

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

*As Engrossed: S2/9/11*

## A Bill

SENATE BILL 130

5 By: Senator P. Malone  
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### For An Act To Be Entitled

8 AN ACT TO CLARIFY THE AUTHORITY OF PHARMACISTS TO  
9 PROVIDE VACCINES AND IMMUNIZATIONS AND TO ADMINISTER  
10 CERTAIN MEDICATIONS; AND FOR OTHER PURPOSES.  
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### Subtitle

12  
13 AN ACT TO CLARIFY THE AUTHORITY OF  
14 PHARMACISTS TO PROVIDE VACCINES AND  
15 IMMUNIZATIONS AND TO ADMINISTER CERTAIN  
16 MEDICATIONS.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 17-92-101 is amended to read as follows:

23 17-92-101. Definitions.

24 As used in this chapter:

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

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

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

34 (4)(A) "Disease state management" means a strategy that utilizes  
35 a team-oriented, multidisciplinary approach to improve health care outcomes  
36 and quality of care, and when possible, to control health care cost through



1 management of targeted chronic disease states.

2 (B) Disease state management focuses on improving health  
3 care from prevention to diagnosis and treatment to ongoing follow-up.

4 (C) Disease state management will involve, but not be  
5 limited to, patient education, self-care techniques, and outpatient drug  
6 therapy management pursuant to a patient care plan;

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

11 (6) "Generically equivalent" means a drug that is  
12 pharmaceutically and therapeutically equivalent to the drug prescribed;

13 (7) "Licensed pharmacist" means a person holding a license under  
14 the provisions of this chapter;

15 (8) "Medicine" means a drug or preparation of drugs in suitable  
16 form for use as a curative or remedial substance;

17 (9) "Optometrist" means a practitioner of optometry duly  
18 licensed under the laws of this state;

19 (10) "Patient care plan" means a written course of action that  
20 is patient- or physician- or pharmacist-specific and disease-specific for  
21 helping a patient to achieve outcomes that improve a patient's quality of  
22 life;

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

28 (12) "Pharmacy" means the place licensed by the Arkansas State  
29 Board of Pharmacy in which drugs, chemicals, medicines, prescriptions, and  
30 poisons are compounded, dispensed, or sold at retail;

31 (13) "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 or disease  
35 state management for the purpose of achieving any of the following definite  
36 outcomes that improve a 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 (14) "Physician" means a practitioner of medicine duly licensed  
6 under the laws of this or some other state;

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

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

11 (i)(a) Dispensing, selling, distributing,  
12 transferring possession of, vending, bartering, or, in accordance with  
13 regulations adopted by the Arkansas State Board of Pharmacy, administering  
14 drugs, medicines, poisons, or chemicals that under the laws of the United  
15 States or the State of Arkansas may be sold or dispensed only on the  
16 prescription and order of a practitioner authorized by law to prescribe  
17 drugs, medicines, poisons, or chemicals.

18 (b) Except in accordance with regulations  
19 adopted by the Arkansas State Board of Pharmacy as recommended by the  
20 Medications Administration Advisory Committee, the administration of  
21 medications shall be limited to the following classifications of medications:  
22 immunizations, vaccines, allergy medications, vitamins, minerals,  
23 antihyperglycemics, and antinausea medications.

24 (c) ~~The administration of medications shall~~  
25 ~~not include the administration of medications to any person under eighteen~~  
26 ~~(18) years of age; Influenza vaccines and influenza immunizations may be~~  
27 ~~administered to a person seven (7) years of age and older under a general~~  
28 ~~written protocol.~~

29 (d) Vaccines and immunizations other than  
30 influenza vaccines and influenza immunizations may be administered to a  
31 person from seven (7) years of age to eighteen (18) years of age under a  
32 patient-specific order or prescription and subject to reporting of the  
33 administration to the prescribing physician together with any reporting  
34 required under § 20-15-1203.

35 (e) Vaccines and immunizations other than  
36 influenza vaccines and influenza immunizations may be administered to a

1 person eighteen (18) years of age or older under a general written protocol.

2 (f) Medications other than vaccines and  
3 immunizations may be administered to a person seven (7) years of age or older  
4 under a patient-specific order or prescription and subject to reporting of  
5 the administration to the prescribing physician.

