

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas  
83rd General Assembly  
Regular Session, 2001

As Engrossed: S2/26/01

## A Bill

SENATE BILL 352

By: Senator P. Malone

### For An Act To Be Entitled

*AN ACT TO AMEND VARIOUS SECTIONS OF THE PHARMACY ACT, ARKANSAS CODE 17-92-101 THROUGH 17-92-909; TO ALLOW ISSUANCE OF PHARMACIST CREDENTIALS BY AGENCIES APPROVED BY THE ARKANSAS STATE BOARD OF PHARMACY; TO AUTHORIZE THE BOARD OF PHARMACY TO ISSUE DIFFERENT PRACTICE PERMITS TO CERTAIN DISTINCT TYPES OF PHARMACY BUSINESSES; AND FOR OTHER PURPOSES.*

### Subtitle

AN ACT TO AMEND VARIOUS SECTIONS OF THE PHARMACY ACT, ARKANSAS CODE 17-92-101 THROUGH 17-92-909.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code 17-92-101 is amended to read as follows:  
17-92-101. Definitions.*

*As used in this chapter, unless the context otherwise requires:*

*(1) "Board of Pharmacy" means the Arkansas State Board of Pharmacy;*

*(2) "Credentialing" means the issuance of or approval by the Arkansas State Board of Pharmacy of a credential, issued to a pharmacist by an agency approved by the board, certifying that the pharmacist has met the standards of competency established by the board for disease state management or other pharmacy services necessitating a credential;*

*(3) "Dentist" means a practitioner of dentistry duly licensed under the laws of this or some other state;*

1           (4)(A) "Disease state management" means a strategy which utilizes  
2 a team-oriented, multidisciplinary approach to improve health care outcomes  
3 and quality of care, and when possible, to control health care cost through  
4 management of targeted chronic disease states.

5           (B) Disease state management focuses on improving health  
6 care from prevention to diagnosis and treatment to on-going follow-up.

7           (C) Disease state management will involve, but not be  
8 limited to, patient education and self-care techniques and out-patient drug  
9 therapy management pursuant to a patient care plan;

10          (5) "Drug" shall include all medicines and preparations  
11 recognized in the United States Pharmacopoeia or the National Formulary for  
12 substances intended to be used for the care, mitigation, or prevention of  
13 disease of either man or other animal;

14          (6) "Generically equivalent" means a drug that is  
15 pharmaceutically equivalent and therapeutically equivalent to the drug  
16 prescribed;

17          ~~(6)~~(7) "Licensed pharmacist" means a person holding a license  
18 under the provisions of this chapter;

19          ~~(7)~~(8) "Medicine" means a drug or preparation of drugs in  
20 suitable form for use as a curative or remedial substance;

21          ~~(8)~~(9) "Optometrist" means a practitioner of optometry duly  
22 licensed under the laws of this state;

23          ~~(9)~~(10) "Patient care plan" means a written course of action  
24 which is patient or physician or pharmacist specific and disease specific for  
25 helping a patient to achieve outcomes that improve a patient's quality of  
26 life;

27          ~~(10)~~(11) "Pharmacy" means the place licensed by the board in  
28 which drugs, chemicals, medicines, prescriptions, and poisons are compounded,  
29 dispensed, or sold at retail;

30          ~~(11)~~(12) "Pharmacy care" means the process by which a pharmacist  
31 in consultation with the prescribing practitioner identifies, resolves, and  
32 prevents potential and actual drug-related problems and optimizes patient  
33 therapy outcomes through the responsible provision of drug therapy or disease  
34 state management for the purpose of achieving any of the following definite  
35 outcomes that improve a patient's quality of life:

36           (A) Cure of disease;

(B) Elimination or reduction of a patient's symptomology;

(C) Arresting or slowing a disease process; or

(D) Preventing a disease or symptomology;

(13) "Pharmaceutically equivalent" means drug products that have identical amounts of the same active chemical ingredients in the same dosage form and that meet the identical compendial or other applicable standards of strength quality, and purity according to the United States Pharmacopoeia or another nationally recognized compendium;

~~(12)~~(14) "Physician" means a practitioner of medicine duly licensed under the laws of this or some other state;

