or who have engaged in any activity directly related to the practice of pharmacy.

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

(a) Be residents of this state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The violation by any member of ORS 689.005 to 689.995 or any of the rules adopted hereunder.

(7) The procedures shall be as stated in ORS 183.310 to 183.550 to remove a member of the board from office for any of the grounds specified by subsection (6) of this section. [1979 c.777 §§10,12; 1985 c.565 §97]

689.130 [Repealed by 1969 c.514 §57]

689.135 General powers of board; fees. (1) The State Board of Pharmacy shall have such other duties, powers and authority as may be necessary to the enforcement of ORS 689.005 to 689.995 and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

(a) Cause to have printed and circulated annually copies of any changes in the laws relating to pharmacy, controlled substances, drugs and poisons and the rules adopted to enforce such laws, and set reasonable charges therefor.

(b) Appoint advisory committees.

(2) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the

protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

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

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

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

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

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

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

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

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

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

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

(h) Registration of drug outlets other than pharmacies and renewal of registration, which fee shall not exceed $300.

(i) Initial pharmacy or institutional drug outlet, which fee shall not exceed $100.

(j) Annual pharmacy or institutional drug outlet, which fee shall not exceed $100.

(k) Pharmacy or institutional drug outlet delinquent renewal fee, which fee shall not exceed $75.

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

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

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

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

(6) All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185, 453.990 and 689.005 to 689.995 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, in the case of:

(a) All moneys except criminal fines, 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 and 689.005 to 689.995.

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

(7) All moneys received by the Health Division under ORS 435.010 to 435.130, 453.185, 453.990 and 689.005 to 689.995 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 and 689.005 to 689.995.

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

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by ORS 689.005 to 689.995, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

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

(c) Activities connected with or occasioned by the expenditures of such funds do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by ORS 689.005 to 689.995;

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

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

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

(10) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of ORS 689.005 to 689.995 or of the rules of the board.

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

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

(13) The board may administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under ORS 689.005 to 689.995.

(14)(a) Notwithstanding anything in ORS 689.005 to 689.995 to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the representative shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

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

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

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

(15) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with ORS 183.310 to 183.550. [1979 c.777 §20; 1981 c.277 §2; 1983 c.402 §2; 1985 c.565 §98; 1987 c.108 §3; 1991 c.460 §9; 1993 c.571 §3]

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

689.145 Enforcement powers of board. The responsibility for enforcement of the provisions of ORS 689.005 to 689.995 is vested in the State Board of Pharmacy. The board shall have all of the duties, powers and authority specifically granted by and necessary and proper to the enforcement of ORS 689.005 to 689.995, as well as such other duties, powers and authority as it may be granted from time to time by law. [1979 c.777 §6; 1985 c.565 §99]

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

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

(1) The regulation of the sale at retail and the dispensing of medications, drugs, de-

vices and other materials including the right to seize any such drugs, devices and other materials found to be detrimental to the public health and welfare by the board after appropriate hearing as required under ORS 183.310 to 183.550.

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

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

(4) The issuance and renewal of certificates of registration of drug outlets for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs, receiving and collecting annual fees therefrom and suspending, revoking or refusing to renew such registration in the manner provided in ORS 689.005 to 689.995.

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

(6) Investigate all complaints of alleged violations of ORS 689.005 to 689.995 and take necessary action as the board may require or direct.

(7) Pursuant to ORS 183.310 to 183.550, make such rules as are necessary and feasible for carrying out ORS 453.175, 453.185, 475.005, 475.135, 475.185 and 689.005 to 689.995 and make rules relating to controlled substances, designated as such pursuant to ORS 475.025 and 475.035.

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

(9) Assist the regularly constituted law enforcement agencies of this state in enforcing ORS 453.005 to 453.135, 475.005, 475.135 and 689.005 to 689.995 by prosecution in the courts of this state or otherwise.

