

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H1/29/99

A Bill

Act 105 of 1999
HOUSE BILL 1066

5 By: Representative P. Malone
6
7

For An Act To Be Entitled

9 "AN ACT TO CHANGE CERTAIN LICENSING REQUIREMENTS FOR
10 PHARMACISTS; AND OTHER PURPOSES"

Subtitle

13 "AN ACT TO CHANGE CERTAIN LICENSING
14 REQUIREMENTS FOR PHARMACISTS"

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code 17-92-101(14)(A)(ix)-(x), pertaining to the
20 definition of the practice of pharmacy, is amended to read as follows:

21 "(ix) Performing a specific act of drug therapy management or disease
22 state management delegated to a pharmacist for an individual patient based
23 upon a written protocol ~~from~~ or a patient care plan approved by a the
24 patient's physician, who shall be licensed in this state under the Arkansas
25 Medical Practices Act, beginning at § 17-95-201, ~~et seq.~~ Drug therapy
26 management shall not include the selection of drug products not prescribed by
27 the physician, unless the drug products ~~is~~ are either named in the physician-
28 initiated protocol or the physician-approved patient care plan; and

29 (x) Providing pharmacy care-; and"
30

31 SECTION 2. Arkansas Code 17-92-101 (14)(A), pertaining to the
32 definition of the practice of pharmacy, is amended by adding the following new
33 language:

34 "(xi) Providing pharmacokinetic services."
35

36 SECTION 3. Arkansas Code 17-92-101(14)(C) is amended to read as

1 follows:

2 " (C)(i) The board may permit ~~qualified pharmacy employees~~ pharmacy
3 technicians other than pharmacists or interns to perform some or all of those
4 functions described in board regulations under the direct, personal
5 supervision of a licensed pharmacist pursuant to regulations defining the
6 minimum qualifications of such employees, the ratio of ~~qualified pharmacy~~
7 ~~employees~~ pharmacy technicians to supervising pharmacists and the scope of the
8 duties, practices, and procedures which the board determines will promote the
9 delivery of competent, professional pharmaceutical services and promote the
10 public health and welfare. Nothing in this chapter shall be construed as
11 allowing ~~qualified pharmacy employees~~ pharmacy technicians to administer
12 medications;

13 (ii) The conduct of a ~~qualified pharmacy employee~~ pharmacy technician
14 is the responsibility of the pharmacist-in-charge and supervising pharmacist
15 of the pharmacy who shall not permit the employee to perform any act, task, or
16 function which involves the exercise of independent judgment by the employee-
17 ;

18 (iii) *Pharmacy products prepared by ~~qualified pharmacy employees~~*
19 *pharmacy technicians shall be verified for accuracy by the supervising*
20 *pharmacist prior to release for patient use, and the verification shall be*
21 *documented.*

22 (iv) *The use of ~~qualified pharmacy employees~~ pharmacy technicians in a*
23 *manner not authorized by this chapter or regulations promulgated hereunder*
24 *shall be unprofessional conduct by the pharmacist-in-charge and the*
25 *supervising pharmacist.*

26 (v) *It is recognized that ~~qualified hospital personnel~~ hospital*
27 *pharmacy technicians as defined in § 17-92-602(5) are governed by the Hospital*
28 *Pharmacies Act, § 17-92-601 et seq., and related board regulations developed*
29 *pursuant to that subchapter."*

30

31 SECTION 4. Arkansas Code 17-92-101(15)-(16) is amended to read as
32 follows:

33 "(15) 'Pharmacy care' means the process by which a pharmacist in
34 consultation with *the* prescribing practitioner identifies, resolves, and
35 prevents potential and actual drug-related problems and optimizes patient
36 therapy outcomes through the responsible provision of drug therapy or disease

1 state management for the purpose of achieving any of the following definite
2 outcomes that improve a patient's quality of life:

- 3 (A) Cure of disease;
4 (B) Elimination or reduction of a patient's symptomology;
5 (C) Arresting or slowing a disease process; or
6 (D) Preventing a disease or symptomology;