~~(13)~~(15) "Poisons" means any drug, chemical, medicine, or preparation liable to be destructive to adult human life in quantities of sixty (60) grains or less;

~~(14)~~(16) (A) "Practice of pharmacy" means the learned profession of:

(i) Dispensing, selling, distributing, transferring possession of, vending, bartering, or in accordance with regulations adopted by the board, administering drugs, medicines, poisons, or chemicals which, under the laws of the United States or the State of Arkansas, may be sold or dispensed only on the prescription and order of a practitioner authorized by law to prescribe drugs, medicines, poisons, or chemicals. Except in accordance with regulations adopted by the board as recommended by the Medications Administration Advisory Committee, the administration of medications shall be limited to the following classifications of medications: immunizations, vaccines, allergy medications, vitamins, minerals, antihyperglycemics, and anti-nausea medications. The administration of medications shall not include the administration of medications to any person under the age of eighteen (18);

(ii) Placing, packing, pouring, or putting in a container for dispensing, sale, distribution, transfer possession of, vending, or bartering any drug, medicine, poison, or chemical which, under the laws of the United States or the State of Arkansas, may be sold or dispensed only on the prescription of a practitioner authorized by law to prescribe drugs, medicines, poisons, or chemicals;

(iii) Placing in or affixing upon any container described in subdivision (14)(A)(ii) of this section a label required to be

1 placed upon drugs, medicines, poisons, or chemicals sold or dispensed upon  
2 prescription of a practitioner authorized by law to prescribe those drugs,  
3 medicines, poisons, or chemicals;

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

9 (v) Interpreting prescriptions for drugs, medicines,  
10 poisons, or chemicals issued by practitioners authorized by law to prescribe  
11 drugs, medicines, poisons, or chemicals which may be sold or dispensed only on  
12 prescription;

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

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

22 (viii) Advising and providing information concerning  
23 utilization of drugs and devices and participation in drug utilization  
24 reviews;

25 (ix)(a) Performing a specific act of drug therapy  
26 management or disease state management delegated to a pharmacist for an  
27 individual patient based upon a written protocol or a patient care plan  
28 approved by the patient's physician, who shall be licensed in this state under  
29 the Arkansas Medical Practices Act, § 17-95-201 et seq.

30 (b) Drug therapy management shall not include  
31 the selection of drug products not prescribed by the physician, unless the  
32 drug products are either named in the physician-initiated protocol or the  
33 physician-approved patient care plan;

34 (x) Providing pharmacy care; and

35 (xi) Providing pharmacokinetic services.

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

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

13 (ii) The conduct of a pharmacy technician is the  
14 responsibility of the pharmacist-in-charge and supervising pharmacist of the  
15 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 (iii) Pharmacy products prepared by pharmacy  
18 technicians shall be verified for accuracy by the supervising pharmacist prior  
19 to release for patient use, and the verification shall be documented.

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

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

28 ~~(15)~~(17) "Prescription" means an order for medicine or medicines  
29 usually written as a formula by a physician, optometrist, dentist,  
30 veterinarian, or other licensed medicinal practitioner. It contains the names  
31 and quantities of the desired substance, with instructions to the pharmacist  
32 for its preparation and to the patient for the use of the medicine at a  
33 particular time;

34 ~~(16)~~(18) "Proprietary medicines", when not otherwise limited,  
35 means remedies that a certain individual or individuals have the exclusive  
36 right to manufacture or sell;

~~(17)~~(19) "Supervision" means under the direct charge or direction and does not contemplate any continued absence of such supervision;

(20) "Therapeutically equivalent" means pharmaceutically equivalent drug products that, if administered in the same amounts, will provide the same therapeutic effect, identical in duration and intensity;

~~(18)~~(21) "Veterinarian" means a practitioner of veterinary medicine duly licensed under the laws of this or some other state; and

~~(19)~~(22) (A) "Written protocol" means a physician's order, standing medical order, standing delegation order, or other order or protocol as defined by regulation of the Arkansas State Medical Board under the Arkansas Medical Practices Act, § 17-95-201 et seq.

(B) Except for immunizations and vaccinations, which may be general protocols, protocols shall be patient or physician or pharmacist specific for prescriptions or orders given by the physician authorizing the protocol.