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

(11) Pursuant to ORS 183.310 to 183.550, 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 683.010 to 683.335. [1979 c.777 §19; 1985 c.565 §100]

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

689.165 Officers; executive director. (1) The State Board of Pharmacy shall elect from its members a president and vice president and such other officers as it deems appropriate and necessary to the conduct of its business. The President of the State Board of Pharmacy shall preside at all meetings of the board and shall be responsible for the performance of all of the duties and functions of the board required or permitted by ORS 689.005 to 689.995. If the president is absent or unable to preside, the vice president shall preside. Each additional officer elected by the board shall perform those duties normally associated with their position and such other duties assigned from time to time by the board.

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

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

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

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

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

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

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

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

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

(4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by ORS 51.040, 167.203, 414.325, 430.405, 435.010, 453.025, 475.005, 475.135, 475.185, 475.992, 475.995, 616.855 and 689.005 to 689.995, or by any rule of the board, all actions of the board shall be by a majority of a quorum.

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

689.195 Employees. (1) The State Board of Pharmacy may, in its discretion, employ persons in addition to the executive director in such other positions or capacities as it deems necessary to the proper conduct of board business and to the fulfillment of the board's responsibilities as defined by ORS 689.005 to 689.995.

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

689.205 Rulemaking. The State Board of Pharmacy shall make, adopt, amend and repeal such rules as may be deemed necessary by the board, from time to time, for the proper administration and enforcement of ORS 689.005 to 689.995. Such rules shall be adopted in accordance with the procedures specified in ORS 183.310 to 183.550. [1979 c.777 §17; 1985 c.565 §103]

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

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

689.220 [Repealed by 1969 c.514 §57]

PRACTICE OF PHARMACY

689.225 When license required; exceptions; possession of drugs; regulation of support personnel; penalty. (1) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of ORS 689.005 to 689.995. Nothing in this section prevents physicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of this state from dispensing and administering prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by law of this state.

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

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

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

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

(6) Any person who is found to have unlawfully engaged in the practice of pharmacy

is guilty of a Class A misdemeanor. [1979 c.777 §21; 1983 c.402 §3; 1985 c.565 §104; 1989 c.608 §2]

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

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

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

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

(1) The licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of pharmacy under the provisions of ORS 689.005 to 689.995;

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

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

(4) The enforcement of those provisions of ORS 689.005 to 689.995 relating to the conduct or competence of pharmacists practicing in this state, and the suspension, revocation or restriction of licenses to engage in the practice of pharmacy; and

(5) The regulation of the training, qualifications and employment of pharmacy interns. [1979 c.777 §18; 1985 c.565 §105]

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

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

(a) Have submitted a written application in the form prescribed by the board of pharmacy.

(b) Have attained the age of 18 years.

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

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

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

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

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

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

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

(3)(a) All applicants for licensure by examination shall obtain professional and practical experience in the practice of pharmacy concurrent with or after college attendance, or both, under such terms and conditions as the board shall determine.

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

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

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

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

(a) Have submitted a written application in the form prescribed by the board.

(b) Have attained the age of 18 years.

(c) Have good moral character and temperate habits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) It is the purpose of ORS 689.005 to 689.995 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 pharmacy education program as a condition for renewal of licenses to practice pharmacy.

(2) All pharmacists licensed in the State of Oregon on and after October 3, 1979, shall satisfactorily complete courses of study and satisfactorily continue their education by other means as determined by the 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 eight months prior to the next date for renewal of the annual licenses and the results made known soon thereafter.

(3) A pharmacist who elects to take an examination as provided in subsection (2) 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 the license, courses of study as provided under subsection (4)(a) of this section.

(4) In accordance with applicable provisions of ORS 183.310 to 183.550, 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 689.005 to 689.995.

(5) In adopting rules pursuant to subsection (4) 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.

(6) The board may contract for the providing of educational programs to fulfill the requirements of ORS 689.005 to 689.995. 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.

(7) The board may levy an additional fee of up to $10 for each license renewal to carry out the provisions of ORS 689.005 to 689.995. [1979 c.777 §26; 1983 c.402 §5; 1985 c.565 §106; 1993 c.571 §6; 1993 c.742 §55]

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

REGULATION OF DRUG OUTLETS

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

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

(A) Retail drug outlet.

(B) Institutional drug outlet.

(C) Manufacturing drug outlet.

(D) Wholesale drug outlet.

