

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H3/12/97 S3/24/97

# A Bill

HOUSE BILL 1984

5 By: Representatives Malone, Purdom, Lavery, Judy Smith, Trammell, Wren, Hendren, Wallis, Wagner, Vess, Shoffner, Wilkinson,  
6 *Broadway, Roberts, Horn, Curran and Goodwin*  
7 By: Senator Ross  
8

## For An Act To Be Entitled

9  
10 "AN ACT TO AMEND ARKANSAS CODE 17-92-101 TO REDEFINE THE  
11 PRACTICE OF PHARMACY; AND FOR OTHER PURPOSES."

## Subtitle

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13  
14 "TO REDEFINE THE PRACTICE OF PHARMACY."  
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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18 SECTION 1. Arkansas Code 17-92-101(14) is amended to read as follows:

19 "(14)(A) Practice of pharmacy means the learned profession of: (i)  
20 Dispensing, selling, distributing, transferring possession of, vending, ~~or~~  
21 bartering, or in accordance with regulations adopted by the board,  
22 administering drugs, medicines, poisons, or chemicals which, under the laws of  
23 the United States or the State of Arkansas, may be sold or dispensed only on  
24 the prescription and order of a practitioner authorized by law to prescribe  
25 drugs, medicines, poisons, or chemicals. Except in accordance with  
26 regulations adopted by the board as recommended by the Medications  
27 Administration Advisory Committee, the administration of medications shall be  
28 limited to the following classifications of medications: immunizations,  
29 vaccines, allergy medications, vitamins, minerals, anti-hyper glycemics, and  
30 anti-nausea medications. The administration of medications shall not include  
31 the administration of medications to any person under the age of eighteen  
32 (18);

33 (ii) Placing, packing, pouring, or putting in a container for  
34 dispensing, sale, distribution, transfer possession of, vending, or bartering  
35 any drug, medicine, poison, or chemical which, under the laws of the United  
36 States or the State of Arkansas, may be sold or dispensed only on the

1 prescription of a practitioner authorized by law to prescribe drugs,  
2 medicines, poisons, or chemicals;

3 (iii) Placing in or affixing upon any container described in  
4 subdivision (14)(A)(ii) of this section a label required to be placed upon  
5 drugs, medicines, poisons, or chemicals sold or dispensed upon prescription of  
6 a practitioner authorized by law to prescribe those drugs, medicines, poisons,  
7 or chemicals;

8 (iv) Preparing, typing, or writing labels to be placed in or affixed on  
9 any container described in subdivision (14)(A)(ii) of this section, which  
10 label is required to be placed upon drugs, medicines, poisons, or chemicals  
11 sold or dispensed upon prescription of a practitioner authorized by law to  
12 prescribe those drugs, medicines, poisons, or chemicals;

13 (v) Interpreting prescriptions for drugs, medicines, poisons, or  
14 chemicals issued by practitioners authorized by law to prescribe drugs,  
15 medicines, poisons, or chemicals which may be sold or dispensed only on  
16 prescription;

17 (vi) Selecting, taking from, and replacing upon shelves in the  
18 prescription department of a pharmacy or apothecary drugs, medicines,  
19 chemicals, or poisons which are required by the law of the United States or  
20 the State of Arkansas to be sold or dispensed only on prescription of a  
21 practitioner authorized by law to prescribe them;

22 (vii) Compounding, mixing, preparing, or combining drugs, medicines,  
23 chemicals, or poisons which, under the laws of the United States or the State  
24 of Arkansas, may be sold or dispensed only on the prescription of a  
25 practitioner authorized by law to prescribe them;

26 (viii) Advising and providing information concerning utilization of  
27 drugs and devices and participation in drug utilization reviews; ~~and~~

28 ~~—— (ix) Providing pharmacokinetic services.~~

29 (ix) Performing a specific act of drug therapy management delegated to a  
30 pharmacist for an individual patient based upon a written protocol from a  
31 physician licensed in this state under the Arkansas Medical Practices Act,  
32 A.C.A. §§ 17-95-201, et seq. Drug therapy management shall not include the  
33 selection of drug products not prescribed by the physician, unless the drug  
34 product is named in the physician initiated protocol; and

35 (x) Providing pharmacy care.

36 (B) The provisions of subdivisions (14)(A) and (C) of this section

1 shall not apply to employees of wholesale drug companies or other drug  
2 distributors who do not fill prescriptions or sell or dispense drugs to the  
3 consumer.

4 (C)(i) The board may permit qualified pharmacy employees other than  
5 pharmacists or interns to perform some or all of those functions described in  
6 ~~subdivisions (14)(A)(ii), (iii), (iv), or (vi) of this section~~ board  
7 regulations under the direct, personal supervision of a licensed pharmacist  
8 pursuant to regulations defining the minimum qualifications of such employees,  
9 the ratio of qualified pharmacy employees to supervising pharmacists and the  
10 scope of the duties, practices, and procedures which the board determines will  
11 promote the delivery of competent, professional pharmaceutical services and  
12 promote the public health and welfare. Nothing in this chapter shall be  
13 construed as allowing qualified pharmacy employees to administer medications.

