PHARMACY ACT

Act of Sep. 27, 1961, P.L. 1700, No. 699 Cl. 63

AN ACT

Relating to the regulation of the practice of pharmacy, including the sales, use and distribution of drugs and devices at retail; and amending, revising, consolidating and repealing certain laws relating thereto.

Compiler's Note: Section 8(b) of Act 259 of 1976 provided that Act 699 is repealed insofar as it prohibits the advertising of prescription drugs.

TABLE OF CONTENTS

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.--This act shall be known and may be cited as the "Pharmacy Act."

Section 2. Definitions.--As used in this act:

(1) "Person" includes individual, partnership, corporation, association or any other legal entity.

(2) "Board" means the State Board of Pharmacy.

(2.1) "Dispense" or "dispensing" means the preparation of a prescription or non-prescription drug in a suitable container

appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug.

(3) "Drugs" mean--

(i) Articles recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary or its successor.

(ii) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.

(iii) Articles (other than food) intended to affect the structure or any function of the body of man or other animals.

(iv) Articles intended for use as a component of any articles specified in subclauses (i), (ii) or (iii), but not including devices or their component parts or accessories.

(4) "Official compendium" shall mean the current revisions of the Pharmacopoeia of the United States, Homeopathic Pharmacopoeia of the United States and National Formulary or its successor.

(5) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under Federal or State law to be prescribed by a practitioner and dispensed by a pharmacist.

(6) "Federal act" means the Federal Food, Drug and Cosmetic Act (Title 21, USC 301 et seq., 52 Stat. 1040 et seq.).

(7) "Controlled substance" means any drug designated as such under the provisions of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(7.1) "Non-proprietary drug" means a drug containing any quantity of any controlled substance or any drug which is required by any applicable Federal or State law to be dispensed only by prescription.

(7.2) "Proprietary drug" shall mean non-prescription, non-narcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this State and the Federal Government.

(8) "Prescription" means a written or oral order issued by a duly licensed medical practitioner in the course of his professional practice for a controlled substance, other drug or device or medication which is dispensed for use by a consumer.

(8.1) "Emergency prescription" means a refill of a prescription which is essential to the continuation of therapy in a chronic condition, for which the refill has not been authorized and for which the pharmacist notifies, within seventy-two hours, the prescriber that an emergency prescription has been dispensed.

(9) "Medical practitioner" means a physician, dentist, veterinarian or other individual duly authorized and licensed by law to prescribe drugs.

(10) "Pharmacist" means an individual duly licensed by the State Board of Pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" means the provision of health care services by a pharmacist, which includes the interpretation, evaluation and implementation of medical orders for the provision of pharmacy services or prescription drug orders; the delivery, dispensing or distribution of prescription drugs; participation in drug and device selection; drug administration; drug regimen review; drug therapy management, including such services provided under the Medicare Prescription Drug, Improvements, and Modernization Act of 2003 (Public Law 108-173, 117 Stat. 2066); drug or drug-related research; compounding; proper and safe storage of drugs and devices; management of drug therapy pursuant to section 9.3 or, if in an institutional setting, consistent with the institution's assignment of clinical duties pursuant to a written agreement or protocol as set forth in section 9.1; maintaining proper records; patient counseling; and such acts, services, operations or transactions necessary or incident to the provision of these health care services. The "practice of pharmacy" shall not include the operations of a manufacturer or distributor as defined in "The Controlled Substance, Drug, Device and Cosmetic Act." ((11) amended June 1, 2010, P.L.201, No.29)

(12) "Pharmacy" means every place properly issued a permit by the Board of Pharmacy where drugs, devices and diagnostic agents for human or animal consumption are stored, dispensed or compounded, excluding offices or facilities of veterinarians licensed by the State Board of Veterinary Medical Examiners. The term "pharmacy" shall not include the operations of a manufacturer or distributor as defined in "The Controlled Substance, Drug, Device and Cosmetic Act." In an institution, "pharmacy" refers to the organized pharmacy service in the institution under the direct supervision of a licensed pharmacist.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus or contrivances used to render such articles effective in medical, surgical or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Pesticide Act of 1957, nor medicated feed intended for and used exclusively as a feed for animals other than man.

(14) "Management of drug therapy" means any of the following processes which shall be performed pursuant to a written agreement or protocol as set forth in section 9.1 or pursuant to section 9.3: adjusting a drug regimen; adjusting drug strength, frequency of administration or route; administration of drugs; ordering laboratory tests and ordering and performing other diagnostic tests necessary in the management of drug therapy; monitoring the patient's vital signs; and providing education and training to the patient which is related to the management of drug therapy. The management of drug therapy under section 9.1 shall be performed consistent with the institution's assignment of clinical duties, and ordering of laboratory tests and ordering or performing other diagnostic tests necessary in the management of drug therapy shall be consistent with the

testing standards of the institution. ((14) amended June 1, 2010, P.L.201, No.29)

(15) "Institution" means a health care facility as defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act," which offers care and medical treatment to patients who require food, board and overnight sleeping facilities. ((15) added June 29, 2002, P.L.673, No.102)

(16) "Drug administration" means the direct introduction of or the application of a drug into or on the body of a patient by injection, inhalation, ingestion or any other means and, where required by law, shall occur only pursuant to a medical order. ((16) added June 29, 2002, P.L.673, No.102)

(17) "Physician" means an individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in all its branches within the scope of the act of December 20, 1985 (P.L.457, No.112), known as the "Medical Practice Act of 1985," or in the practice of osteopathic medicine within the scope of the act of October 5, 1978 (P.L.1109, No.261), known as the "Osteopathic Medical Practice Act." ((17) added June 29, 2002, P.L.673, No.102)

(18) "Protocol" means a written document that describes the nature and scope of the drug therapy management to be carried out by the pharmacist. ((18) added June 29, 2002, P.L.673, No.102)

(19) "Nonresident pharmacy" means any pharmacy located outside this Commonwealth that ships, mails or delivers, in any manner, legend devices or legend drugs into this Commonwealth pursuant to a prescription order. ((19) added Oct. 7, 2015, P.L.178, No.43)

(2 amended Dec. 20, 1985, P.L.433, No.111)

Section 3. Licensing of Pharmacists.--(a) The State Board of Pharmacy may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the board may by regulation require, and who--

(1) Is not less than twenty-one years of age and is a citizen of the United States;

(2) Has satisfied the board that he is of good moral and professional character, and that he is not unfit or unable to practice pharmacy by reason of the extent or manner of his use of alcoholic beverages or controlled substances or by reason of a physical or mental disability;

(3) Holds a Bachelor of Science or advanced degree in pharmacy granted by a school or college of pharmacy which is accredited by an accrediting body recognized by the board;

(4) Has completed an internship or other equivalent program which has been approved by the board or has demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or exceeds the minimum internship requirements of the board;

(5) Has satisfactorily passed such examinations given by the board.

(6) Has not been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of a felony relating to a controlled substance in a

court of law of the United States or any other state, territory or country unless:

(i) at least ten years have elapsed from the date of conviction;

(ii) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations; and

(iii) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

As used in this clause the term "convicted" shall include a judgment, an admission of guilt or a plea of nolo contendere. An applicant's statement on the application declaring the absence of a conviction shall be deemed satisfactory evidence of the absence of a conviction, unless the board has some evidence to the contrary.

(b) The State Board of Pharmacy shall, at least once in every six months, examine in the practice of pharmacy all pharmacy interns, who have completed their educational requirements, who shall make applications for said examination pursuant to regulations promulgated by the board. The administration of all written, oral and practical examinations shall be prepared and administered by a qualified and approved professional testing organization in the manner prescribed for written examinations by the provisions of section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." In case of failure at a first examination, the applicant shall have within two years the privilege of a second and third examination. In case of failure in a third examination, the applicant shall have the privilege of examination only after satisfactorily completing additional preparation as directed and approved by the board.