SECTION 2. Arkansas Code 17-92-108 is amended to read as follows:

17-92-108. Fees.

(a) The fees charged by the Arkansas State Board of Pharmacy for the various examinations, permits, licenses, certificates, credentials, and books issued by the board shall be as follows:

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

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

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

(B) The fee for the renewal of a license as a licensed pharmacist shall not exceed seventy-five dollars (\$75.00) per year;

(4)(A)(i) The fee for issuance of a pharmacy permit for the first time to operate an in-state pharmacy ~~or drugstore~~ shall not exceed three hundred dollars (\$300).

(ii) The fee for ~~annual~~ renewal of a permit to operate an in-state pharmacy ~~or drugstore~~ shall not exceed one hundred fifty

dollars (\$150) per year.

(iii) When there is a change in ownership in an in-state pharmacy ~~or drug store~~, a new permit must be obtained, and the fee shall not exceed one hundred fifty dollars (\$150).

(B)(i) The fee for issuance of a permit for the first time to operate a specialty pharmacy shall not exceed three hundred dollars (\$300).

(ii) The fee for renewal of a permit to operate a specialty pharmacy shall not exceed one hundred fifty dollars (\$150) per year.

(iii) When there is a change in ownership in a specialty pharmacy, a new permit must be obtained and the fee shall not exceed one hundred fifty dollars (\$150);

~~(B)(C)~~(i) The fee for issuance of a permit for the first time to operate an out-of-state pharmacy ~~or drug store~~ shall not exceed three hundred dollars (\$300).

(ii) The fee for ~~annual~~ renewal of a permit to operate an out-of-state pharmacy ~~or drug store~~ shall not exceed one hundred fifty dollars (\$150) per year.

(iii) When there is a change in ownership in an out-of-state pharmacy ~~or drug store~~, a new permit must be obtained, and the fee shall not exceed one hundred fifty dollars (\$150);

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

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

(7)(A) The fee for issuance of a hospital pharmaceutical service permit shall not exceed three hundred dollars (\$300), and the fee for the ~~annual~~ renewal of a hospital pharmaceutical service permit shall not exceed one hundred fifty dollars (\$150) per year.

(B) When there is a change in ownership of a hospital pharmacy, a new permit must be obtained and the fee shall not exceed one hundred fifty dollars (\$150);

(C)(i) The fee for issuance of an ambulatory care center pharmaceutical service permit shall not exceed three hundred dollars (\$300), and the fee for the renewal of an ambulatory care center pharmaceutical service permit shall not exceed one hundred fifty dollars (\$150) per year.

(ii) When there is a change in ownership of an ambulatory care center pharmacy, a new permit must be obtained and the fee shall not exceed one hundred fifty dollars (\$150);

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

(B) The fee for the annual renewal of an institutional pharmaceutical services permit shall not exceed thirty-five dollars (\$35.00);

(9)(A) ~~The fee for issuance of, the annual renewal of,~~ and the reinstatement of a nursing home ~~pharmacy~~ consultant pharmacist permit shall not exceed thirty-five dollars (\$35.00).

(B) The fee for the renewal of a nursing home consultant pharmacist permit shall not exceed thirty-five dollars (\$35.00) per year;

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

(11) The fee for a change of pharmacist in charge of a pharmacy or other facility as described at § 17-92-403 shall not exceed thirty-five dollars (\$35.00);

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

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

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

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

(16)(A) The fee for issuance of a wholesale distributor of legend drugs and controlled substances permit shall not exceed three hundred dollars (\$300), and the ~~annual~~ renewal fee shall not exceed one hundred fifty dollars



1 (\$150) per year.

2 (B) When there is a change in ownership of a wholesale  
3 distributor of legend drugs and controlled substances, a new permit must be  
4 obtained, and the fee shall not exceed one hundred fifty dollars (\$150);

5 (17)(A) The fee for the original issuance or annual renewal of a  
6 pharmacy technician certified or registered under this chapter, or both,  
7 technician's permit shall not exceed thirty-five dollars (\$35).