7 (16) 'Written protocol' means a physician's order, standing
8 medical order, standing delegation order, or other order or protocol as
9 defined by regulation of the Arkansas State Medical Board under the Arkansas
10 Medical Practices Act, beginning at § 17-95-201, et seq. All Except for
11 immunizations and vaccinations, which may be general protocols, protocols
12 shall be patient/physician/pharmacist specific for prescriptions or orders
13 given by the physician authorizing the protocol ~~;~~”
14

15 SECTION 5. Arkansas Code 17-92-101 is amended by adding the following
16 new language:

17 “(17) ‘Patient care plan’ means a written course of action, which
18 is patient/physician/pharmacist and disease(s) specific, for helping a patient
19 to achieve outcomes that improve a patient's quality of life;

20 (18) ‘Credentialing’ means the issuance to a pharmacist by the
21 Arkansas State Board of Pharmacy of a credential certifying that the
22 pharmacist has met the standards of competency established by the board for
23 disease state management or other pharmacy services necessitating a credential
24 ; and

25 (19) ‘Disease state management’ means a strategy which utilizes a
26 team-oriented, multi-disciplinary approach to improve health care outcomes,
27 quality of care, and when possible control health care cost through management
28 of targeted chronic disease states. Disease state management focuses on
29 improving health care from prevention to diagnosis and treatment, to on-going
30 follow-up. Disease state management will involve, but not be limited to,
31 patient education and self-care techniques, out-patient drug therapy
32 management pursuant to a patient care plan.”
33

34 SECTION 6. Arkansas Code 17-92-108(a) is amended to read as follows:

35 “ (a) The fees charged by the Arkansas State Board of Pharmacy for the
36 various examinations, permits, licenses, certificates, credentials and books

1 issued by the board shall be as follows:

2 (1) The fee for examination for license as a licensed pharmacist
3 upon examination shall not exceed twenty-five dollars (\$25.00) plus the actual
4 cost of the examination;

5 (2) The fee for a license as a licensed pharmacist from another
6 state by reciprocity and without examination shall not exceed two hundred
7 dollars (\$200);

8 (3) The fee for the initial license and renewal of a license as a
9 licensed pharmacist shall not exceed seventy-five dollars (\$75.00);

10 (4)(A) The fee for issuance of a pharmacy permit for the first
11 time to operate an in-state pharmacy or drugstore shall not exceed three
12 hundred dollars (\$300). The fee for annual renewal of a permit to operate an
13 in-state pharmacy or drugstore shall not exceed one hundred fifty dollars
14 (\$150). When there is a change in ownership in an in-state pharmacy or drug
15 store, a new permit must be obtained, and the fee shall not exceed one hundred
16 fifty dollars (\$150);

17 (B) The fee for issuance of a permit for the first time to
18 operate an out-of-state pharmacy or drugstore shall not exceed three hundred
19 dollars (\$300). The fee for annual renewal of a permit to operate an out-of-
20 state pharmacy or drugstore shall not exceed one hundred fifty dollars (\$150).
21 When there is a change in ownership in an out-of-state pharmacy or drug store,
22 a new permit must be obtained, and the fee shall not exceed one hundred fifty
23 dollars (\$150);

24 (5) The fee for a certificate as a licensed pharmacist shall not
25 exceed ten dollars (\$10.00);

26 (6) The fee for certifying grades in connection with an
27 application for reciprocity licensure without an examination shall not exceed
28 ten dollars (\$10.00);

29 ~~(7) The fee for issuance of, and annual renewal of, a license as~~
30 ~~a wholesale dealer under the Arkansas Prophylactic Law, § 20-63-101 et seq.,~~
31 ~~shall not exceed thirty-five dollars (\$35.00);~~

32 ~~(8)~~ (7) The fee for issuance of a hospital pharmaceutical service
33 permit shall not exceed three hundred dollars (\$300), and the fee for the
34 annual renewal of a hospital pharmaceutical service permit shall not exceed
35 one hundred fifty dollars (\$150). When there is a change in ownership of a
36 hospital pharmacy, a new permit must be obtained and the fee shall not exceed