(c) To insure proficiency in the practical aspects of pharmacy, the board shall, by regulation, prescribe internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license. The board shall specify the period of time and in what manner the internship shall be served, and the applicant shall include evidence of completion of such an internship program in conformity with those standards established by the board by regulation.

(d) The board may, by regulation, accept in lieu of the experience as a registered pharmacy intern as herein required other equivalent experience obtained prior to January 1, 1962.

(e) Any person enrolled or accepted as a student of pharmacy in an accredited pharmacy degree program may, upon completion of his second year of college, file with the State Board of Pharmacy an application for registration as a pharmacy intern in which said application he shall be required to furnish such information as the board may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the board a fee established by the board through regulation. All certificates issued to pharmacy interns shall be valid for a period not exceeding six years from the date of issue exclusive of time spent in the military service.

(f) To assure adequate practical instruction, pharmacy internship experience as required under this act shall be obtained by employment in any licensed pharmacy under the direct supervision of a pharmacist meeting the requirements established by the board through regulation. Pharmacy internship experience shall include such instruction in the practice of pharmacy as the board by regulation shall prescribe.

(g) The board may, without examination, license as a pharmacist any individual who, at the time of filing application therefor, is licensed as a pharmacist in any other state, territory or possession of the United States: Provided, That the said individual shall produce evidence satisfactory to the board of having had the required secondary and professional education and training, including internship, and is possessed of good character and morals as required of applicants for licensure under the provisions of this act: Provided, That individuals of good character and morals who have become licensed as pharmacists by examination in other states prior to the time this act takes effect shall be required to satisfy only the requirements which existed in this Commonwealth at the time they became licensed in such other states: Further provided, That the state in which said individual is licensed shall under similar conditions grant reciprocal licensure as pharmacist without examination to pharmacists duly licensed by examination in this Commonwealth. Every application under this subsection shall be accompanied by a fee established by the board through regulation for the application and expense of investigation by the State Board of Pharmacy. A fee established by the board through regulation shall be paid for the license and certificate prior to its approval and issuance by the board.

(h) Each pharmacy intern applying for examination shall pay to the State Board of Pharmacy an examination fee established by the board through regulation. Upon passing the required examinations and complying with all the rules and regulations of the board and the provisions of this act, the board shall grant the applicant licensure as a pharmacist and issue to him a certificate qualifying him to enter into the practice of pharmacy. Said certificate shall not be issued until a fee established by the board through regulation shall be paid to the board.

(i) The board shall provide for, regulate and require all individuals licensed as pharmacists or assistant pharmacists to renew their license biennially, and shall prescribe the form of such renewal and information required to be submitted by all applicants, including proof of continuing education. Unless the board shall have given ten days' previous notice to the applicant for renewal of licensure of objections to the renewal of his license based upon failure to meet the requirements of this act or a final conviction of or plea of guilty or nolo contendere of any charge based upon the laws of the United States or of this Commonwealth relating to the practice of pharmacy or controlled substances, the license of a licensee shall be renewed when the applicant shall file with the board his application accompanied by a biennial license fee established by the board through regulation.

(j) An additional fee established by the board through regulation shall be paid for late licensure renewal of a pharmacist.

(k) Assistant pharmacist--(1) Any individual duly licensed as an assistant pharmacist prior to the date of this act may continue to act as such.

(2) From the date of this act, no individual who is not already licensed as an assistant pharmacist shall be so licensed.

(3 amended Dec. 20, 1985, P.L.433, No.111)

Compiler's Note: Section 401(a) of Act 124 of 1978 provided that section 3 is repealed insofar as it establishes fixed fees inconsistent with the fees contained in Act 124. Section 401(a) also provided that to the extent section 3 authorizes the fixing of fees by an agency for which a fee has been set forth in Act 124, section 3 shall not be construed to be repealed or superseded by Act 124 and those provisions authorizing the fixing of fees by any agency shall remain in effect.

Section 3.1. Continuing Pharmacy Education.--The board shall develop and adopt rules and regulations necessary to establish an accredited program of continuing pharmaceutical education. The board shall have the authority to:

(1) Define, by regulation, the requirement for continuing education, after consultation with the educational community and licensed pharmacists, within one year of the enactment of this amendatory act.

(2) Approve programs of continuing education within one year of the enactment of this amendatory act.

(3) Effective with 1988 renewals, refuse to renew the license of a pharmacist until the pharmacist submits proof to the board that he has satisfactorily completed an approved program of continuing professional education during the previous licensing period to help assure his or her continued competence to engage in the practice of pharmacy.

(4) Adopt rules and regulations necessary to carry out the stated objectives and purposes and to enforce this section, which shall include the methods of determining approved programs and any fees as the board shall determine.

(3.1 added Dec. 20, 1985, P.L.433, No.111)

Section 3.2. Reporting of Multiple Licensure.--Any licensed pharmacist of this Commonwealth who is also licensed to practice pharmacy in any other state, territory or country shall report this information to the board on the biennial registration application. Any disciplinary action taken in other states, territories and countries shall be reported to the board on the biennial registration application or within ninety days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the pharmacist's record, and such state, territory or country shall be notified by the board of any disciplinary actions taken against said pharmacist in this Commonwealth.

(3.2 added Dec. 20, 1985, P.L.433, No.111)

Section 4. Permit to Conduct a Pharmacy.--(a) The State Board of Pharmacy shall issue a permit to any person to conduct a pharmacy who has filed an application therefor, subscribed by the applicant under oath or affirmation, and containing such information as the board may require, and

whose proposed pharmacy complies with all requirements of this act, including the following:

(1) Has the necessary reference books, current supplements to these reference books and the professional equipment, technical equipment and other pharmaceutical equipment which such books, supplements and equipment have been determined by the board to meet the needs of the practice of pharmacy for the area and type of practice;

(2) Has sufficient physical facilities, including equipment, size, space and sanitation for adequately distributing and dispensing drugs and devices consonant with the protection of the public health, safety and welfare as the board may by regulation establish;

(3) Contains a suitable book or file in which shall be preserved, for a period of not less than two years, every prescription compounded or dispensed therein;

(3.1) Adheres to the following requirements for transferring prescriptions between pharmacies in Pennsylvania:

(i) The prescription is for a drug which is lawfully refillable.

(ii) The drug is not a Schedule II controlled substance.

(iii) An original or new prescription is not required from the prescriber by law.

(iv) The pharmacist transferring the prescription cancels the original prescription in his records and indicates on the prescription records to whom the prescription was transferred, including the name of the pharmacy, the date of transfer and the name or initials of the transferring pharmacist.

(v) The pharmacist receiving the transferred prescription:

(A) Notes on the prescription that it is a transferred prescription.

(B) Records all of the following on the prescription records in addition to other information required by law:

(I) Date of issuance of original prescription.

(II) Date of original filing of prescription.

(III) Original number of refills authorized on prescription.

(IV) Complete refill record from original prescription.

(V) Number of valid refills remaining.

(C) Notes the location and file number of the original prescription.

(D) Notes the name of the pharmacy and pharmacist from whom the prescription was transferred.

(vi) A pharmacist may transfer a prescription to another pharmacist employed by the same corporation without regard to the requirements of subclauses (iv) and (v), provided that both pharmacists have access to the same computerized prescription transfer system which contains the prescription and refill records and incorporates procedures to prevent unauthorized refills.

(3.2) Following a period of three years after the effective date of this act, the board shall conduct a study to determine the need for legislative enactment of the mandatory maintenance of individual medication profiles by pharmacists and submit a report of its findings, within one year, to the House Professional Licensure Committee and the Consumer Protection and Professional Licensure Committee of the Senate.