8 (B) The fee for the renewal of a pharmacy technician's  
9 permit shall not exceed thirty-five dollars (\$35) per year;

10 (18) The reinstatement fee for a pharmacy ~~technician certified or~~  
11 ~~registered under this chapter, or both, shall be not less than thirty five~~  
12 ~~dollars (\$35) and shall not exceed one hundred forty dollars (\$140);~~  
13 technician's permit shall not exceed forty dollars (\$40); and

14 (19)(A) The application fee for a license to sell, rent, offer to  
15 sell, or rent directly to patients in this state any home medical equipment,  
16 legend drugs, or medical gases shall not exceed two hundred fifty dollars  
17 (\$250).

18 (B) The ~~annual~~ license renewal fee ~~or change of ownership~~  
19 fee shall not exceed one hundred twenty-five dollars (\$125); and

20 (C) The change of ownership fee shall not exceed one  
21 hundred twenty-five dollars (\$125); ~~and~~

22 ~~(20) The fee for issuance or renewal of a credential to provide~~  
23 ~~disease state management or any other pharmacy service requiring a credential~~  
24 ~~from the board shall not exceed fifty dollars (\$50) plus the actual cost of~~  
25 ~~the examination.~~

26 (b) All fees for examination for a license shall be payable with the  
27 application and shall not be subject to refund.

28 (c) Should any license, certificate, or registration not be renewed  
29 within ninety (90) days after expiration thereof, same may be reinstated by  
30 the board as authorized in this section upon payment of the renewal fee and  
31 reinstatement fee; provided, however, (1) pharmacy permits, (2) out-of-state  
32 pharmacy permits, (3) specialty pharmacy permits, (4) hospital permits, (5)  
33 ambulatory care center pharmacy permits, (6) wholesale distributors of  
34 legend drugs and/or controlled substance permits, and (7) suppliers of  
35 medical equipment, legend devices, and/or medical gas licenses are not subject  
36 to reinstatement if not renewed within ninety (90) days after expiration.

1       (d)(1) All retail pharmacy permits, out of state pharmacy permits,  
2 specialty pharmacy permits, and pharmacist licenses shall be renewed every two  
3 (2) years beginning with renewals for 2002-2003.

4       (2) All pharmacy technician permits, hospital pharmacy permits,  
5 ambulatory care center pharmaceutical services permits, wholesale distributors  
6 of legend or controlled substance permits, wholesale distributors of medical  
7 equipment, legend devices, and medical gases permits, institutional  
8 pharmaceutical services permits, nursing home consultant pharmacist permits,  
9 and any other permit, license, registration, or certificate issued by the  
10 board and not covered in (d)(1) other than internship licenses and preceptor  
11 permits will be renewed for one (1) year for the 2002 renewal and then shall  
12 be renewed every two (2) years beginning with renewals for 2003-2004.

13       (3) The fee for any biennial renewal term will be the amount of  
14 two (2) annual renewal fees for the applicable license, permit, registration,  
15 or certification as provided in subsection (a) of this section.

16       (4) If the initial licensure, permit, certificate, or  
17 registration occurs in the first year of a biennial renewal term, the  
18 applicant shall pay the appropriate initial fee and the applicable annual fee  
19 for the license, permit, certificate, or registration for the second year in  
20 the renewal term, as provided in subsection (a) of this section.

21       (5) If the initial licensure, permit, certificate, or  
22 registration occurs in the second year of a biennial renewal term, the  
23 applicant will only pay the original fee and will not be responsible for the  
24 renewal fee until the biennial renewal period for the license, permit,  
25 certificate, or registration.

26  
27       SECTION 3. Arkansas Code 17-92-402(a), (b) and (c), requiring the  
28 presence of a licensed pharmacist in pharmacies, are amended to read as  
29 follows:

30       (a) It shall be unlawful for any person not a licensed pharmacist  
31 within the meaning of this act to conduct any ~~drugstore,~~ pharmacy or other  
32 facility subject to this subchapter, ~~or apothecary shop or store~~ for the  
33 purpose of retailing, compounding, ~~or~~ dispensing medicines, or otherwise  
34 performing the practice of pharmacy as defined in § 17-92-101 in the State of  
35 Arkansas except as provided.

36       (b) It shall be unlawful for the proprietor of a store or pharmacy or

1 other facility subject to this chapter to allow any person other than a  
2 licensed pharmacist to compound or dispense the prescriptions of ~~physicians~~  
3 authorized practitioners except as an aid to and under the supervision of a  
4 licensed pharmacist as provided in this chapter.