1 one hundred fifty dollars (\$150);

2 ~~(9)~~ (8) The fee for issuance of, and the annual renewal of, an
3 institutional pharmaceutical services permit shall not exceed thirty-five
4 dollars (\$35.00);

5 ~~(10)~~ (9) The fee for issuance of, the annual renewal of, and the
6 reinstatement of a nursing home pharmacy consultant permit shall not exceed
7 thirty-five dollars (\$35.00);

8 ~~(11)~~ (10) The fee for intern registration shall not exceed
9 fifteen dollars (\$15.00) per year and the fee for preceptor registration shall
10 not exceed twenty dollars (\$20.00) every two years;

11 ~~(12)~~ (11) The fee for a change of pharmacist in charge of a
12 pharmacy shall not exceed thirty-five dollars (\$35.00);

13 ~~(13)~~ (12) The fee for reinstatement of a pharmacist licensure
14 shall not exceed seventy-five dollars (\$75.00) for each delinquent year up to
15 a maximum of three hundred dollars (\$300);

16 ~~(14)~~ (13) The fee for the Arkansas State Board of Pharmacy law
17 book shall not exceed twenty-five dollars (\$25.00) except to interns on
18 initial licensure, and applicants for reciprocity, on a one-time basis. A copy
19 of each edition as revised shall be provided free to each pharmacy permit
20 holder;

21 ~~(15)~~ (14) The fee for a change of location inspection shall not
22 exceed one hundred dollars (\$100);

23 ~~(16)~~ (15) The penalty for late payment of renewal of any permit,
24 license, registration or certificate shall not exceed twenty dollars (\$20.00)
25 per month beginning the first day of the second month after expiration,
26 provided that if the renewal is not paid by the first day of the fourth month
27 after expiration, the license shall be null and void;

28 ~~(17)~~ (16) The fee for issuance of a wholesale distributor of
29 legend drugs and/or controlled substances permit shall not exceed three
30 hundred dollars (\$300), and annual renewal shall not exceed one hundred fifty
31 dollars (\$150). When there is a change in ownership of a wholesale distributor
32 of legend drugs and/or controlled substances, a new permit must be obtained
33 and the fee shall not exceed one hundred fifty dollars (\$150);

34 ~~(18)~~ (17) The fee for issuance or annual renewal of a
35 ~~pharmacist's assistant~~ pharmacy technician certified and/or registered under
36 this subchapter shall not exceed thirty-five dollars (\$35); ~~and~~

1 ~~(19)~~ (18) The reinstatement fee for a ~~pharmacist's assistant~~
 2 pharmacy technician certified and/or registered under this subchapter shall be
 3 not less than thirty-five dollars (\$35) and shall not exceed one hundred forty
 4 dollars (\$140); ~~and~~

5 ~~(20)~~ (19) The application fee for a license to sell, rent, offer
 6 to sell, or rent directly to patients in this state any home medical
 7 equipment, legend drugs, and/or medical gases shall not exceed two hundred
 8 fifty dollars (\$250), and the annual license renewal fee or change of
 9 ownership fee shall not exceed one hundred twenty-five dollars (\$125); ~~and~~

10 (20) The fee for issuance or renewal of a credential to provide
 11 disease state management or any other pharmacy service requiring a credential
 12 from the board shall not exceed fifty dollars (\$50) plus the actual cost of
 13 the examination."

14
 15 SECTION 7. Arkansas Code 17-92-201 is amended by adding the following
 16 new language:

17 "(d) In order to appropriately stagger the terms of the pharmacist
 18 members, the term of the minority pharmacist member serving on January 1,
 19 1999, is extended to eight (8) years. Thereafter, the term of the minority
 20 pharmacist member shall be six (6) years."

21
 22 SECTION 8. Arkansas Code 17-92-313(a)(2) is amended to read as follows:

23 "(2) The notice shall be signed by the Secretary Executive
 24 Director or the designee of the Executive Director of the Arkansas State Board
 25 of Pharmacy and shall set forth in clear and concise language the nature of
 26 the charge against the person."

