Approved: 3-6-97
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 11:30 a.m. on February 26, 1997 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary
Conferees appearing before the committee:

Others attending: See attached list

Action on SB 201 - Pharmacy practice, persons engaged in, pharmacy technicians and Students

Staff briefed the Committee on a balloon of **SB 201** that included language from **SB 197**. The proposed changes in the bill would amend the Pharmacy Practice Act to define the following: direct supervision, electronic transmission, pharmacy student, pharmacy technician and practice of pharmacy. It would also provide who can use the title "Licensed or Registered Pharmacists". Staff also called attention to language that needed to be deleted in New Section 2, lines 35 to 43, relating to persons in violation of the pharmacy act as well as insertion of the word "prescription" in the definition section of the bill (K.S.A. 65-1626). (See Attachment 1)

Written information on the proposed amendments was also provided by the Kansas State Board of Pharmacy. (Attachment 2)

Senator Salmans made a motion the Committee adopt the balloon amendments to **SB 201** with changes suggested by staff, seconded by Senator Langworthy. The motion carried.

Senator Lee made a motion the Committee recommend **SB 201 as amended** favorably for passage, seconded by Senator Steineger. The motion carried.

Action on SB 199 - Pharmacist license revocation

Staff briefed the Committee on recommended changes to **SB 199** which would add to the list of reasons that the Board of Pharmacy may suspend or refuse to renew the license of a pharmacist; allow the Board to deny renewal or to revoke a Kansas license if the pharmacist has a revocation proceeding in another state and volunteers to surrender his/her license instead of revocation after formal proceedings have begun; and allow the Board to revoke, suspend or deny renewal of a license if the pharmacist has had his/her registration revoked, suspended or limited, or any disciplinary action has been taken against the license in another state or the District of Columbia.

Senator Salmans made a motion the Committee amend **SB 199** that would make language on page 3, in lines 13 and 14 consistent with the language in lines 2 and 3 of that page, and striking the word "registering" in line 15 of page 3, seconded by Senator Hardenburger. The motion carried.

Senator Salmans made a motion the Committee recommend **SB 199 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

Briefing and Discussion on SB 242 - Respiratory therapist licensure

Staff briefed the Committee on policy changes in **SB 242.** After Committee discussion on the bill, the Chair suggested a balloon of the bill be drafted showing the proposed amendments, and the bill be considered by the Committee at another time.

Adjournment

The meeting was adjourned at 12:15 p.m.

The next meeting is scheduled for March 5, 1997.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-26-97

NAME	REPRESENTING
Nancy Zogleman	Pfizer
Vicki Schmidt	State Board of Pharmacy
Larry Froelich	Board of Pharmacy
Ron Legino	DUR Board (Kansas Pharm. Assoc.)
Karen Braman	SRS
Meg Henson	KMS
Julie Hein	Hein & Weir
Keith R Langois	Christian Science Committee on Publication for Kansas
Betty Johnson	Bd of Healing Arts
Kevin LaCheer	Bd of Healing Arts
Janet Stubbs	KRCS
Michelle Gotherson	PhRMA

SENATE BILL No. 201

By Committee on Public Health and Welfare

2-4

AN ACT concerning the practice of pharmacy; pharmacy technicians and students; medication profile record system information; persons engaged in pharmacy practice; amending K.S.A. 1996 Supp. 65-1642 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 65-1642 is hereby amended to read as follows: 65-1642. (a) Each pharmacy shall be equipped with proper pharmaceutical utensils, in order that prescriptions can be properly filled and United States pharmacopoeia and national formulary preparations properly compounded, and with proper sanitary appliances which shall be kept in a clean and orderly manner. The board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess; ~~and such list shall include the latest revisions of the United States pharmacopoeia dispensing information and all supplements thereto~~. The ratio of ~~supportive personnel~~ *pharmacy technicians* performing nonjudgmental functions in the ~~compounding~~ *prescription* area of the pharmacy under the direction of a pharmacist, excluding ~~pharmacist interns~~ *pharmacy students*, to licensed pharmacists shall not exceed ~~a one-to-one ratio in other than medical care facility pharmacies and~~ a two-to-one ratio ~~for medical care facility pharmacies except that any pharmacy may be specifically authorized by the board to exceed the ratio established under this subsection for that pharmacy upon the approval of a specific plan describing the manner in which additional supportive personnel shall be supervised~~.