(E) Nonprescription drug outlet.

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

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

(4) It shall be lawful for a drug outlet registered under this section to sell and distribute nonprescription drugs. Drug outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. [1979 c.777 §30; 1993 c.571 §8]

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

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

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

(a) Ownership;

(b) Location;

(c) Identity of pharmacist licensed to practice in the state, who shall be the pharmacist in charge of the drug outlet, where one is required by ORS 689.005 to 689.995, and such further information as the board may deem necessary; and

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

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

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

(b) Certificates of registration issued by the board pursuant to ORS 689.005 to 689.995 shall not be transferable or assignable and shall be conspicuously displayed at each registered place of business.

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

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

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

(a) Permanent closing;

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

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

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

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

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

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

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

DIVERSION PROGRAM

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

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

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

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

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

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

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

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

689.346 Contract for services to chemically dependent licensees; rules. The board may enter into contracts to provide services for chemically dependent licensees and may, in accordance with ORS 183.310 to 183.550, adopt rules necessary for the administration of a diversion program for chemically dependent licensees. [1989 c.667 §3]

689.348 Referral in addition to or in lieu of disciplinary action. (1) In addition to or in lieu of any disciplinary action under ORS 689.405, the board may refer a licensee

who is chemically dependent to a diversion program administered by the Pharmacists Diversion Program Supervisory Council.

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

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

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

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

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

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

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

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

DISCIPLINE

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

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

(b) Repeated or gross negligence.

(c) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public.

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

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

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

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

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

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

(h) Being found by the board to be in violation of any of the provisions of ORS 430.400, 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.940 to 475.995 or 689.005 to 689.995 or rules adopted pursuant to ORS 430.400, 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.940 to 475.995 and 689.005 to 689.995.

(i) Suspension or revocation by another state of a license to practice pharmacy, based upon acts by the licensee similar to acts described in this subsection. A certified copy of the record of suspension or revocation of the state making such suspension or revocation is conclusive evidence thereof.

(2) Actions taken under subsection (1) of this section shall be considered a contested case under ORS 183.310 to 183.550. [1979 c.777 §§27,28; 1981 c.277 §4; 1985 c.131 §4; 1987 c.736 §1]

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

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

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

689.420 [Repealed by 1969 c.514 §57]

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

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

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

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

689.440 [Repealed by 1969 c.514 §57]

689.445 Penalties and reinstatement. (1) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or a renewal license under the provisions of ORS 435.010 to 435.030, 475.125, 475.135 and 689.005 to 689.995, the State Board of Pharmacy may impose one or more of the following penalties:

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

(b) Revocation of the offender's license;

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

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

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

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

(2) Any person whose license to practice pharmacy in this state has been suspended, revoked or restricted pursuant to ORS 689.005 to 689.995, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. Pardon and restoration of civil rights to any former pharmacist or former pharmacy intern do not obligate the board to restore revoked, restricted or suspended licenses.

(3) Nothing in this chapter shall be construed as barring criminal prosecutions for violations of ORS 430.400, 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.940 to 475.995 and 689.005 to 689.995 where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(5) All penalties recovered under ORS 430.400, 435.010 to 435.130, 453.025, 453.045, 475.035 to 475.190, 475.805, 475.940 to 475.995 and 689.005 to 689.995 shall be paid into the State Treasury and credited to the Board of Pharmacy Account in the Health Division Account. [1979 c.777 §29; 1985 c.131 §5; 1991 c.734 §75]

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

689.455 Report of suspected violations; liability for reporting; confidentiality of report. (1) A pharmacist shall report to the board any suspected violations of this chapter or of ORS 430.400, 475.005 to 475.285 and 475.940 to 475.995.

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

(3) Any information provided to the board pursuant to this section is confidential and shall not be subject to public disclosure. [1985 c.131 §3]

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

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

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

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

REQUIREMENTS RELATING TO SALES

(Generally)

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

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

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

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

(B) Misbranded parcel, package or container.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The name of the patient; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A 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.

(4) 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. If the pharmacist has reasonable cause to believe that the purchaser cannot read the sign or comprehend its content, the pharmacist shall endeavor to explain the meaning of the sign.