27
 28 SECTION 9. Arkansas Code 17-92-313(b) is amended to read as follows:

29 "(b) At the hearing, the board shall have power to subpoena witnesses,
 30 and the Executive Director or the designee of the Executive Director of the
 31 Arkansas State Board of Pharmacy shall sign subpoenas, and the president ~~or~~
 32 ~~chairman of the board~~ shall have power to administer oaths, and the board
 33 shall hear evidence."

34
 35 SECTION 10. Arkansas code 17-92-315 is amended to read as follows:

36 "17-92-315. Alternative penalties.

1 (a)(1) ~~Whenever the Arkansas State Board of Pharmacy has found a holder~~
2 ~~of a license to practice pharmacy or the holder of a pharmacy permit to be~~
3 ~~guilty of a violation of the rules of the Arkansas State Board of Pharmacy or~~
4 ~~the laws of the State of Arkansas pertaining to the practice of pharmacy,~~
5 authority pursuant to applicable laws to suspend, revoke, or deny any permit
6 license, certificate, credential, or registration or otherwise impose
7 penalties or sanctions on the holder thereof, the board shall have the power
8 and authority to impose ~~a penalty on the licensee or the permit holder in lieu~~
9 ~~of suspension or revocation of a license or certificate.~~ on the holder thereof
10 any one (1) or more of the following sanctions:

11 (A) A monetary penalty not to exceed five hundred dollars
12 (\$500) for each violation;

13 (B) Require completion of appropriate education programs or
14 courses or both;

15 (C) Require successful completion of an appropriate
16 licensing examination, jurisprudence examination or credentialing examination
17 or any combination of the three examinations;

18 (D) Place conditions or restrictions upon regulated
19 activities of the holder of the license, permit, certificate, credential or
20 registration; and

21 (E) Such other requirements or penalties as may be
22 appropriate to the circumstances of the case and which would achieve the
23 desired disciplinary purposes, but which would not impair the public health
24 and welfare.

25 (2) The Arkansas State Board of Pharmacy is authorized to file
26 suit in either the Circuit Court of Pulaski County or the circuit court of any
27 county in which the defendant resides or does business to collect any monetary
28 penalty assessed pursuant to this chapter if such penalty is not paid within
29 the time prescribed by the board.

30 ~~(2)~~ (3) ~~Upon imposition of a sanction penalty in lieu of~~
31 ~~suspension or revocation of a license or certificate,~~ the board shall have the
32 power and authority to require that the licensee or permit holder pay a
33 penalty to the Arkansas State Board of Pharmacy with regard to such violation
34 with the sanction that the license or permit may order that the license,
35 permit, certificate, credential or registration be suspended until the penalty
36 is paid holder thereof has complied in full with all applicable sanctions

1 imposed pursuant to this section.

2 ~~(3) Prior to the imposition of any penalty, the board shall hold~~
3 ~~an investigation and hearing after notice to the licensee or his attorney, and~~
4 ~~the penalty shall only be imposed and required to be paid if the board~~
5 ~~formally finds that the public welfare and morals would not be impaired by the~~
6 ~~imposition of the penalty and that the payment of a sum of money will achieve~~
7 ~~the desired disciplinary purposes.~~

8 (b)(1) No monetary penalty imposed by the board may exceed five hundred
9 dollars (\$500) per violation, nor shall the board impose a monetary penalty on
10 a licensee, ~~or a permit, certificate, credential or registration holder where~~
11 if the licensee, of such licensee or permit, certificate, credential or
12 registration holder has been revoked by the board for such violation.

13 (2) Each instance when a federal or state law or board regulation
14 is violated shall constitute a separate violation.

15 (3) The power and authority of the board to impose ~~penalties~~
16 sanctions authorized in this section are not to be affected by any other civil
17 or criminal proceeding, concerning the same violation, nor shall the
18 imposition of a penalty preclude the board from imposing other sanctions short
19 of revocation.