(4) Has insured that a pharmacist duly licensed in Pennsylvania shall be in charge of said pharmacy at all times that the pharmacy is open;

(5) Complies with the regulations of the board setting up minimum requirements regarding adequate facilities for safe storage of drugs, and protection from theft of or improper access to controlled substances, equipment for compounding and dispensing of prescriptions, and size, space and sanitation requirements of pharmacies;

(6) If an individual or partnership is the applicant, that the individual or copartner if not a pharmacist, has not previously been found or pleaded guilty or nolo contendere to any crime concerning the practice of pharmacy or involving moral turpitude; or if a pharmacist, that he is presently licensed by the board; if an association that no director or officer or if a corporation that no director, officer or person having a beneficial interest of more than ten per centum of the stock has been found or pleaded guilty or nolo contendere to said crimes or had a pharmacy or pharmacist's license revoked or renewal refused, for cause.

(b) All applicants shall be of good moral and professional character: in determining this qualification, the board may take into consideration among other things the conduct and operation of other pharmacies conducted by said applicant.

(c) Every pharmacy shall, at all times when open, be under the constant direct and personal supervision and management of a pharmacist duly licensed in Pennsylvania who shall have personal supervision of not more than one pharmacy at the same time.

(d) All licenses and permits issued under the provisions of this act shall be displayed in a conspicuous place in the pharmacy for which it was issued.

(e) Separate applications and permits shall be required for each pharmacy, and each permit shall be issued bearing the name of the pharmacist who will be in charge of that pharmacy and who will be responsible for all operations involving the practice of pharmacy in that pharmacy.

(f) All applications for a permit to conduct a pharmacy shall be accompanied by an initial registration fee established by the board by regulation. The board shall renew each permit for the succeeding biennium unless the board shall have given ten days' previous notice to the applicant for renewal of the permit of objections to the renewal based upon a finding or plea of guilty or nolo contendere by the applicant, its partners, or officers, to a violation of any of the laws of the United States or of this Commonwealth relating to the practice of pharmacy or to the enforcement of controlled substances, upon payment of a fee established by the board by regulation for each pharmacy. Such application for renewal shall be made on or before September 1 of each odd-numbered year.

(g) All permits granted under this section, unless sooner revoked or suspended, shall expire on the date set forth therein: Provided, however, That the board may promulgate regulations authorizing the application by a personal representative of a deceased grantee for an extension of deceased grantee's permit for a period not to exceed one year from date of death.

(h) No person shall operate or advertise a pharmacy until the person has been granted a pharmacy permit by the board.

(i) The full name or names of the proprietor, or if a partnership, the partners, or if an association or a corporation, the name of the pharmacist manager, must be conspicuously displayed in the pharmacy along with any corporate association or duly registered fictitious name.

(j) The board may promulgate regulations in accordance with the above requirements and, in addition, shall have the power to promulgate rules and regulations governing standards of practice and operation of pharmacies including, but not limited to, rules and regulations governing the method of advertising, promotion and standards for dispensing prescriptions, such regulations to be designed to insure methods of operation and conduct which protect the public health, safety and welfare and prevent practices or operations which may tend to lower professional standards of conduct, so as to endanger the public health and welfare.

(k) A pharmacy that is also licensed, permitted or registered by the proper licensing authority of another state to ship, mail or deliver legend devices or legend drugs to patients in that state shall report this information to the board on the biennial registration. Any disciplinary action taken in other states shall be reported to the board within thirty days of final disposition. A nonresident license, permit or registration shall be noted by the board on the pharmacy's record, and the state shall be notified by the board of any disciplinary action taken against the pharmacy in this Commonwealth. ((k) added Oct. 7. 2015, P.L.178, No.43)

(4 amended Dec. 20, 1985, P.L.433, No.111)

Section 4.1. Nonresident Pharmacies.--(a) A nonresident pharmacy shall register on a biennial basis with the board and obtain a certificate of registration to conduct a pharmacy in accordance with this section. The nonresident pharmacy shall:

(1) Disclose on the initial and renewal registration applications the location, names and titles of all principal corporate officers, if applicable, and the pharmacist in charge. A nonresident pharmacy shall report to the board within thirty days after any change of location or pharmacist in charge.

(2) Submit a statement that the nonresident pharmacy complies with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as complies with all requests for information made by the board pursuant to this section.

(3) Maintain at all times a valid unexpired license, permit or registration to conduct the pharmacy in compliance with the laws of the state in which the nonresident pharmacy is located.

(4) Before receiving a certificate of registration from the board, submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located or by the National Association of Boards of Pharmacy's Verified Pharmacy Program.

(b) A nonresident pharmacy shall, during its regular hours of operation, but not less than six days per week, and for a

minimum of forty hours per week, provide a toll-free telephone number to facilitate communication between patients in this Commonwealth and a pharmacist who is licensed in this Commonwealth or in the state in which the nonresident pharmacy is located and who has access to the patient's records. The toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this Commonwealth.

(c) A nonresident pharmacy shall report to the board within thirty days of final disposition any disciplinary action taken by the regulatory or licensing agency of the state in which the nonresident pharmacy is located.

(d) A nonresident pharmacy may not engage in the business of shipping, mailing or delivering legend devices or legend drugs in this Commonwealth unless the nonresident pharmacy has been issued a certificate of registration by the board and has paid the fee established by the board by regulation for issuance or renewal of the certificate of registration. Applications for a certificate of registration or renewal as a nonresident pharmacy shall be made on a form furnished by the board. The board may require the information it deems reasonably necessary to carry out the purpose of this section.

(e) The board may deny, revoke or suspend any certificate of registration as a nonresident pharmacy for failure to comply with any requirement of this section.

(f) The board may deny, revoke or suspend any certificate of registration as a nonresident pharmacy for conduct which causes serious bodily injury or serious psychological injury to a resident of this Commonwealth provided that the board has referred the matter to the regulatory or licensing agency in the state in which the nonresident pharmacy is located.

(g) The board may deny, revoke or suspend any certificate of registration as a nonresident pharmacy upon proof satisfactory to the board that the nonresident pharmacy's permit to conduct a pharmacy was suspended or revoked or the nonresident pharmacy was otherwise disciplined by the proper licensing authority of another state.

(h) It shall be unlawful for a nonresident pharmacy that has not been issued a certificate of registration pursuant to this section to advertise its services in this Commonwealth, or for a person who is a resident of this Commonwealth to advertise the pharmacy services of a nonresident pharmacy that has not received a certificate of registration from the board, with the knowledge that the advertisement will or is likely to induce members of the public in this Commonwealth to use the pharmacy for dispensing prescriptions.

(4.1 added Oct. 7, 2015, P.L.178, No.43)

Section 5. Refusal to Grant, Revocation and Suspension.--(a) The board shall have the power to refuse, revoke or suspend the license of any pharmacist upon proof satisfactory to it that the pharmacist:

(1) Procured a personal license through fraud, misrepresentation or deceit;

(2) Has been found guilty, pleaded guilty, entered a plea of nolo contendere, or has received probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, to any offense in connection with the practice of pharmacy or any

offense involving moral turpitude before any court of record of any jurisdiction;

(3) Is unfit to practice pharmacy because of intemperance in the use of alcoholic beverages, controlled substances or any other substance which impairs the intellect and judgment to such an extent as to impair the performance of professional duties;

(4) Is unfit or unable to practice pharmacy by reason of a physical or mental disease or disability. In enforcing this clause, the board shall, upon probable cause, have authority to compel a pharmacist to submit to a mental or physical examination by physicians or psychologists approved by the board. Failure of a pharmacist to submit to such examination when directed by the board, unless such failure is due to circumstances beyond his or her control, shall constitute an admission of the allegations against him or her, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A pharmacist affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume a competent practice of pharmacy with reasonable skill and safety to patients.