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

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

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

(8) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container 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.

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

(10) No substitution of drugs made by a pharmacist or the pharmacist's employer in accordance with this section and any rules that the 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.

(11) Failure of a practitioner to specify that no substitution is authorized does not constitute evidence of negligence unless the practitioner knows that the health condition of the patient for whom the practitioner is prescribing warrants the use of the brand name drug product and not the substituted drug. [1979 c.777 §35; 1983 c.402 §4; 1985 c.565 §110; 1987

c.108 §5; 1989 c.706 §22; 1991 c.734 §76; part renumbered 689.854 and 689.857 in 1991; 1993 c.534 §1; 1993 c.571 §14]

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

689.525 Out-of-state prescriptions. (1) A prescription written by a practitioner 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 professional judgment:

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

(b) That it is authentic.

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

(3) The authorization contained in this section to fill an out-of-state prescription does not apply to medications covered by the Federal Controlled Substances Act unless the prescription is issued by a practitioner licensed in a state contiguous to Oregon.

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

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

689.535 Regulation of specific substances. (1) As used in this section, "saccharin" means 1,2-benzisothiazol-3(2H)-one 1,1-dioxide and its calcium and sodium salts.

(a) Notwithstanding any rule or regulation ever adopted by the Federal Food and Drug Administration concerning saccharin, the chemical substance saccharin may be manufactured, distributed, sold and used within the State of Oregon.

(b) The State Board of Pharmacy shall regulate the manufacture, distribution, sale or use of saccharin only to insure that the substance is not adulterated or misbranded.

(c) The State Board of Pharmacy shall in no way prohibit the manufacture, distribution, sale or use of saccharin within the State of Oregon either as a component of any other substance produced within the state or as a separate product.

(d) No person who is engaged in the manufacture, sale, distribution or use of saccharin may be prohibited from the manufacture, sale, distribution or use of saccharin within the state.

(2) As used in this section, "laetrile" means amygdalin.

(a) It shall be lawful for any person licensed under ORS 689.005 to 689.995 to manufacture or sell at wholesale laetrile if:

(A) The laetrile is manufactured wholly within the State of Oregon;

(B) The laetrile is manufactured with ingredients which have not traveled in interstate commerce; and

(C) The laetrile is sold at wholesale within the State of Oregon to an Oregon person legally authorized to resell or otherwise redispense laetrile.

(b) The State Board of Pharmacy shall regulate the manufacture, sale and distribution of laetrile, including its dosage forms, within the State of Oregon to insure that the substance is not adulterated or misbranded.

(3) As used in this section, "DMSO" means dimethyl sulfoxide.

(a) It shall be lawful for any person licensed under this chapter to manufacture DMSO.

(b) It shall be lawful for any person licensed under this chapter to sell DMSO at wholesale to any person authorized under Oregon law to resell or otherwise redispense DMSO.

(c) It shall be lawful for a licensed physician to prescribe DMSO to any person.

(d) A licensed pharmacist is authorized to dispense DMSO upon a written prescription of a licensed physician.

(e) It shall be lawful for any person licensed under this chapter to import into the State of Oregon, DMSO and any ingredient, intermediate (including dimethyl sulfide), compound or mixture thereof.

(f) The State Board of Pharmacy shall regulate the manufacture, sale, prescription, dispensing and use of DMSO within the State of Oregon. The board by rule shall require that any DMSO sold in this state other than by prescription be labeled by the manufacturer or if not by the manufacturer, by the seller. The label shall contain a description of all of the contents in the solution, statement of purity, the percent of DMSO in the solution, and the manufacturer's name and address. The board may require any person selling or otherwise supplying DMSO to submit labeled containers for verification that the label contained thereon accurately describes the contents and meets the other requirement of this paragraph. The board may also require that whenever DMSO is sold or otherwise supplied, the seller or supplier shall give additional printed material to the person receiving the DMSO that provides adequate warning against use that may be dangerous

to the health of the user. [1979 c.777 §37; 1981 c.217 §1; 1985 c.565 §111]

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

(DMSO)

689.545 Dimethyl sulfoxide regulation. It is declared to be the public policy of the State of Oregon that dimethyl sulfoxide and its compounds and mixtures be available in Oregon for prescriptive use by licensed physicians. [1979 c.249 §1]

Note: Sections 2 to 12 and 15, chapter 388, Oregon Laws 1981, provide:

Sec. 2. The purpose of sections 3 to 15, chapter 388, Oregon Laws 1981, is to make dimethyl sulfoxide (DMSO) and its compounds and mixtures available for human use in Oregon in safe form for prescriptive use through the proper medical channels and to provide Oregonians with public and professional information on DMSO by:

(1) Setting standards for purity and content of DMSO preparations.