5 (c) However, any person who is not a licensed pharmacist may own or  
6 conduct a ~~store~~ pharmacy or other facility as identified in § 17-92-403 if ~~he~~  
7 the owner keeps constantly in the ~~store~~ pharmacy or other facility a licensed  
8 pharmacist subject to § 17-92-607.

9  
10 SECTION 4. Arkansas Code 17-92-403 is amended to read as follows:

11 17-92-403. Licensed pharmacist required - Exceptions.

12 (a) No person shall operate a ~~drugstore or~~ pharmacy or other facility  
13 dispensing prescriptions as identified in this section or be issued a ~~licensed~~  
14 pharmacy permit or other permit issued by the Arkansas State Board of Pharmacy  
15 to facilities dispensing prescriptions unless an Arkansas licensed pharmacist  
16 in charge is on duty in the drugstore or pharmacy a minimum of forty (40)  
17 hours per week or as otherwise provided in this chapter or by board  
18 regulation.

19 (b) In the absence of ~~the~~ a licensed pharmacist, no one shall fill a  
20 prescription except a student serving ~~internship~~ as a graduate intern.

21 (c) If the owner of any ~~drugstore or~~ pharmacy or other facility  
22 dispensing prescriptions as identified in this section fails to have on duty a  
23 licensed pharmacist in charge forty (40) hours per week, or as otherwise  
24 provided in this chapter, due to illness, death, resignation, or for any other  
25 reason, he shall within three (3) days notify the Board of Pharmacy of the  
26 fact and must within thirty (30) days, or such additional time at the  
27 discretion of the board ~~not to exceed thirty (30) days~~, either secure the  
28 services of a licensed pharmacist in charge or remove all prescription legend  
29 drugs and drug signs from the ~~store~~ pharmacy or facility as identified in this  
30 section and cease to operate as a ~~drugstore~~ pharmacy or facility as identified  
31 in this section.

32 (d)(i) The Board of Pharmacy shall provide by regulation for the  
33 issuance of permits for specialty pharmacies to which § 17-92-607 shall apply.

34 (ii) The owners of specialty pharmacies shall have on  
35 duty a licensed pharmacist in charge whose minimum number of hours on duty  
36 shall be determined by board regulations regarding the nature of the pharmacy

1 service provided.

2 (iii) Specialty pharmacies dispensing prescriptions  
3 to in-house patients that are cared for on a twenty-four (24) hour per day  
4 basis must have a pharmacist on duty no less than forty (40) hours per week.

5 (iv) The owners of specialty pharmacies shall abide  
6 by all provisions established for the employment of pharmacists in this  
7 chapter and board regulations.

8 (v) If the owner of any specialty pharmacy fails to  
9 have on duty a licensed pharmacist in charge, as provided in subdivision  
10 (d)(ii) or (iii) of this section, due to illness, death, resignation, or for  
11 any other reason, the owner shall within three (3) days notify the board of  
12 the fact and shall within thirty (30) days, or such additional time as the  
13 board in it's the discretion may allow, either secure the services of a  
14 licensed pharmacist in charge or remove all prescription legend drugs and drug  
15 signs from the pharmacy and cease to operate the pharmacy.

16 ~~(d)~~(e) The Arkansas State Board of Pharmacy may provide by regulation  
17 for the issuance of hospital pharmaceutical permits to pharmacists employed in  
18 hospitals under which ~~a~~ the pharmacist in charge employed in a hospital may  
19 have a flexible schedule of attendance and to which the requirement of a  
20 licensed pharmacist in charge on duty for a minimum of forty (40) hours a week  
21 shall not apply.

22 (f) The Arkansas State Board of Pharmacy shall provide for the issuance  
23 of ambulatory care center pharmaceutical services permits to entities so  
24 licensed by the State Health Department and which shall employ a licensed  
25 pharmacist in charge as provided by board regulation.