(5) Has had a license to practice pharmacy issued by any other properly constituted licensing authority of any other state suspended or revoked;

(6) Has violated or knowingly permitted the violation of any provision of this act or regulation of the board;

(7) Has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the compounding, distribution or dispensing of prescriptions or controlled substances, except pharmacy interns or such other authorized personnel, who, consistent with proper pharmaceutical practices and with board regulations, may assist the pharmacist in the pharmacy under the direct and immediate personal supervision of a licensed pharmacist;

(8) Has compounded, dispensed, sold or caused the compounding, dispensing or sale of any drug or device which contains more or less than the proportionate quantity of ingredient or ingredients specified by the person who prescribed such drug or device or which is of a brand or trade name other than that specified by the person prescribing such brand or trade name product or which contains an ingredient or ingredients of a brand or trade name other than that specified by the person prescribing such drug or device, unless the consent of the prescriber is first obtained to each such specific prescription: Provided, however,That nothing herein shall be construed to prevent the addition of such inert ingredients as may be required in the art of compounding, preparing, mixing or otherwise producing drugs or devices. This restrictive clause shall not apply to proper substituting of generically equivalent drugs as stipulated under the act of November 24, 1976 (P.L.1163, No.259), referred to as the Generic Equivalent Drug Law, nor to reductions in quantities which are dispensed in accordance with limits imposed by virtue of the consumer's membership in a third-party plan;

(9) Is guilty of grossly unprofessional conduct. The following acts on the part of a pharmacist are hereby declared to constitute grossly unprofessional conduct of a pharmacist:

(i) Willfully deceiving or attempting to deceive the State Board of Pharmacy or its agents with respect to any material matter under investigation by the board;

(ii) Advertising of prices for drugs and pharmaceutical services to the public which does not conform to Federal laws or regulations;

(iii) The public assertion or implication of professional superiority in the practice of pharmacy;

(iv) The engaging by any means in untrue, false, misleading or deceptive advertising of drugs or devices;

(v) Paying rebates to physicians or any other persons, or the entering into any agreement with a medical practitioner or any other person for the payment or acceptance of compensation in any form for the recommending of the professional services of either party;

(vi) The entering into of any agreement with a licensed medical practitioner for the compounding or dispensing of secret formula (coded), prescriptions;

(vii) The misbranding or adulteration of any drug or device and the sale, distribution or dispensing of any misbranded or adulterated drug or device as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act";

(viii) Engaging in the sale or purchase of drugs or devices whose package bears the inscription "sample" or "not for resale";

(ix) Displaying or permitting the display of his certificate of licensure and biennial registration document in a pharmacy of which he is not the proprietor or in which he is not employed;

(x) Any holder of a biennial pocket registration card who fails to have the card available for inspection by an authorized agent when he is practicing;

(xi) The acceptance back and redistribution of any unused drug, or a part thereof, after it has left the premises of any pharmacy, whether issued by mistake or otherwise, unless it is in the original sealed container with the name, lot number and expiration date on the original intact manufacturer's label. The pharmacy shall maintain records of all such returns, and a full refund shall be given to the original purchaser, including a third-party payor;

(xii) Accepting employment as a pharmacist, or share or receive compensation in any form arising out of, or incidental to, his professional activities from any medical practitioner or any other person or corporation in which one or more medical practitioners have a proprietary or beneficial interest sufficient to permit them to exercise supervision or control over the pharmacist in his professional responsibilities and duties, except that a pharmacist may be employed by a physician for the purpose of the management of drug therapy and receive appropriate compensation for such employment, but not engage in retail dispensing while in health care practice within the context of such employment;

(xiii) Accepting employment as a pharmacist, or share or receive compensation in any form arising out of, or incidental to, his professional activities from any person who orders said pharmacist, directly or indirectly, to engage in any aspect of the practice of pharmacy in contravention of any

provision of this act, except that a pharmacist may be employed by a physician for the purpose of the management of drug therapy and receive appropriate compensation for such employment, but not engage in retail dispensing while in the health care practice within the context of such employment;

(xiv) Entering into an arrangement with a medical practitioner who is licensed to issue prescriptions for the purpose of directing or diverting patients to or from a specified pharmacy or restraining a patient's freedom of choice to select a pharmacy, except that this shall not be construed to prohibit a pharmacist from entering into a written agreement or written collaborative agreement with a licensed physician which authorizes the management of drug therapy.

((9) amended June 1, 2010, P.L.201, No.29)

(10) Has had a license to practice pharmacy suspended, revoked or refused, or received other disciplinary action by the proper pharmacist licensing authority of another state, territory or country.

(11) Has acted in such a manner as to present an immediate and clear danger to the public health or safety.

(12) Is guilty of incompetence, gross negligence or other malpractice, or the departure from, or failure to conform to, the standards of acceptable and prevailing pharmacy practice, in which case actual injury need not be established.

(b) The board shall have the power to refuse, revoke or suspend the permit of any pharmacy upon proof satisfactory to it that:

(1) The permit was procured through fraud, misrepresentation or deceit;

(2) The holder or partner or officer thereof has violated any of the provisions of this act or regulations of the board applicable to him or any provision of "The Controlled Substance, Drug, Device and Cosmetic Act" or the Federal act, or has ordered a pharmacist in his employ to engage in any aspect of the practice of pharmacy in contravention of any provisions of the aforesaid acts or regulations thereunder;

(3) The holder thereof sold, dispensed or caused or allowed to be sold or dispensed any controlled substance or non-proprietary drug, except by a licensed pharmacist;

(4) The holder thereof, after issuance of a permit, fails to continue to comply with all requirements of section 4 hereof;

(5) Upon the suspension or revocation of a license of a pharmacist employed by said individual, it is shown that the illegal acts of the pharmacist were within the knowledge or should have been within the knowledge of the permit holder, partner or officer;

(6) A pharmacist or pharmacy permit holder entered into an agreement with a medical practitioner who is licensed to issue prescriptions for the purpose of directing or diverting patients to or from a specified pharmacy or restraining in any way a patient's freedom of choice to select a pharmacy.

(7) The pharmacy's license, permit or registration to conduct a pharmacy or a nonresident pharmacy issued by the proper licensing authority of another state has been revoked or suspended or the pharmacy was otherwise disciplined. ((7) added Oct. 7, 2015, P.L.178, No.43)

((b) amended June 1, 2010, P.L.201, No.29)

(c) When the board finds that the license of any pharmacist may be refused, revoked or suspended under the terms of subsection (a), the board may:

(1) Deny the application for a license.

(2) Administer a public reprimand.

(3) Revoke, suspend, limit or otherwise restrict a license as determined by the board.

(4) Require a licensee to submit to the care, counseling or treatment of a physician or a psychologist designated by the board.

(5) Suspend enforcement of its finding thereof and place a licensee on probation with the right to vacate the probationary order for noncompliance.

(6) Restore or reissue, in its discretion, a suspended license to practice pharmacy and impose any disciplinary or corrective measure which it might originally have imposed.

(d) Any person whose license, certificate or registration has been suspended or revoked because of a felony conviction under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or similar law of another jurisdiction, may apply for reinstatement after a period of at least ten years has elapsed from the date of conviction. The board may reinstate the license if the board is satisfied that the person has made significant progress in personal rehabilitation since the conviction such that his reinstatement should not be expected to create a substantial risk of harm to the health and safety of his patients or the public or a substantial risk of further criminal violations and if the person meets all other licensing qualifications of this act.

(5 amended Dec. 20, 1985, P.L.433, No.111)

Section 5.1. Automatic Suspension.--(5.1 repealed Dec. 20, 1985, P.L.433, No.111)

Section 6. State Board of Pharmacy.--(a) Beginning with any vacancies existing on the effective date of this act, and as terms expire or vacancies occur thereafter, the State Board of Pharmacy shall consist of the Commissioner of Professional and Occupational Affairs, the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee, two persons representing the public at large, and five persons who are licensed to practice pharmacy in this Commonwealth and who are not teachers or instructors in any educational institution teaching pharmacy. Two pharmacists shall be appointed from independent retail pharmacies, two pharmacists shall be appointed who are employes of retail chain pharmacies which operate five or more pharmacies licensed within this Commonwealth and one pharmacist shall be appointed from an acute care institutional pharmacy. Each pharmacist appointee must have been registered as a pharmacist for at least five years immediately preceding their appointment. All professional and public members of the board shall be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate.