(2) Disseminating accurate information to health professionals and the public on DMSO and proper DMSO usage.

(3) Encouraging continued research on DMSO for medical uses. [1981 c.388 §2]

Sec. 3. (1) There is established a DMSO Advisory Council consisting of three members appointed by the Board of Medical Examiners for the State of Oregon, two members appointed by the State Board of Pharmacy and two public members representing health consumers appointed by the Governor. The public members are subject to Senate confirmation.

(2) Members shall serve for a period of four years. Vacancies shall be filled for the unexpired term. The council shall serve on a voluntary basis until funds become available under section 6 of this 1981 Act. At that time, members are entitled to compensation and expenses under ORS 292.495.

(3) The DMSO Advisory Council may take all steps and measures necessary to place the use of DMSO into the proper medical channels and to encourage the proper use of DMSO by the public. Prior to taking such measures, available technical information shall be considered to determine the need for specific actions.

(4) Notwithstanding section 7 of this 1981 Act, the DMSO Advisory Council by order may halt the sale of DMSO in this state.

(5) The council has the authority to seek private funds and grants for the DMSO Fund. [1981 c.388 §3]

Sec. 4. Upon availability of funds provided under section 6 of this 1981 Act, the DMSO Advisory Council may establish a program of DMSO Information Services. The services of this program shall be to provide health professionals and the public with current information on DMSO and its proper usage. [1981 c.388 §4]

Sec. 5. (1) Any wholesale drug outlet who sells DMSO for human use or use in the practice of veterinary medicine, or sale connected therewith, within the State of Oregon shall pay an amount not to exceed $1 per eight-ounce unit of DMSO intended for human use or use in the practice of veterinary medicine to the DMSO Fund created under section 6 of this 1981 Act.

(2) The Health Division shall establish a fee and payment schedule, upon recommendation of the DMSO Advisory Council, and shall be responsible for collection of fees under this section. The division may notify the State Board of Pharmacy when any wholesale drug outlet fails to account for and pay over the fees payable under this section. The board shall revoke the outlet's certificate of registration if it finds the fees were not paid as required by this section. [1981 c.388 §5]

Sec. 6. (1) The DMSO Fund is established. It shall be credited with amounts available under section 5 of this 1981 Act and with any interest or income derived from gifts, bequests, endowments or grants given to it. The fund is continuously appropriated to the DMSO Advisory Council and shall be used for purposes specified by the DMSO Advisory Council as follows:

(a) Administrative costs by the DMSO Advisory Council incurred in the implementation of this 1981 Act.

(b) Professional and public information dissemination on current DMSO research and proper DMSO usage.

(c) Research grants for continued DMSO research and funding of projects considered appropriate by the council.

(2) All necessary expenses incurred by the Health Division and the State Board of Pharmacy in connection with the administration of this 1981 Act shall be payable out of the DMSO Fund. [1981 c.388 §6]

Sec. 7. (1) It shall be lawful for any person registered as a drug manufacturer under ORS chapter 689 to manufacture DMSO.

(2) It shall be lawful for any person registered as a wholesale drug outlet under ORS chapter 689 to sell DMSO at wholesale to any person authorized under Oregon law to resell or otherwise redispense DMSO.

(3) It shall be lawful for a practitioner, as defined in ORS 689.005, to prescribe DMSO to a patient pursuant to the provisions of this 1981 Act.

(4) A licensed pharmacist is authorized to dispense DMSO upon a written prescription of a practitioner pursuant to the provisions of this 1981 Act.