20 (c) Any person ~~penalized~~ sanctioned by the Arkansas State Board of
21 Pharmacy under this section may appeal any order of the Arkansas State Board
22 of Pharmacy as now provided by the state pharmacy laws."
23

24 SECTION 11. Arkansas Code Title 17, Chapter 92, Subchapter 3, is
25 amended by adding the following new language:

26 "17-92-316. Credential Required for Professional Pharmacy Services.

27 (a) The Arkansas State Board of Pharmacy shall issue a credential in
28 disease state management, or any other pharmacy service that necessitates a
29 credential, as defined by board of pharmacy regulations, if the candidate
30 meets the competencies, standards and objectives defined by the board's
31 regulations.

32 (b) A pharmacist who holds any credential issued under subsection (a)
33 shall renew the credential annually.

34 (c) The board shall promulgate regulations to:

35 (1) Identify areas of credentialing;

36 (2) Establish procedures for initial application and renewal;

1 (3) Define the minimum competencies and standards to be examined;
2 (4) Define the qualifications for credentialing; and
3 (5) Define required continuing education, competencies, standards
4 and other information necessary to implement this chapter."

5
6 SECTION 12. Arkansas Code 17-92-301(a) is amended to read as follow:

7 “(a) No person shall perform any of the acts constituting the practice
8 of pharmacy unless the person is a licensed pharmacist or a student or
9 graduate of a recognized college of pharmacy serving an internship under an
10 internship program established and regulated by the Arkansas State Board of
11 Pharmacy or a ~~qualified pharmacy employee~~ pharmacy technician performing the
12 limited functions permitted under this chapter and regulations promulgated
13 hereunder, or ~~qualified hospital personnel~~ a hospital pharmacy technician as
14 defined in § 17-92-602 performing the limited functions permitted under that
15 subchapter and regulations promulgated thereunder.”

16
17 SECTION 13. Arkansas Code 17-92-302(a) is amended to read as follows:

18 “(a) No person shall fill a prescription, compound medicines, or
19 otherwise perform the function of a licensed pharmacist unless the person is
20 an Arkansas licensed pharmacist, except students or graduates of a recognized
21 college of pharmacy serving internship as provided by law and regulated by the
22 Arkansas State Board of Pharmacy or a ~~qualified pharmacy employee~~ pharmacy
23 technician performing the limited functions permitted under this chapter and
24 regulations promulgated hereunder, or ~~qualified hospital personnel~~ a hospital
25 pharmacy technician as defined in § 17-92-602 performing the limited functions
26 permitted under that subchapter and regulations promulgated thereunder.”

27
28 SECTION 14. Arkansas Code 17-92-302(b) is amended to read as follows:

29 “(b) Any person who is not an Arkansas licensed pharmacist or a student
30 serving internship or a ~~qualified pharmacy employee~~ pharmacy technician
31 performing the limited functions permitted under this chapter and regulations
32 promulgated hereunder, or ~~qualified hospital personnel~~ a hospital pharmacy
33 technician as defined in § 17-92-602 performing the limited functions
34 permitted under that subchapter and regulations promulgated thereunder, who
35 shall fill a prescription, compound or dispense medicine, or otherwise perform
36 the functions of a pharmacist, shall be guilty of a misdemeanor punishable by

1 a fine of not less than fifty dollars (\$50.00) nor more than one hundred
2 dollars (\$100) for the first offense and not less than one hundred dollars
3 (\$100) or thirty (30) days' imprisonment, or both fine and imprisonment, for
4 each succeeding offense thereafter."