(b) The terms of each professional and public member of the board shall be six years, or until a successor has been appointed and qualified, but not longer than six months beyond the six-year period. In the event that any of said members

shall die or resign or otherwise becomes disqualified during his or her term, a successor shall be appointed in the same way and with the same qualifications and shall hold office for the unexpired term. No member shall be eligible for appointment to serve more than two consecutive terms.

(c) A majority of the members of the board serving in accordance with law shall constitute a quorum for purposes of conducting the business of the board. Except for temporary and automatic suspensions under section 7(d.1) and (d.2) of this act, a member may not be counted as a part of a quorum or vote on any issue unless he or she is physically in attendance at the meeting.

(d) The board shall select annually a chairman from among its members.

(e) The board shall select an executive secretary who, with the approval of the Commissioner of Professional and Occupational Affairs, need not be a member of the board but who shall be a registered pharmacist. The executive secretary shall be paid such compensation as determined by the board, after consultation with the Commissioner of Professional and Occupational Affairs. The executive secretary shall establish guidelines and information, with the concurrence of the board, for the training of inspectors within the Department of State who are responsible for inspecting pharmacies, and shall perform such other duties as the board may require.

(f) Each member of the board, except the Commissioner of Professional and Occupational Affairs and the Director of the Bureau of Consumer Protection, shall receive sixty dollars ($60) per diem when actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(g) The board is subject to evaluation, review and termination within the time and in the manner provided in the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."

(h) A member of the board who fails to attend three consecutive meetings shall forfeit his or her seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member.

(i) A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.

(j) The board shall meet at least once every two months and at such additional times as may be necessary to conduct the business of the board.

(k) The board shall have the power, and it shall be its duty:

(1) To regulate the practice of pharmacy;

(2) To determine the nature of examinations for all applicants for pharmacists' licenses;

(3) To examine, inspect and investigate all applications and all applicants for licensure as pharmacists, pharmacies or registration as pharmacy interns and to grant certificates of licensure or registration to all applicants whom it shall judge to be properly qualified;

(4) With the approval of the Commissioner of Professional and Occupational Affairs, to prepare position descriptions, employ inspectors who shall be licensed pharmacists and employ appropriate consultants to assist it for any purposes which it may deem necessary, provided that the board may not delegate any of its final decisionmaking responsibilities to any consultant;

(5) To investigate or cause to be investigated all violations of the provisions of this act and its regulations and to cause prosecutions to be instituted in the courts upon advice from the Attorney General;

(6) To make or order inspections of all pharmacies, except health care facilities, as defined in the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act," and which are periodically inspected by the Department of Health in accordance with the standards in this act and the board's regulations promulgated thereto: Provided, That the Department of Health shall forward a copy of their inspection report to the board noting any violations of the act: And, provided further, That, if a violation is reported, the board shall have the power to inspect such pharmacies and take appropriate action as specified in this act; and to make or order inspections of other places in which drugs or devices are stored, held, compounded, dispensed or sold to a consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded or stored, held, dispensed, distributed or compounded in violation of the provisions of this act or the provisions of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act";

(7) To conduct hearings for the revocation or suspension of licenses, permits or registrations, for which hearings the board shall have the power to subpoena witnesses;

(8) To assist the regularly constituted enforcement agencies of this Commonwealth in enforcing all laws pertaining to drugs, controlled substances, and practice of pharmacy;

(9) To promulgate rules and regulations to effectuate the purposes of this act and to regulate the distribution of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety and welfare.

(l) The powers and duties of the board, as enumerated in subsection (k) of this section, shall not be applicable to manufacturers and distributors as defined in "The Controlled Substance, Drug, Device and Cosmetic Act" or to their operations as such.

(m) The board shall have the authority to issue subpoenas, upon application of an attorney responsible for representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer

oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation or hearing held or had by it. Patient records may not be subpoenaed without consent of the patient or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoena as are necessary to prevent unnecessary intrusion into patient confidential information. The board is authorized to apply to Commonwealth Court to enforce its subpoenas.

(6 amended Dec. 20, 1985, P.L.433, No.111)

Section 7. Hearings and Suspensions.--(a) (1) Upon refusal of the board to issue any license, permit or certificate, written notice of the grounds supporting such decision shall be given to the applicant, either personally or by registered or certified mail, return receipt requested, and the board shall accord the applicant opportunity of a hearing, upon written request received within fifteen days from the date of the giving of said written notice.

(2) The board may, upon its own motion, and shall, promptly, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate any alleged violations of this act by any persons, and shall have the power temporarily to suspend or permanently to revoke licenses theretofore issued by the department under the provisions of this act at any time when, after due proceedings as hereinafter provided, it shall find the holder thereof to have been guilty of any violation of the provisions of this act.

(b) Such hearings, appeals from, and rulings resulting therefrom, unless otherwise provided herein, shall be in accordance with the provisions of the "Administrative Agency Law."

(c) A majority of the board shall designate the member or members to be present at each hearing. Subsequent to each hearing, the notes of testimony shall be transcribed and a copy of the transcription shall be given to each member of the board who shall review same prior to voting thereon. All decisions shall be reached by a majority vote of the entire board. The board shall, by regulation, establish and publish procedural rules concerning the conduct of hearings.

(d) The board shall maintain in its office a private docket or other record in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with it, and all investigations instituted by it in the first instance upon or in connection with which any such hearing shall have been had or in which the licensee charged shall have made no defense. The board shall also give immediate notice, in writing, of such ruling or decision to the licensee affected thereby and as well, where the investigation shall have been instituted by complaint filed, to the party or parties by whom the complaint was made. If such ruling shall be to the prejudice of or shall injuriously affect the licensee, the board shall also state in said notice the date upon which the said ruling or decision shall become effective. If the licensee cannot at such time be found, his whereabouts

being then unknown, such notice may be given by the board by advertisement inserted in one issue of a newspaper of general circulation published within the county where was located the principal office of the licensee as designated in the license. When any revocation or suspension shall become final, the board shall publish notice thereof in one issue of one or more newspapers of general circulation published within the county in which the licensee was practicing or engaged in the practice of pharmacy at the time of such revocation or suspension.

(d.1) A license issued under this act may be temporarily suspended under circumstances as determined by the board to be an immediate and clear danger to the public health and safety. The board shall issue an order to that effect without a hearing, but upon due notice, to the licensee concerned at his last known address, which shall include a written statement of all allegations against the licensee. The provisions of subsection (b) shall not apply to temporary suspension. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty days following the issuance of an order temporarily suspending a license, the board shall conduct or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than one hundred eighty days.

(d.2) A license issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as hereinafter provided in the case of revocation or suspension of such license.

(d.3) The board, with the approval of the Commissioner of Professional and Occupational Affairs, shall appoint and fix the compensation of a professional consultant who is a licensee of the board with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. Such consultant shall be accountable to the board and shall act as a liaison between the board and treatment programs, such as alcohol and drug treatment programs licensed by the Department of Health,

psychological counseling and impaired professional support groups approved by the board and which provide services to licensees under this act.