26 ~~(e)~~(g) The Arkansas State Board of Pharmacy ~~may~~ shall provide by  
27 regulation for the issuance of institutional pharmacy permits to ~~nursing~~  
28 ~~homes, industrial plants, and~~ governmentally funded institutions which provide  
29 inpatient pharmaceutical services to persons confined to such institution or  
30 in which drugs are administered to inpatients on orders of practitioners  
31 authorized by law to prescribe or administer the drugs and to which the  
32 requirement ~~of a~~ that the licensed pharmacist in charge on duty for a minimum  
33 of forty (40) hours a week shall not apply.

34 ~~(f)~~(h) The Arkansas State Board of Pharmacy may provide by regulation  
35 for the issuance of charitable clinic pharmacy permits to clinics operated on  
36 a nonprofit basis to furnish medical and dental care to poor and

1 underprivileged persons and in which drugs are dispensed or administered to  
2 such persons on orders or prescriptions of practitioners authorized by law to  
3 prescribe or administer the drugs and to which the requirement of a licensed  
4 pharmacist in charge on duty for a minimum of forty (40) hours a week shall  
5 not apply.

6  
7 SECTION 5. Arkansas Code 17-92-404 is amended to read as follows:

8 17-92-404. Pharmacy permit required.

9 (a) No person shall conduct any ~~drugstore,~~ pharmacy or other facility  
10 as identified in § 17-92-403, ~~or apothecary shop~~ in which ~~physicians'~~  
11 practitioners' prescriptions are compounded and drugs are retailed ~~and or~~  
12 dispensed and in which a licensed pharmacist in charge must be employed unless  
13 the ~~drugstore,~~ pharmacy or other facility as identified in § 17-92-403, ~~or~~  
14 ~~apothecary shop is licensed and a~~ has obtained a permit therefor ~~has been~~  
15 issued by the Board of Pharmacy.

16 (b)(1) Keeping a ~~store~~ pharmacy or other facility as identified in §  
17 17-92-403 where drugs and medicines or chemicals are dispensed or sold or  
18 displayed for sale at retail or where prescriptions are compounded or which  
19 has on it a sign using the words "pharmacist," "pharmaceutical chemist,"  
20 "apothecary," "pharmacy," "druggist," "drug store," "drugs," or their  
21 equivalent in any language, or advertising such store or shop as a drugstore,  
22 apothecary shop, or pharmacy by any method or means shall be prima facie  
23 evidence of the sale and dispensing of drugs.

24 (2) Unless the place so conducted ~~is a licensed pharmacy~~ holds a  
25 permit issued by the board, it shall be unlawful for any person, firm, or  
26 corporation:

27 (A) To carry on, conduct, or transact a retail business  
28 under any name which contains as a part thereof the words "drugs,"  
29 "drugstore," "pharmacy," "medicine," "apothecary," or "chemist shop," or any  
30 abbreviation, translation, extension, or variation thereof; or

31 (B) In the operation of any ~~store~~ pharmacy or other  
32 facility as identified in § 17-92-403, in any manner by advertisement,  
33 circular, poster, telephone directory listing, sign, or otherwise, to describe  
34 or refer to the place of business conducted by such person, firm, or  
35 corporation by such term, abbreviation, translation, extension, or variation.

36 (3) Any person, firm, or corporation violating this subsection

shall be guilty of a misdemeanor, and, if a corporation, any officer thereof who participates in such violation also shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300).

(c) The control of the dispensing of medicines being essential to the protection of the public health and general welfare of the people, any violation of subsection (b) of this section may be enjoined by action in any court of competent jurisdiction at the instance of the Board of Pharmacy or of the owner of any licensed pharmacy. Proceedings under this subsection shall be governed by rules applicable to courts of chancery.

SECTION 6. Arkansas Code 17-92-405 is amended to read as follows:

17-92-405. Pharmacy permit - Application.

(a)(1) Upon application, the board shall issue a permit to maintain ~~any drugstore,~~ a pharmacy or other facility, ~~or apothecary shop~~ as described in §17-92-403 or § 17-92-404 for the sale at retail or otherwise dispensing of drugs and medicines to such persons, firms, or corporations as ~~they~~ the board may deem to be qualified to conduct such a ~~drugstore,~~ pharmacy or other facility, ~~or apothecary shop.~~

(2)(A) The permit, to be known as a "~~licensed~~ pharmacy permit", "specialty permit", "hospital pharmaceutical services permit", or "ambulatory care center pharmacy permit", is for the compounding of ~~physicians'~~ practitioners' prescriptions and for the manufacture, sale, and distribution of drugs, medicines, and poisons.