5
6 SECTION 15. Arkansas Code 17-92-602(5) is amended to read as follows:

7 "(5) '~~Qualified hospital personnel~~ Hospital pharmacy technicians' means
8 persons other than licensed pharmacists who perform duties in conjunction with
9 the overall hospital medication distribution system for inpatients; and"

10
11 SECTION 16. Arkansas Code 17-92-604(b)(2)(A) is amended to read as
12 follows:

13 "(A) The number of licensed pharmacists and other ~~qualified hospital~~
14 ~~personnel~~ hospital pharmacy technicians and the scope of duties to be
15 performed by the ~~qualified hospital personnel~~ hospital pharmacy technicians in
16 the inpatient medication distribution system, in keeping with the size and
17 scope of the services of the hospital and its hospital pharmacy and the
18 hospital pharmacy's safe, efficient, and economical operation; and"

19
20 SECTION 17. Arkansas Code 17-92-801 is amended to read as follows:

21 "17-92-801. Powers and duties of State Board of Pharmacy.

22 (a) The Arkansas State Board of Pharmacy shall provide that ~~qualified~~
23 ~~hospital personnel and pharmacy employees, as in §§~~ hospital pharmacy
24 technicians as in § 17-92-602(5) and pharmacy technicians as in § 17-92-
25 101(14)(C), and hereinafter referred to as ~~pharmacist's assistants~~ pharmacy
26 technicians, register with and/or be certified by the board.

27 (b) The Arkansas State Board of Pharmacy is hereby authorized to
28 provide reasonable qualifications for a person to be certified and/or
29 registered as a ~~pharmacist's assistant~~ pharmacy technician, including, without
30 limitation, the education, training, and testing that the board deems
31 necessary to preserve and protect the public health.

32 (c) [Repealed].

33 (d) The board may suspend or revoke registration of any person certified
34 and/or registered as a ~~pharmacist's assistant~~ pharmacy technician, but only
35 after an opportunity for a hearing before the board upon reasonable notice to
36 the person in writing.

1 (e) Grounds for suspension or revocation of registration and/or
2 certification as a ~~pharmacist's assistant~~ pharmacy technician are the
3 following:

4 (1) Violation of any law or regulation regarding the practice of
5 pharmacy;

6 (2) Violation of any law or regulation regarding legend drugs or
7 controlled substances; or

8 (3) Violation of any regulation adopted by the board regarding
9 ~~pharmacist's assistants~~ pharmacy technicians. "

10
11 SECTION 18. Arkansas Code 20-63-101 is repealed:

12 ~~20-63-101. Penalties - Disposition of fines.~~

13 ~~(a) Any person, firm, or corporation, or member of a firm, or officer,~~
14 ~~director, or employee of a corporation, who violates any provisions of this~~
15 ~~chapter shall, upon conviction, be punished by a fine not to exceed two~~
16 ~~hundred dollars (\$200) or shall be imprisoned in a county jail for a period of~~
17 ~~not more than sixty (60) days, or both.~~

18 ~~(b)(1) All costs collected from offenders convicted under this chapter~~
19 ~~and one-half (1/2) of all fines collected from the offenders shall be retained~~
20 ~~by the county in which the conviction takes place.~~

21 ~~(2) The remaining one-half (1/2) of the fines, less necessary~~
22 ~~prosecution costs, shall be remitted immediately upon payment thereof into his~~
23 ~~hands by the clerk of the county to the Arkansas State Board of Pharmacy, to~~
24 ~~be used by it in the enforcement of this chapter.~~

25
26 SECTION 19. Arkansas Code 20-63-102 is repealed:

27 ~~20-63-102. License for advertising, display, or sale required -~~
28 ~~Exceptions.~~

29 ~~No appliances, drugs, or medicinal preparations intended for or having~~
30 ~~special utility for the prevention of conception or venereal diseases shall be~~
31 ~~advertised, except in periodicals, the circulation of which is substantially~~
32 ~~limited to physicians and the drug trade, nor displayed, sold, or otherwise~~
33 ~~disposed of in the State of Arkansas without a license issued by the Arkansas~~
34 ~~State Board of Pharmacy, as provided in this chapter, authorizing the sale.~~
35 ~~This section shall not apply to physicians and medical practitioners regularly~~
36 ~~licensed to practice medicine or osteopathy in the State of Arkansas by the~~

1 ~~Arkansas State Medical Board.~~

2
3 SECTION 20. Arkansas Code 20-63-103 is repealed:

4 ~~20-63-103. Licenses - Wholesale and retail.~~

5 ~~(a) There shall be two (2) kinds of licenses issued under this chapter~~
6 ~~by the Arkansas State Board of Pharmacy:~~

7 ~~(1) Wholesale licenses; and~~

8 ~~(2) Retail licenses.~~

9 ~~(b)(1) Licenses shall be in writing, and one (1) license shall be~~
10 ~~obtained by the licensee for each store, loft, or salesroom from which sales~~
11 ~~are to be made.~~

12 ~~(2) The licenses shall not be publicly or conspicuously displayed~~
13 ~~but shall be exhibited at any time by the licensee or holder to any peace~~
14 ~~officer, health officer, or other authorized person who shall demand an~~
15 ~~inspection thereof.~~

16 ~~(c) Wholesale licenses shall be issued only to wholesale druggists,~~
17 ~~wholesale drug sundries jobbers, surgical supply houses, or to the~~
18 ~~manufacturers of such appliances, drugs, or medicinal preparations. Wholesale~~
19 ~~sales shall be authorized only to those holding wholesale licenses to sell~~
20 ~~under this chapter or to physicians and medical practitioners, as provided in~~
21 ~~§ 20-63-102.~~

22 ~~(d) Retail licenses shall be issued only to retail drugstores operated~~
23 ~~by or employing one (1) or more registered pharmacists. Retail sales~~
24 ~~thereunder shall be made only on the premises of a drugstore or pharmacy~~
25 ~~holding a retail license and by or under the supervision of a registered~~
26 ~~pharmacist.~~

27 ~~(e) No articles of the class specified in § 20-63-102 shall be sold,~~
28 ~~offered for sale, or given away through the medium of any vending machine or~~
29 ~~by any house-to-house or street solicitation.~~

30
31 SECTION 21. Arkansas Code 20-63-104 is repealed:

32 ~~20-63-104. Licenses - Issuance and fees.~~

33 ~~(a) All licenses shall be issued by the Arkansas State Board of~~
34 ~~Pharmacy on written application and payment of an annual license fee of~~
35 ~~twenty-five dollars (\$25.00) for each wholesale license and five dollars~~
36 ~~(\$5.00) for each retail license. Each licensee shall obtain as many licenses,~~

1 and pay the fee prescribed in this section for each license, required where
2 the sales are to be made from more than one (1) store or salesroom.

3 (b) The license shall be in effect for one (1) year from January 1 of
4 each year.

5 (c) All license fees, and the share of all fines paid to the board
6 pursuant to this section, shall be retained and used by the board in the
7 carrying out and enforcement of this chapter, except as provided in § 20-63-
8 101.

9
10 SECTION 22. Arkansas Code 20-63-105 is repealed:

11 ~~20-63-105. Licenses - Revocation and judicial review.~~

12 (a) The Arkansas State Board of Pharmacy shall have the power to revoke
13 any license for the violation of any of the provisions of this chapter by
14 notice in writing to the holder of the license stating specifically the
15 reasons for revocation. The board shall transmit a copy of the revocation to
16 the Attorney General. The Attorney General shall thereupon instruct the
17 sheriff of the county in which the licensee is doing business under the
18 license to seize the written license and to seize any vending machine,
19 advertising, or display matter which constitutes a violation of this chapter,
20 any appliances, drugs, and medicinal preparations embraced within the scope of
21 the goods described in § 20-63-102 found in the establishment of the licensee,
22 and to impound the items pending a reasonable opportunity for judicial review
23 according to the law by the affected party of the revocation and seizure in
24 question.

25 (b) The licensee may, within thirty (30) days from the date of the
26 service of the notice of revocation, appeal to the circuit court of the county
27 in which the licensee is doing business under the license for a review of the
28 action of the Arkansas State Board of Pharmacy in revoking the license and of
29 the action of the sheriff in making a seizure thereunder.