(d.4) The board may defer and ultimately dismiss any of the types of corrective action set forth in this act for an impaired professional so long as the professional is progressing satisfactorily in an approved treatment program, provided that the provisions of this subsection shall not apply to a professional convicted of, pleaded guilty to or entered a plea of nolo contendere to a felonious act prohibited by "The Controlled Substance, Drug, Device and Cosmetic Act," or the conviction of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country. An approved program provider shall, upon request, disclose to the consultant such information in its possession regarding an impaired professional in treatment which the program provider is not prohibited from disclosing by an act of this Commonwealth, another state or the United States. Such requirement of disclosure by an approved program provider shall apply in the case of impaired professionals who enter an agreement in accordance with this section, impaired professionals who are the subject of a board investigation or disciplinary proceeding and impaired professionals who voluntarily enter a treatment program other than under the provisions of subsections (d.3) through (d.8) but who fail to complete the program successfully or to adhere to an after-care plan developed by the program provider.

(d.5) An impaired professional who enrolls in an approved treatment program shall enter into an agreement with the board under which the professional's license shall be suspended or revoked but enforcement of that suspension or revocation shall be stayed for the length of time the professional remains in the program and makes satisfactory progress, complies with the terms of the agreement and adheres to any limitations on his practice imposed by the board to protect the public. Failure to enter into such an agreement shall disqualify the professional from the impaired professional program and shall activate an immediate investigation and disciplinary proceeding by the board.

(d.6) If, in the opinion of the consultant after consultation with the provider, an impaired professional, who is enrolled in an approved treatment program has not progressed satisfactorily, the consultant shall disclose to the board all information in his possession regarding said professional, and the board shall institute proceedings to determine if the stay of the enforcement of the suspension or revocation of the impaired professional's license shall be vacated.

(d.7) An approved program provider who makes a disclosure under subsections (d.3) through (d.8) shall not be subject to civil liability for such disclosure or its consequences.

(d.8) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license or certificate shall make or cause to be

made a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired pharmacist in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to subsections (d.3) through (d.8) in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed one thousand dollars ($1,000). The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(7 amended Dec. 20, 1985, P.L.433, No.111)

Section 7.1. Reinstatement of License, Certificate or Registration.--Unless ordered to do so by Commonwealth Court or an appeal therefrom, the board shall not reinstate the license, certificate or registration of a person to practice pharmacy pursuant to this act which has been revoked. Any person whose license, certificate or registration has been revoked may apply for reinstatement, after a period of at least five years, but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement, if he or she desires to practice at any time after such revocation.

(7.1 added Dec. 20, 1985, P.L.433, No.111)

Section 7.2. Surrender of Suspended or Revoked License.--The board shall require a person whose license or registration has been suspended or revoked to return the license or registration in such manner as the board directs. Failure to do so, and upon conviction thereof, shall be a misdemeanor of the third degree.

(7.2 added Dec. 20, 1985, P.L.433, No.111)

Section 8. Unlawful Acts.--It shall be unlawful for:

(1) Any person to procure or attempt to procure a license, permit or certificate for himself or for any other person by making or causing to be made any false representations.

(2) Any person not duly licensed as a pharmacist, pursuant to section 3 hereof, to engage in the practice of pharmacy, including the preparing, compounding, dispensing, selling or distributing at retail to any person any drug, except by a pharmacy intern or such other authorized personnel under the direct and immediate personal supervision of a pharmacist: Provided, however, That nothing herein shall be construed to prevent a duly licensed medical practitioner from dispensing, compounding or otherwise giving any drug to his own patients after diagnosis or treatment of said patient, if such compounding, preparing and dispensing is done by said licensee himself, nor shall anything herein prevent any person from selling or distributing at retail household remedies or proprietary medicines when the same are offered for sale or sold in the original packages which have been put up ready for sale to consumers, provided household remedies or proprietary medicines shall not include any controlled substances or non-proprietary drug under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(2.1) Any pharmacist to dispense an emergency prescription, unless:

(i) The pharmacist first attempts to obtain an authorization from the authorized prescriber and cannot obtain the authorization.

(ii) The drug which is the subject of the refill is not a controlled dangerous substance.

(iii) The drug which is the subject of the refill is essential to the maintenance of life.

(iv) The drug which is the subject of the refill is essential to the continuation of therapy in chronic conditions, and, in the pharmacist's professional judgment, the interruption of the therapy reasonably might produce an undesirable health consequence, be detrimental to the patient's welfare or cause physical or mental discomfort.

(v) The pharmacist enters on the back of the prescription or on another appropriate, uniformly maintained and readily retrievable record, the date and quantity of the refill, and, in addition, the pharmacist signs the refill.

(vi) The pharmacist provides only one refill of the prescription and the quantity of that refill is in conformity with the prescribed directions for use, but limited to a seventy-two hour emergency supply.

(vii) Within seventy-two hours of dispensing the refill, the pharmacist notifies the prescriber that an emergency prescription has been dispensed.

(3) Any unlicensed person to operate or conduct, or to have charge of or to supervise any pharmacy, for a violation of this section, the owner of said pharmacy shall be equally liable as principal.

(4) Any person to represent himself to be licensed under this act when in fact he is not.

(5) Any person to knowingly prevent or refuse to permit any member of the board, or its duly authorized agents, to enter a pharmacy or any other place where drugs or devices are kept, stored, dispensed or distributed to a consumer, for the purpose of lawful inspection or other purposes in accordance with the provisions of this act and regulations pursuant thereto.

(6) Any person whose license, permit or certificate has been revoked, suspended or refused renewal to fail to deliver the license permit or certificate to the board upon demand.

(7) Any person to sell at auction drugs or devices in bulk or in open or unopened packages, unless such sale has been approved in advance by the board and unless such sale shall be under the personal supervision of a licensed pharmacist appointed by the board and whose fee shall be paid by the seller thereof.

(8) Any person, firm or corporation to use the title "pharmacist", "assistant pharmacist", "druggist", "apothecary", except a person duly licensed as a pharmacist in Pennsylvania, or any person to conduct or transact business under a name which contains as part thereof the words "drug store", "pharmacy", "drugs", "medicine store", "medicines", "drug shop," "apothecary," "pharmaceutical," "homeopathic," "homeopathy" or any term having a similar meaning, or in any manner by advertisement, display of show globes or otherwise describe or refer to the place of the conducted business or

person, unless the place is a pharmacy duly issued a permit by the State Board of Pharmacy.

(9) Any person who buys, sells or causes to be sold or offers for sale any drug or device which bears or which package bears, or originally did bear, the inscription "sample" or "not for resale" or "for investigational or experimental use only" or other similar words, except where a cost is incurred in the bona fide acquisition of an investigational or experimental drug.

(10) Any person using to his own advantage or revealing to anyone other than the board, its duly authorized representatives, or to the courts, when relevant to any judicial proceeding under this act, any information acquired under authority of this act or concerning any method or process which is a trade secret.

(11) Any pharmacist or owner of a pharmacy advertising or promoting prices for drug and pharmaceutical service to the public which do not conform to Federal laws or regulations.

(12) Any person who knowingly and willfully forges or counterfeits upon any goods, wares or merchandise the private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares or merchandise, or keeps in possession or conceals any goods, wares or merchandise bearing forged or counterfeited private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares or merchandise, or keeps in control, custody or possession any punch plate, stone or other thing in the likeness of any punch plate or stone designated for the printing or imprinting of the private stamps or labels of any mechanic or manufacturer, or who vends any goods, wares or merchandise having thereon any forged or counterfeited stamps or labels purporting to be the stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser.

(13) Any person by himself or through another to procure or attempt to procure for himself or another any drug:

(i) by fraud, deceit, misrepresentation or subterfuge;

(ii) by the forgery or alteration of a prescription or any written order;

(iii) by the concealment of a material fact;

(iv) by use of a false statement in any prescription, order or report.

(14) Any person to advertise the filling or refilling of prescriptions for any consumer or patient in Pennsylvania if said person is not licensed under this act or the said prescription is not filled or refilled in a pharmacy licensed by the board.

(14.1) One or more medical practitioners to have a proprietary or beneficial interest sufficient to permit them to exercise supervision or control over the pharmacist in his professional responsibilities and duties.