6 (g) A general written protocol under  
7 subdivisions (16)(A)(i)(c) and (e) of this section and patient-specific  
8 orders or prescriptions under subdivisions (16)(A)(i)(d) and (f) shall be  
9 from a physician licensed by the Arkansas State Medical Board and practicing  
10 in Arkansas or within fifty (50) miles of the Arkansas border;

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

17 (iii) Placing in or affixing upon any container  
18 described in subdivision (16)(A)(ii) of this section a label required to be  
19 placed upon drugs, medicines, poisons, or chemicals sold or dispensed upon  
20 prescription of a practitioner authorized by law to prescribe those drugs,  
21 medicines, poisons, or chemicals;

22 (iv) Preparing, typing, or writing labels to be  
23 placed in or affixed on any container described in subdivision (16)(A)(ii) of  
24 this section, which label is required to be placed upon drugs, medicines,  
25 poisons, or chemicals sold or dispensed upon prescription of a practitioner  
26 authorized by law to prescribe those drugs, medicines, poisons, or chemicals;

27 (v) Interpreting prescriptions for drugs, medicines,  
28 poisons, or chemicals issued by practitioners authorized by law to prescribe  
29 drugs, medicines, poisons, or chemicals that may be sold or dispensed only on  
30 prescription;

31 (vi) Selecting, taking from, and replacing upon  
32 shelves in the prescription department of a pharmacy or apothecary drugs,  
33 medicines, chemicals, or poisons that are required by the laws of the United  
34 States or the State of Arkansas to be sold or dispensed only on prescription  
35 of a practitioner authorized by law to prescribe them;

36 (vii) Compounding, mixing, preparing, or combining

1 drugs, medicines, chemicals, or poisons that under the laws of the United  
2 States or the State of Arkansas may be sold or dispensed only on the  
3 prescription of a practitioner authorized by law to prescribe them;

4 (viii) Advising and providing information concerning  
5 utilization of drugs and devices and participation in drug utilization  
6 reviews;

7 (ix)(a) Performing a specific act of drug therapy  
8 management or disease state management delegated to a pharmacist for an  
9 individual patient based upon a written protocol or a patient care plan  
10 approved by a physician, who shall be licensed in this state under the  
11 Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq.,  
12 and § 17-95-401 et seq.

13 (b) Drug therapy management shall not include  
14 the selection of drug products not prescribed by the physician unless the  
15 drug products are either named in the physician-initiated protocol or the  
16 physician-approved patient care plan;

17 (x) Providing pharmacy care; and

18 (xi) Providing pharmacokinetic services.

19 (B) The provisions of subdivisions (16)(A) and (16)(C) of  
20 this section shall not apply to employees of wholesale drug companies or  
21 other drug distributors who do not fill prescriptions or sell or dispense  
22 drugs to the consumer.

23 (C)(i) The Arkansas State Board of Pharmacy may permit  
24 pharmacy technicians other than pharmacists or interns to perform some or all  
25 of those functions described in board regulations under the direct, personal  
26 supervision of a licensed pharmacist pursuant to regulations defining the  
27 minimum qualifications of such employees, the ratio of pharmacy technicians  
28 to supervising pharmacists, and the scope of the duties, practices, and  
29 procedures that the Arkansas State Board of Pharmacy determines will promote  
30 the delivery of competent, professional pharmaceutical services and promote  
31 the public health and welfare. Nothing in this chapter shall be construed as  
32 allowing pharmacy technicians to administer medications.

33 (ii) The conduct of a pharmacy technician is the  
34 responsibility of the pharmacist-in-charge and supervising pharmacist of the  
35 pharmacy who shall not permit the employee to perform any act, task, or  
36 function that involves the exercise of independent judgment by the employee.

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

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

(v) It is recognized that hospital pharmacy technicians as defined in § 17-92-602(5) are governed by the Hospital Pharmacies Act, § 17-92-601 et seq., and related Arkansas State Board of Pharmacy regulations developed pursuant to that act;

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

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

(19) "Supervision" means under the direct charge or direction of 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;

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

(22)(4) "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., § 17-95-301 et seq., and § 17-95-401 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.~~

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*/s/P. Malone*