30 (1) The appeal shall be taken by filing in the court a copy of
31 the notice of revocation and a denial or statement in writing sworn to by the
32 licensee putting in issue such facts in connection with the revocation as the
33 licensee may desire to dispute or put in controversy.

34 (2) A copy of the sworn statement shall be served upon the
35 Arkansas State Board of Pharmacy by the licensee at the time of filing the
36 appeal.

1 ~~(3) The court may then proceed to hear and dispose of the matter~~
2 ~~in a summary manner upon such testimony and evidence as the licensee and the~~
3 ~~Arkansas State Board of Pharmacy, the Attorney General, or the prosecuting~~
4 ~~attorney of the county in question shall offer.~~

5 ~~(4) If the court finds that the action of the Arkansas State~~
6 ~~Board of Pharmacy in revoking the license or in making the seizure was without~~
7 ~~sufficient grounds, then it shall order the license to be reinstated and the~~
8 ~~property seized to be restored.~~

9 ~~(5) If it is found by the court that the licensee has been guilty~~
10 ~~of a violation of this chapter and that the revocation of license was~~
11 ~~justifiable, then the property seized shall be ordered by the court to be~~
12 ~~destroyed, and the sheriff shall carry out the order.~~

13
14 SECTION 23. Arkansas Code 20-63-106 is repealed:

15 ~~20-63-106. Label and compliance with standards required.~~

16 ~~(a) Goods of the class specified in § 20-63-102 shall be sold in this~~
17 ~~state only if they specifically identify the manufacturer of the goods by firm~~
18 ~~name and address on the appliance or on the container in which the goods are~~
19 ~~sold or are intended to be sold, whether sold wholesale or retail.~~

20 ~~(b) No such goods shall be sold in this state unless they comply with~~
21 ~~the standards as to such goods respecting grade and quality which may be~~
22 ~~prescribed by the Arkansas State Board of Pharmacy and approved by the State~~
23 ~~Board of Health.~~

24
25 SECTION 24. Arkansas Code 20-63-107 is repealed:

26 ~~20-63-107. Display and advertising of articles prohibited - Exception.~~

27 ~~(a) It shall be unlawful for any person, firm, corporation,~~
28 ~~copartnership, or association to display or expose for sale any of the~~
29 ~~articles described in § 20-63-102 or any containers or packages containing or~~
30 ~~advertising these articles.~~

31 ~~(b) It shall be unlawful to publicly advertise the sale or uses of the~~
32 ~~articles by means of placards, billboards, handbills, newspapers, periodicals,~~
33 ~~signs, or other printed matter or by radio. However, the prohibition of this~~
34 ~~section respecting advertising shall not apply to medical and drug~~
35 ~~publications, the circulation of which is confined substantially to physicians~~
36 ~~and the drug trade, or to literature enclosed in or around the original~~

1 ~~package.~~

2
3 SECTION 25. Arkansas Code 20-63-108 is repealed:

4 ~~20-63-108. Rules, regulations, and standards.~~

5 ~~(a) The Arkansas State Board of Pharmacy is authorized to adopt and~~
6 ~~promulgate from time to time and to have jurisdiction over the establishing of~~
7 ~~standards relating to and governing such articles and medicinal preparations~~
8 ~~as may be deemed necessary by the board in the interest of disease prevention~~
9 ~~and to adopt all necessary and reasonable rules and regulations to enforce and~~
10 ~~carry out the provisions of this chapter, in cooperation with the State Board~~
11 ~~of Health.~~

12 ~~(b) The Arkansas State Board of Pharmacy shall prepare, print, and~~
13 ~~distribute rules and regulations not inconsistent with law for the conduct of~~
14 ~~proceedings for the issuance, enforcement, and revocation of the licenses~~
15 ~~provided in this chapter.~~

16
17 SECTION 26. All provisions of this act of a general and permanent
18 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
19 Code Revision Commission shall incorporate the same in the Code.

20
21 SECTION 27. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

26
27 SECTION 28. All laws and parts of laws in conflict with this act are
28 hereby repealed.

29 */s/ P. Malone*

30
31
32 APPROVED: 2/17/1999