(15) Any person who violates any of the provisions of this section 8 is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to undergo imprisonment for not more than one year or pay a fine of not more than five thousand dollars ($5000), or both, and for each subsequent offense, shall be sentenced to undergo imprisonment of not

more than three years or to pay a fine of not more than fifteen thousand dollars ($15,000), or both.

(15.1) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to one thousand dollars ($1,000) on any current licensee who violates any provision of this act or on any person who practices pharmacy without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(15.2) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon receiving notification of an alleged violation of this act. The board shall maintain current records of all reported alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

(8 amended Dec. 20, 1985, P.L.433, No.111)

Compiler's Note: Section 3 of Act 25 of 2009, which amended section 5 of the act of July 2, 1993 (P.L.345, No.49), provided that section 8(15.1) is repealed insofar as it is inconsistent with the amendment of section 5.

Section 8.1. Injunction.--It shall be unlawful for any person to practice or attempt to offer to practice pharmacy, as defined in this act, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice of pharmacy as defined in this act may be enjoined by the courts on petition of the board or the Commissioner of Professional and Occupational Affairs. In any such proceeding it shall not be necessary to show that any person is individually injured by the actions complained of. If it is found that the respondent has engaged in the unlawful practice of pharmacy, the court shall enjoin him or her from so practicing unless and until he or she has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to any other civil or criminal prosecution and punishment.

(8.1 added Dec. 20, 1985, P.L.433, No.111)

Section 8.2. Setting of Fees and Disposition of Fees, Fines and Civil Penalties.--(a) All fees required under this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues raised by fees, fines and civil penalties imposed under this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(b) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board under subsection (a) are inadequate to meet the minimum enforcement

efforts required by this act, then the bureau, after consultation with the board and subject to the "Regulatory Review Act," shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.

(c) All fees, fines and civil penalties imposed in accordance with this act shall be paid into the Professional Licensure Augmentation Account.

(8.2 added Dec. 20, 1985, P.L.433, No.111)

Section 8.3. Reports of the Board.--(a) The board shall submit annually to the Department of State an estimate of the financial requirements of the board for its administrative, investigative, legal and miscellaneous expenses.

(b) The board shall submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

(c) The board shall submit annually a report, to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate, containing a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

(8.3 added Dec. 20, 1985, P.L.433, No.111)

Section 9. Poisons.--(a) Poison means and includes the compositions of the following schedules:

Schedule "A".

(1) Arsenic compounds and preparations.

(2) Cyanides and preparations including hydrocyanic acid.

(3) Fluorides soluble in water and preparations.

(4) Mercury compounds and preparations, except preparations made and labeled for external use only and containing not more than five-tenths per centum total mercury and except ointments or soaps containing not more than two per centum total mercury or not more than ten per centum ammonium mercuric chloride or mercuric oxide.

(5) Phosphorous and preparations.

(6) Thallium compounds and preparations.

(7) Aconite, belladonna, cantharides, cocculus, conium, digitalis, gelsemium, hysocyamus, nux vomica, santonica, stramonium, strophanthus, veratrum, or their contained or derived active compounds and preparations, except preparations made and labeled for external use only, and except preparations containing not more than four-thousandths per centum total belladonna alkaloids, or not more than two-hundredths per centum total nux vomica alkaloids, and except preparations in dosage forms each containing not more than two-tenths milligram total belladonna alkaloids, or not more than one milligram total nux vomica alkaloids.

(8) Zinc phosphide and preparations.

(9) Sodium fluoroacetate and preparations.

Schedule "B".

(1) Antimony, barium, copper, lead, silver or zinc compounds soluble in water, and preparations containing five per centum or more of these compounds.

(2) Bromine or iodine and preparations.

(3) Hypochlorous acid free or combined, and preparations that yield ten per centum or more of available chlorine, excepting chloride of lime or bleaching powder.

(4) Permanganates soluble in water and preparations containing five per centum or more of these compounds.

(5) Nitric acid and preparations containing five per centum or more of the free acid.

(6) Hydrochloric, hydrobromic or sulfuric acids, and preparations containing ten per centum or more of the free acids.

(7) Oxalic acid or oxalates, and preparations containing ten per centum or more of these compounds.

(8) Acetic acid, and preparations containing twenty per centum or more of the free acid.

(9) Potassium or sodium hydroxides, and preparations containing ten per centum or more of the free alkalies.

(10) Ammonia solutions or ammonium hydroxide, and preparations containing five per centum or more of free ammonia.

(11) Chloroform or ether, and preparations containing five per centum or more of these compounds, except preparations made and labeled for external use only.

(12) Methyl alcohol or formaldehyde, and preparations containing one per centum or more of these compounds, except when used as a preservative and not sold to the general public.

(13) Phenol or carbolic acid, cresole or other phenol derivatives soluble in water, and preparations containing five per centum or more of these compounds.

(14) Nitroglycerine and nitrites.

(15) Nicotine, and preparations containing nicotine expressed as alkaloid more than two per centum.

(16) Ergot, cotton root, pennyroyal and larkspur, or their contained or derived active compounds or mixtures thereof.

(b) The board may add to, or delete from, any of the aforementioned schedules when, in the opinion of the board, it is in the interest of the public health. Notice of the adoption of rules pursuant to this section shall be given to the public in such manner as the board deems necessary.

(c) The board shall adopt and maintain a schedule of the most suitable common antidotes for the poisons listed in Schedules "A" and "B", and shall distribute same to each person registered with it.

(d) No person shall sell, distribute or furnish, either directly or indirectly, except on prescription, any poisons enumerated in Schedules "A" and "B" (or those poisons which may subsequently be added to said schedules by the board) unless there is affixed a poison label to the package, box, bottle or paper, in which the poison is contained. The word "poison" shall be distinctly shown on said label, together with the name of said place of business of the seller, all of which shall be printed in red ink. In addition the name of

such poison shall be printed or written thereupon in clear print.

(e) No person shall sell, distribute or furnish any poison named in Schedule "A" or "B", or any poison hereinafter added to Schedule "A" or "B" by the board, unless on inquiry it is found that the person desiring it is aware of its poisonous character and it satisfactorily appears that the poison is to be used for a legitimate purpose.

(f) No poison enumerated in Schedule "A" and "B", or poisons which may hereinafter be added to said schedules, shall be sold, delivered or furnished to any person who is less than sixteen years of age.

(g) No person shall sell, distribute or furnish any poisons included in Schedule "A", or the additions thereto, without making or causing to be made at the time of selling an entry in a poison book kept solely for that purpose, stating the date of sale, the name, address and signature of the purchaser, the name and quantity of the poison sold, the statement of the purchaser of the purpose for which it is required, and the name of the dispenser who shall be a registered pharmacist. The provisions of this paragraph do not apply to the dispensing of drugs or poisons by registered pharmacists pursuant to prescriptions.

(h) Drug manufacturers and wholesalers are exempt from subsections (d), (e), (f) and (g), when said poisons are sold, distributed or furnished to drug manufacturers, wholesalers, hospitals, duly licensed pharmacists or medical practitioners. Pharmacists are exempt from subsection (g) when said poisons are sold to duly licensed pharmacists or medical practitioners.

(i) Any person violating any of the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not to exceed three hundred dollars ($300) or to undergo imprisonment for not more than three months, or both.

(j) The provisions of this section shall not apply with respect to any poisons regulated and controlled by the Secretary of Agriculture pursuant to the Pennsylvania Pesticide Act of 1957, nor with respect to any poisons present in commercial feeds as defined and regulated by the Commercial Feeds Act of 1956, May 29, P.L. (1955) 1788.

Section 9.1. Drug Therapy Protocols.--(a) A pharmacist shall be permitted to enter into a written agreement or protocol with a licensed physician authorizing the management of drug therapy in an institutional setting.

(b) The licensed physician who is a party to a written agreement or protocol authorizing the management of drug therapy shall be in active practice, and the written agreement or protocol shall be within the scope of the licensed physician's current practice.