(5) It shall be lawful for any person registered as described in subsection (1) or (2) of this section to import into the State of Oregon DMSO and any ingredient or intermediate, including dimethyl sulfide compound or mixture thereof.

(6) The State Board of Pharmacy shall regulate, within guidelines provided by the DMSO Advisory Council, the purity and content of DMSO and the manufacturing, wholesaling, labeling, prescribing and dispensing of DMSO within the State of Oregon. [1981 c.388 §7]

Sec. 8. If the patient has executed the release described in section 10 of this 1981 Act:

(1) A hospital or health facility shall not interfere with the practitioner-patient relationship by restricting or forbidding the use of DMSO when prescribed or administered by a practitioner, as defined in ORS 689.005, and requested by a patient.

(2) A hospital or health facility shall not remove or restrict the staff privileges of a licensed practitioner solely because the practitioner prescribed or administered DMSO to a patient pursuant to the provisions of this 1981 Act. [1981 c.388 §8]

Sec. 9. A practitioner, as defined in ORS 689.005, shall not be subject to disciplinary action solely for prescribing or administering DMSO to a patient under care of the practitioner meeting reasonable standards of care in the circumstances if the patient has requested the substance and executed the release described in section 10 of this 1981 Act. [1981 c.388 §9]

Sec. 10. (1) The patient, after being fully informed in the manner described in ORS 677.097 as to alternative methods of treatment and their potential for cure and upon the patient's request for the administration of DMSO by the practitioner, as defined in ORS 689.005, and before being treated with a DMSO preparation,

shall sign a written release, releasing the practitioner, and, when applicable, the hospital or health facility or pharmacist, from any liability therefor arising from the use of DMSO if the practitioner, hospital, health facility or pharmacist meets reasonable standards of care in the circumstances except where the care amounts to gross negligence.

(2) The practitioner shall inform the patient in writing if DMSO has not been approved as a treatment or cure by the Food and Drug Administration of the United States Department of Health and Human Services for the disorder for which it is being prescribed. [1981 c.388 §10]

Sec. 11. Prescriptions for DMSO prescribed by a practitioner, as defined in ORS 689.005, in accordance with the provisions of this 1981 Act and dispensed by a licensed pharmacist may be filled by a pharmacist according to the terms of the prescription. The filling of such a prescription shall not constitute evidence of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice of pharmacy. The dispensing of DMSO by a licensed pharmacist pursuant to this section does not constitute the practice of medicine. [1981 c.388 §11]

Sec. 12. The following notification shall be affixed to all quantities of DMSO dispensed in this state. "Warning: DMSO may be hazardous to your health. Follow the directions of the person who prescribed the DMSO for you." [1981 c.388 §12]

Sec. 15. Sections 1 to 14 of this Act become operative when the Congress of the United States or the Food and Drug Administration of the United States Department of Health and Human Services acts to remove federal impediments to full implementation of the laws of this state governing DMSO. On the operative date of this Act, ORS 689.535 (3) shall become inoperative. [1981 c.388 §15]

(Others)

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

689.555 Agricultural drugs, nonprescription drugs and certain other substances. (1) Nothing in ORS 689.005 to 689.995 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 ORS 689.005 to 689.995 requires or authorizes the licensing or regulation of the sale of economic poisons, which includes any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all insects, fungi, weeds, parasites, or other plant or animal pest, collectively or individually, which may infest or be detrimental to vegetation or any domestic animal or fowl life. [1979 c.777 §40; 1985 c.565 §112]

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

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

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

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

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

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

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

MISCELLANEOUS

689.605 Authority to dispense drugs from hospital pharmacies, drug rooms and student health centers. (1) In a hospital or long term care facility having a pharmacy and employing a pharmacist, the pharmacy and pharmacist are subject to the requirements of ORS 689.005 to 689.995, except that in a hospital when a pharmacist is not in attendance, pursuant to standing orders of the pharmacist, a registered nurse supervisor on the written order of a person authorized to prescribe a drug may withdraw such drug in such volume or amount as needed for administration to or treatment of an inpatient or outpatient until regular pharmacy services are available in accordance with the rules adopted by the board. However, the State Board of Pharmacy may grant an exception to the requirement for a written order by issuing a special permit authorizing the registered nurse supervisor in a hospital to dispense medication on the oral order of a person authorized to prescribe a drug. An inpatient care facility which does not have a pharmacy must have a drug room. In an inpatient care facility having a drug room as may be authorized by rule of the 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 pharmacist and is subject to the rules of the State Board of Pharmacy. When a pharmacist is not in attendance, any person authorized by the prescriber or by the pharmacist on written order may withdraw such drug in such volume or amount as needed for administration to or treatment of a patient, entering such withdrawal in the record of the responsible pharmacist.