(b) Each pharmacy shall keep a suitable book or file which records every prescription order filled at the pharmacy and a medication profile record system as provided under subsection (c). The book or file of prescription orders shall be kept for a period of not less than five years. The book or file of prescription orders shall at all times be open to inspection by members of the board, the secretary of health and environment, the duly authorized agents or employees of such board or secretary and other proper authorities.

(c) (1) A medication profile record system shall be maintained in all pharmacies for persons for whom prescriptions are dispensed. The fol-

65-1626, as amended by section 118 of chapter 229 of the 1996 Session Laws of Kansas

Senate Public Health and Welfare
Date: 2-26-97
Attachment No. 1

lowing information shall be recorded:

(A) The name and address of the patient for whom the medication is intended;

(B) the prescriber's name, the original date the prescription is dispensed and the number or designation identifying the prescription; ~~and~~

(C) the name, strength and quantity of the drug dispensed and the name of the dispensing pharmacist.; *and*

(D) drug allergies and sensitivities.

(2) Upon receipt of a prescription order, the pharmacist shall examine the patient's medication profile record before dispensing the medication ~~to determine the possibility of a harmful drug interaction or reaction to the medication~~ *according to federal and state laws or the provisions of the board's rules and regulations*. Upon recognizing a potential harmful ~~drug~~ interaction or reaction to the medication, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the prescriber *with documentation of actions taken recorded on the prescription record*.

(3) A medication profile record shall be maintained for a period of not less than five years from the date of the last entry in the record.

(4) All prescription drug orders communicated by way of electronic transmission shall conform to federal and state laws or the provisions of the board's rules and regulations.

(d) No registration shall be issued or continued for the conduct of a pharmacy until or unless the provisions of this section have been complied with.

see attached insert A

New Sec. 2. (a) For the purpose of the pharmacy act of the state of Kansas, the following persons shall be deemed to be engaged in the practice of pharmacy:

(1) Persons who publicly profess to be a pharmacist, or publicly profess to assume the duties incident to being a pharmacist and their knowledge of drugs and/or drug actions;

(2) persons who attach to their name the title R.Ph., PharmD, P.D., pharmacist or any words or abbreviation indicating that they are a pharmacist; or

(3) persons who provide services to other persons based on their knowledge of drugs and drug actions gained in a qualified school of pharmacy and being licensed as a pharmacist in another state.

(b) It shall be unlawful for any person who is not licensed under the pharmacy act of the state of Kansas or whose license has been revoked or suspended to engage in the practice of pharmacy as defined in the pharmacy act of the state of Kansas. Each day that the person performs the practice of pharmacy in violation of this section shall constitute a separate offense.

(c) This section shall not apply to any person licensed by the board whose license was expired or lapsed and reinstated within a six-month period.

(d) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 3. K.S.A. 1996 Supp. 65-1642 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

delete (remember)

65-1626, as amended by section 118 of chapter 229 of the 1996 Session Laws of Kansas

Section 1. K.S.A. 65-1626, as amended by section 118 of chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to read as follows: 65-1626. For the purposes of this act:

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

(1) A practitioner or pursuant to the lawful direction of a practitioner, or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Board" means the state board of pharmacy created by K.S.A. 74-1603 and amendments thereto.

(d) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name than the brand name drug product prescribed.

(e) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(f) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(g) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner.

(h) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication.

(i) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(j) "Distributor" means a person who distributes a drug.

(k) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, as defined in K.S.A. 47-501 and amendments thereto, if such livestock remedy has been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated.

(l) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

~~(l)~~ (m) "Generic name" means the established chemical name or official name of a drug or drug product.

(m) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile detention facility, as defined by the Kansas code for care of children and the Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas; or

(D) employees of a business or other employer.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

~~(m)~~ (o) "Medical care facility" shall have the meaning provided in K.S.A. 65-425 and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b and amendments thereto except community mental

health centers and facilities for the mentally retarded.