(B) The ~~place~~ pharmacy, specialty pharmacy, hospital pharmacy, or ambulatory care center pharmacy is to be under the direct supervision of a licensed pharmacist.

(3) ~~The permit~~ All permits shall expire on ~~January 1 following the date of issuance~~ December 31.

(b) Application for a permit shall be made in such a manner and in such form as the Board of Pharmacy may determine.

(c) The permits shall at all times be ~~exposed~~ displayed in a conspicuous place in the ~~store~~ pharmacy or other facility as identified in § 17-92-403 for which the permit is issued.

SECTION 7. Arkansas Code 17-92-406 is repealed:

1       ~~17-92-406. Temporary certificate.~~  
2       ~~In the interim of the sessions of the board and upon satisfactory~~  
3 ~~evidence of the fitness of the applicant, any member of the board, in his~~  
4 ~~discretion, may issue a temporary certificate, which shall authorize and~~  
5 ~~empower the holder to conduct a drugstore or pharmacy, as set forth in § 17-~~  
6 ~~92-402. The temporary certificate shall terminate and expire at the date of~~  
7 ~~the next succeeding regular meeting of the board after the granting of the~~  
8 ~~certificate.~~

9  
10       SECTION 8. Arkansas Code is amended to read as follows:

11       17-92-407. Revocation - Grounds.

12       (a) The Arkansas State Board of Pharmacy may revoke ~~the licensed~~  
13 ~~pharmacy~~ any permit issued under this subchapter ~~of any drugstore in which the~~  
14 ~~owner~~ in the event the holder thereof allows any person, other than an  
15 Arkansas licensed pharmacist or those students or graduates of a college of  
16 pharmacy serving an internship, to fill prescriptions, compound and dispense  
17 drugs or medicines, or otherwise perform the duties and functions of a  
18 licensed pharmacist.

19       (b) Whenever any person, firm, partnership, estate, or corporation  
20 holding ~~a licensed pharmacy~~ any permit issued under this subchapter obtains a  
21 permit by false representations or knowingly violates any of the pharmacy laws  
22 or fails to comply with the rules and regulations of the Board of Pharmacy  
23 passed by authority of the pharmacy laws, the board shall revoke the holder's  
24 ~~licensed~~ pharmacy permit.

25       (c) The board shall also revoke ~~a license~~ any permit issued under this  
26 subchapter when information in possession of the board shall disclose that  
27 such operations for which the permit was issued are not being conducted  
28 according to law or are being conducted as to endanger the public health or  
29 safety.

30  
31       SECTION 9. Arkansas Code 17-92-408 is amended to read as follows:

32       17-92-408. Revocation - Procedure.

33       The Board of Pharmacy shall follow the same procedure in revoking  
34 ~~licensed pharmacy~~ any permits issued under this subchapter as provided for  
35 revoking certificates of licensure as set out in § 17-92-313.

SECTION 10. Arkansas Code 17-92-409 is amended to read as follows:

17-92-409. Pharmacy library required.

There shall be kept in every pharmacy or other facility as identified in § 17-92-403 a library consisting of books, ~~and~~ periodicals, and computer software as required by board regulations.

SECTION 11. Arkansas Code Title 17, Chapter 92, Subchapter 4 is amended by adding the following additional subsection:

17-92-410. (a) The Arkansas State Board of Pharmacy shall provide by regulation for the issuance of nursing home consultant permits that will be issued to each nursing home, long-term care facility, and for its consultant pharmacist in charge for that facility.

(b) The board shall set by regulation the standards by which the controlled and legend drugs and devices will be maintained in the nursing home or long-term care facility.

(c)(1) The consultant pharmacist in charge shall, in conjunction with the nursing home administrator and director of nurses, ensure the proper control and accountability, storage, and proper utilization of drugs and other legend devices dispensed to patients residing in the facility according to board standards as well as those established by state and federal guidelines.

(2) The consultant pharmacist in charge, in conjunction with the nursing home administrator, shall be responsible for the timely renewal of the nursing home pharmacy consultant permit.

*/s/ P. Malone*