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

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

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

24 (v) It is recognized that qualified hospital personnel as defined in §  
25 17-92-602(5) are governed by the Hospital Pharmacies Act, § 17-92-601 et seq.,  
26 and related board regulations developed pursuant to that subchapter."  
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28 SECTION 2. Arkansas Code 17-92-101, which defines terms for use in the  
29 chapter pertaining to pharmacists, is amended by adding the following new  
30 definitions:

31 "(15) Pharmacy care means the process by which a pharmacist in  
32 consultation with the prescribing practitioner identifies, resolves, and  
33 prevents potential and actual drug-related problems and optimizes patient  
34 therapy outcomes through the responsible provision of drug therapy for the  
35 purpose of achieving any of the following definite outcomes that improve a  
36 patient's quality of life:

- 1        (A) cure of disease;
- 2        (B) elimination or reduction of a patient's symptomology;
- 3        (C) arresting or slowing a disease process; or
- 4        (D) preventing a disease or symptomology.

5        (16) Written protocol means a physicians order, standing medical  
 6 order, standing delegation order, or other order or protocol as defined by  
 7 regulation of the Arkansas State Medical Board under the Arkansas Medical  
 8 Practices Act, A.C.A. §§ 17-95-201, et seq. All protocols shall be  
 9 patient/physician/pharmacist specific for prescriptions or orders given by the  
 10 physician authorizing the protocol."

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12        SECTION 3. Arkansas Code Annotated 17-92-205 is amended to read as  
 13 follows:

14        17-92-205. Rules and regulations - Enforcement.

15        (a) The Arkansas State Board of Pharmacy shall have authority to make  
 16 reasonable rules and regulations, not inconsistent with law, to carry out the  
 17 purposes and intentions of this chapter and the pharmacy laws of this state  
 18 which the board deems necessary to preserve and protect the public health. The  
 19 board shall, by regulation, establish standards for the administration of  
 20 medications by licensed pharmacists, including, but not limited to, the  
 21 completion of a course in the administration of medications.

22        (b) It shall be the duty of the Board of Pharmacy, through officials  
 23 appointed by it or under its supervision for that purpose, to enforce all the  
 24 provisions of this chapter.

25        (c) The boards inspectors shall have the power and authority to  
 26 inspect any store or business establishment where drugs, medicines, chemicals,  
 27 pharmaceuticals, or poisons regulated by the board are manufactured, sold, or  
 28 dispensed.

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30        SECTION 4. Subchapter 2 of Chapter 92 of Title 17 is amended by adding  
 31 the following new section:

32        17-92-209. Medications Administration Advisory Committee.

33        (a)(1) The Medications Administration Advisory Committee is created as  
 34 an advisory committee to the board.

35        (2) The advisory committee shall assist the board in implementing  
 36 the provisions of this chapter regarding medications administration and shall

1 recommend additional classifications of medications which may be administered  
2 by licensed pharmacists. The board shall, by regulation, review and approve  
3 the recommendations of the advisory committee.

4 (b) The board shall appoint five (5) members, to be approved by the  
5 Governor, who have the following qualifications:

6 (1) Two (2) members shall be licensed physicians selected from a  
7 list of three (3) names per position submitted jointly by the State Medical  
8 Board and the Arkansas Medical Society;

9 (2) Two (2) members shall be licensed pharmacists; and

10 (3) One (1) member shall be an advanced practice nurse holding a  
11 certificate of prescriptive authority selected from a list of three (3) names  
12 submitted jointly by the State Nursing Board and the Arkansas Nursing  
13 Association.

14 (c) Members shall serve three-year terms.

15 (d) The board may remove any advisory committee member, after notice  
16 and hearing, for incapacity, incompetence, neglect of duty, or malfeasance in  
17 office.

18 (e) The members shall serve without compensation, but may be reimbursed  
19 to the extent special moneys are appropriated therefor for actual and  
20 necessary expenses incurred in the performance of their duties.

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22 SECTION 5. Nothing in this act shall be construed to authorize or  
23 permit any licensed or registered pharmacist to examine, diagnose, treat or  
24 manage diseases or conditions of the human eye, lid, adnexa or visual system  
25 or to adapt, fill duplicate, modify, prescribe or sell contact lenses or  
26 prescription eyeglasses.

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28 SECTION 6. All provisions of this act of a general and permanent nature  
29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
30 Revision Commission shall incorporate the same in the Code.

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32 SECTION 7. If any provision of this act or the application thereof to  
33 any person or circumstance is held invalid, such invalidity shall not affect  
34 other provisions or applications of the act which can be given effect without  
35 the invalid provision or application, and to this end the provisions of this  
36 act are declared to be severable.

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SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/Rep. Malone, et al*