~~(o)~~ (p) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by: (1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice; (2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or (3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

~~(p)~~ (q) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

~~(q)~~ (r) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

~~(r)~~ (s) "Pharmacist in charge" means the pharmacist who is

responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

~~(s)~~ (t) "Pharmacy," "drug store" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(u) "Pharmacy student" means an individual, registered with

the board of pharmacy, enrolled in an accredited school of pharmacy.

(v) "Pharmacy technician" means an individual who under the direct supervision and control of a pharmacist may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(w) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the participation of drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy.

~~(t)~~ (x) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to

conduct research with respect to a prescription-only drug.

~~(u)~~ (y) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

~~(v)~~ (z) "Prescription" means, according to the context, either a prescription order or a prescription medication.

~~(w)~~ (aa) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

~~(x)~~ (bb) "Prescription-only drug" means any drug required by the federal or state food, drug and cosmetic act to bear on its label the legend "Caution: Federal law prohibits dispensing without prescription."

~~(y)~~ (cc) "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner.

~~(z)~~ (dd) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas

requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

~~(aa)~~ (ee) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

~~(bb)~~ (ff) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug the label of which is required to bear substantially the statement "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug intended for human use by hypodermic injection.

~~(cc)~~ (gg) "Secretary" means the executive secretary of the board.

(hh) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of

a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

~~(dd)~~ (ii) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654 and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

Sec. 2. K.S.A. 65-1626, as amended by section 118 of chapter

229 of the 1996 Session Laws of Kansas, is hereby amended to read as follows: 65-1626. For the purposes of this act:

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

(1) A practitioner or pursuant to the lawful direction of a practitioner, or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

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(l) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

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1-14

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(A) Inmates of a jail or correctional institution or facility;

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(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas; or

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compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

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(u) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of

pharmacy.

(v) "Pharmacy technician" means an individual who under the direct supervision and control of a pharmacist may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(w) "Practice of pharmacy" means the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the participation of drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy.

~~(t)~~ (x) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

~~(u)~~ (y) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

~~(v)~~ (z) "Prescription" means, according to the context, either a prescription order or a prescription medication.

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~~(z)~~ (dd) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions

not to occur before a regular license, registration or permit is issued.

~~(aa)~~ (ee) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

~~(bb)~~ (ff) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug the label of which is required to bear substantially the statement "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug intended for human use by hypodermic injection.

~~(cc)~~ (gg) "Secretary" means the executive secretary of the board.

(hh) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree

to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

~~(dd)~~ (ii) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654 and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

1997 KANSAS LEGISLATIVE SESSION
Senate Bill No. 201 (Amended)
PHARMACY PRACTICE ACT
Senate Committee on Public Health and Welfare

Wednesday, February 26, 1997

The Board of Pharmacy would like you to amend **SB-201**. I would like to explain the amended **SB—201**.

There are several new definitions that I have already presented. They include:

Direct Supervision - means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

Electronic Transmission - means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

Pharmacy Student - means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

Pharmacy Technician - means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other non-discretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

Practice of Pharmacy - Although not presented originally, it has been openly discussed that Kansas does NOT have a definition for Pharmacy Practice. Although the Boards original intent was to make sure that those practicing pharmacy in Kansas be registered with the Board, we need to define what is the practice of pharmacy.

The final requested change is requiring a pharmacist practicing pharmacy in Kansas, be licensed by the board as a pharmacist in Kansas. Our current state law requires that pharmacists be licensed in Kansas when they are **dispensing** medications only. The definition is modeled after Missouri's definition, and the licensing is modeled after Kansas Board of Healing Arts.

MISSOURI

MISSOURI PRACTICE ACT

MO PracAct CHAPTER 338 Pharmacists and Pharmacies

MO PracAct 338.010.
Practice of pharmacy defined -- auxiliary personnel -- nonprescription drugs

1. The "practice of pharmacy" shall mean the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This assistance in no way is intended to relieve the pharmacist from his responsibilities for compliance with this chapter and he will be responsible for the actions of the auxiliary personnel acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220, RSMo, in the compounding or dispensing of his own prescriptions.

2. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

3. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of

OKLAHOMA

18. "Practice of pharmacy" means:

a. the interpretation and evaluation of prescription orders,

b. the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices,

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

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

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

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

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

NEBRASKA

NEBRASKA PRACTICE OF PHARMACY

NE PracAct 71-1,142.
Terms, defined.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean

(a) the interpretation and evaluation of prescription orders;

(b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices;

(c) the participation in drug selection, drug utilization review, drug source selection, and drug administration;

(d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor;

(e) patient counseling

(f) the provision of pharmaceutical care, and

(g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. The active practice of pharmacy shall mean the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administration shall mean the direct application of a drug or device by injection, inhalation, ingestion, or other means to the body of a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Caregiver shall mean any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

COLORADO

COLORADO PHARMACY PRACTICE ACT

(26) "Practice of pharmacy" means:

(a) An initial interpretation, selection of ingredients and final evaluation of each prescription order or chart order, the participation in drug selection and drug utilization reviews, the participation in administration of drugs, the provision of pharmaceutical care including patient counseling and prospective drug review, drug and drug-related research not including prescriptive authority, the advising and providing of information concerning utilization of drugs and devices in the treatment of an injury and the treatment and prevention of disease, and the offering or performing of these health services, operations, or transactions necessary in the conduct, operation, and control of a prescription drug outlet by a pharmacist.

(b) The responsibility for the compounding, dispensing, labeling (except nonprescription drugs), delivery, storage, and distribution of drugs and devices and the maintenance of proper records thereof;

(d) Violation of this section is a class C misdemeanor.

History: L. 1957, ch. 343, § 67; L. 1992, ch. 32, § 2; July 1.

65-2868.

History: L. 1957, ch. 343, § 68; L. 1976, ch. 273, § 29; Repealed, L. 1992, ch. 32, § 3; July 1.

65-2869. Persons deemed engaged in practice of medicine and surgery. For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings.

(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings.

History: L. 1957, ch. 343, § 69; L. 1969, ch. 299, § 14; L. 1976, ch. 273, § 30; L. 1988, ch. 251, § 5; July 1.

Research and Practice Aids:
Physicians and Surgeons ⇐ 6(1).
C.J.S. Physicians and Surgeons §§ 10, 23.

Law Review and Bar Journal References:
"Guideline for Joint Policy Statement on Nursing Service," 69 J.K.M.S. 66, 67 (1968).
"Legislative Review of Examining and Licensing Functions of State Boards and Commissions," Stanley D. Elofson, 7 W.L.J. 307, 311 (1968).

Attorney General's Opinions:
Physicians' assistants; advanced registered nurse practitioners; persons authorized to issue prescription orders. 86-125.
Doctors of chiropractic cannot use the term "chiropractic physician." 87-42.
Master level psychologists; supervision; limitations on practice. 87-184.
Persons deemed engaged in practice of chiropractic. 89-91.
Social work practice; psychotherapy; authority to diagnose. 92-43.

CASE ANNOTATIONS
1. Acupuncture does not constitute surgery. Acupuncture Society of Kansas v. Kansas Bd. of Healing Arts, 226 K. 639, 645, 602 P.2d 1311.

65-2870. Persons deemed engaged in practice of osteopathy. For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:

(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.

(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act.

History: L. 1957, ch. 343, § 70; L. 1969, ch. 299, § 15; L. 1976, ch. 273, § 31; Feb. 13.

Law Review and Bar Journal References:
"Legislative Review of Examining and Licensing Functions of State Boards and Commissions," Stanley D. Elofson, 7 W.L.J. 307, 311 (1968).

Attorney General's Opinions:
Doctors of chiropractic cannot use the term "chiropractic physician." 87-42.

65-2871. Persons deemed engaged in practice of chiropractic. For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics.

History: L. 1957, ch. 343, § 71; L. 1976, ch. 273, § 32; Feb. 13.

Research and Practice Aids:
Physicians and Surgeons ⇐ 6(1).
C.J.S. Physicians and Surgeons §§ 10, 23.

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