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

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

be open to inspection by agents of the board and other qualified authorities.

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

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

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

(7) A nurse practitioner who is authorized to write prescriptions under ORS 678.390 and employed by a college or university student health center registered by the board under ORS 689.305 shall be authorized to dispense drugs to the practitioner's patients if they are students of the college or university. Drugs dispensed shall be prepackaged by a pharmacy registered by the board or repackaged by a manufacturer registered with the board. The board and the Oregon State Board of Nursing shall jointly develop a list of classes of drugs to be dispensed, based on clinical appropriateness for the college student population. This list shall include, but not be limited to, oral contraceptives, contraceptive devices, antibiotics and anti-inflammatory medications. The list shall not include drugs not authorized for nurse practitioner prescription writing under ORS 678.385. Such dispensing is subject to rules jointly adopted by the board and the Oregon State Board of Nursing. The rules shall require that a pharmacist establish dispensing procedures and perform regular drug utilization reviews and that the pharmacist and nurse practitioner provide a means for patients to receive information on drugs dispensed to them. [1979 c.777 §38; 1979 c.785 §9d; 1985 c.565 §113; 1989 c.526 §1; 1993 c.272 §2; 1993 c.571 §16]

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

689.615 Display of certificate or license. (1) The holder of any certificate or license granted under ORS 689.005 to 689.995 shall display it conspicuously in the pharmacy or place of business to which it applies.

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

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

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

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

689.630 [Repealed by 1965 c.46 §1]

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

689.640 [Repealed by 1969 c.514 §57]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PROHIBITED PRACTICES

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

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

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

(4) No person shall manufacture, compound or sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale any drug, compound or preparation for internal or external use under or by a name recognized in the United States Pharmacopoeia, Homeopathic Pharmacopoeia or National Formulary which differs from the standard of strength and purity specified therein as official at the time of manufacture, compounding, sale or offering for sale.

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

(6) 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 689.515, 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.

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

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

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

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

(b) As used in paragraph (a) of this subsection, "drug sample" means a unit of a drug, subject to ORS 689.005 to 689.995, that is not intended to be sold and is intended to promote the sale of the drug, and includes a coupon or other form which may be redeemed for a drug.

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

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

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

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

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

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

PENALTIES

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

(2) All penalties recovered under this section shall be paid into the State Treasury and credited to the Board of Pharmacy Account in the Health Division Account.

(3) Any civil penalty under this section shall be imposed in the manner provided in ORS 183.090.

(4) Notwithstanding ORS 183.090, the person to whom the notice is addressed shall have 10 days from the date of service of the notice in which to make written application

for a hearing before the board. [1981 c.217 §3; 1991 c.734 §77; 1993 c.571 §20]

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

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

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

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

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

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

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

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

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

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

(3) Civil penalties under this section shall be imposed as provided in ORS 183.090. [Formerly part of 689.515]

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

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

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

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

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

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

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

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

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

689.992 [Repealed by 1967 c.158 §2]

689.995 Criminal penalties. (1) Violation of any provision of ORS 689.005 to 689.995 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 689.135 (13) is a misdemeanor. Each day during which the violation continues is a separate offense.

(3) Refusal to furnish information required under ORS 689.005 to 689.995 or willfully furnishing false information, is a misdemeanor.

(4) Any attempt to secure or the securing of registration or licensure for any person under any certificate, license or permit authorized by ORS 689.005 to 689.995 by making or causing to be made any false representations is a misdemeanor. [1979 c.777 §41; 1985 c.131 §7; 1985 c.565 §115; 1993 c.571 §22]