(c) Participation in a written agreement or protocol authorizing the management of drug therapy shall be voluntary, and no licensed physician, pharmacist or institution shall be required to participate.

(d) (1) A pharmacist who is a party to a written agreement or protocol authorizing the management of drug therapy shall obtain and maintain, to the satisfaction of the board, professional liability insurance coverage in the minimum

amount of one million dollars ($1,000,000) per occurrence or claims made. The professional liability insurance coverage shall remain in effect as long as that pharmacist is a party to a written agreement or protocol authorizing the management of drug therapy. Failure to maintain insurance coverage as required under this subsection shall be actionable under section 5 of this act.

(2) The board shall accept from pharmacists as satisfactory evidence of insurance coverage under this subsection any and all of the following: personally purchased professional liability insurance, professional liability insurance coverage provided by the pharmacist's employer or any similar type of coverage. ((2) amended June 1, 2010, P.L.201, No.29)

(3) ((3) deleted by amendment June 1, 2010, P.L.201, No.29)

(e) Within eighteen months of the effective date of this section, the board shall adopt regulations establishing the parameters of written agreements or protocols authorized by this section. Such parameters shall include, but not be limited to, the requirement that written agreements or protocols:

(1) Be in writing.

(2) Require that drug therapy regimens be initiated by a licensed physician for patients referred to a pharmacist for drug therapy.

(3) Provide for notification of the role of the pharmacist by a licensed physician to each referred patient whose drug therapy management may be affected by the agreement.

(4) Be available as follows:

(i) At the practice site of any licensed physician who is a party to the agreement.

(ii) At the practice site of any licensed pharmacist who is a party to the agreement.

(iii) At the institution where a written agreement or protocol is in place.

(iv) To any patient whose drug therapy management is affected by the agreement.

(v) Upon request, to representatives of the State Board of Medicine, the State Board of Osteopathic Medicine, the State Board of Pharmacy and the Department of Health.

(5) Identify, by name, each licensed physician and each licensed pharmacist who are parties to the agreement.

(6) Be signed and dated by each licensed physician and each licensed pharmacist.

(7) Specify the functions and tasks which are the subject of the the written agreement or protocol.

(8) Provide for execution of the agreement when any licensed physician or licensed pharmacist may be temporarily absent from a practice setting or temporarily unavailable to participate in its execution.

(9) Establish an appropriate time frame, not to exceed seventy-two hours, within which the licensed pharmacist must notify the licensed physician of any changes in dose, duration or frequency of medication prescribed.

(10) Be filed with the State Board of Pharmacy and the State Board of Medicine and/or the State Board of Osteopathic Medicine.

(11) Remain in effect for a period not to exceed two years upon the conclusion of which, or sooner, the parties shall review the agreement and make a determination as to its renewal, necessary modifications or termination.

(12) Allow for termination of the agreement at the request of any party to it at any time.

(f) Managing drug therapy within an institutional setting may occur without the requirements of subsection (e) provided it is pursuant to a medical order by a licensed physician for managing drug therapy protocol approved by the medical staff of the institution.

(9.1 added June 29, 2002, P.L.673, No.102)

Section 9.2. Authority to Administer Injectable Medications, Biologicals and Immunizations.--(a) The board shall by regulation establish education and training standards and practice guidelines pursuant to which pharmacists shall be authorized to administer injectable medications, biologicals and immunizations to persons who are more than eighteen years of age and influenza immunizations by injectable or needle-free delivery methods to persons nine years of age and older. Such standards and guidelines shall include, but not be limited to, the following:

(1) Satisfactory completion of an academic and practical curriculum approved by the board that includes the current guidelines and recommendations of the Centers for Disease Control and Prevention in the Public Health Service of the United States Department of Health and Human Services, the American Council on Pharmaceutical Education or a similar health authority or professional body and includes, but is not limited to, disease epidemiology, vaccine characteristics, injection technique, emergency response to adverse events and related topics.

(2) Maintenance of a current cardiopulmonary resuscitation (CPR) certificate acceptable to the board.

(3) That the administration of injectable medications, biologicals and immunizations be in accordance with a definitive set of treatment guidelines established by a physician and the Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices guidelines or another competent authority approved by the board.

(4) That a minimum of two hours of the thirty-hour requirement for continuing education for license renewal be dedicated to this area of practice.

(5) For individuals under eighteen years of age, that parental consent be obtained prior to administration. Administration of influenza immunizations by injectable or needle-free delivery methods shall be in accordance with the immunization schedule established by the Centers for Disease Control and Prevention.

(6) Maintenance of a level of professional liability insurance coverage in the minimum amount of one million dollars ($1,000,000) per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensees to disciplinary proceedings. The board shall accept as satisfactory evidence of insurance coverage any of the following:

(i) personally purchased liability insurance;

(ii) professional liability insurance coverage provided by the individual licensee's employer; or

(iii) similar insurance coverage acceptable to the board.

(7) Notification of the individual's primary care provider, if known, within forty-eight hours of administration.

(b) A pharmacist's authority to administer injectable medications, biologicals and immunizations shall not be delegated to any other person. A pharmacy intern who has completed a course of education and training which meets the requirements of subsection (a)(1) and (2) may administer injectable medications, biologicals and immunizations to persons who are more than eighteen years of age and influenza immunizations by injectable or needle-free delivery methods to persons nine years of age and older only under the direct, immediate and personal supervision of a pharmacist holding the authority to administer injectable medications, biologicals and immunizations.

(9.2 amended June 26, 2015, P.L.29, No.8)

Section 9.3. Collaborative Drug Therapy Management.--(a) A pharmacist shall enter into a written collaborative agreement with a licensed physician authorizing the management of drug therapy for a disease or for a condition or symptom of a disease before practicing the management of drug therapy in a setting other than an institutional setting.

(b) A pharmacist who is a party to a collaborative agreement authorizing the management of drug therapy shall utilize an area for in person, telephonic or other approved electronic consultations relating to the management of drug therapy that ensures the confidentiality of the patient information being discussed.

(c) (1) A pharmacist who is a party to a collaborative agreement authorizing the management of drug therapy shall obtain and maintain a level of professional liability insurance coverage in the minimum amount of one million dollars ($1,000,000) per occurrence or claims made. Failure to maintain insurance coverage as required shall subject the licensee to disciplinary proceedings. The board shall accept from a licensee as satisfactory evidence of insurance coverage any of the following:

(i) personal purchased liability insurance;

(ii) professional liability insurance coverage provided by the individual licensee's employer; or

(iii) similar insurance coverage acceptable to the board.

(2) A licensee practicing under this section shall provide an affidavit to the board that the licensee has obtained professional liability insurance in accordance with this subsection.

(d) A pharmacist may not provide economic incentives to a licensed physician for the purpose of entering into a collaborative agreement for the management of drug therapy.

(e) The management of drug therapy pursuant to a collaborative agreement shall be initiated by a written referral from the licensed physician to the pharmacist. The written referral shall include the frequency in which the pharmacist must conduct the management of drug therapy in person.

(f) The licensed physician who is a party to the collaborative agreement authorizing the management of drug

therapy shall hold an active license in good standing and in accordance with the terms of the collaborative agreement shall be within the scope of the licensed physician's current practice.

(g) Participation in a collaborative agreement authorizing the management of drug therapy shall be voluntary, and no licensed physician or pharmacist shall be required to participate.

(h) A patient's records related to the management of drug therapy may be maintained in a computerized recordkeeping system which meets all requirements for Federal and State-certified electronic health care records.

(i) A pharmacist who is a party to the collaborative agreement authorizing the management of drug therapy shall have access to the records of the patient who is the recipient of the management of drug therapy.

(j) The handling of all patient records by the pharmacist providing the management of drug therapy must comply with the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

(k) The collaborative agreement must:

(1) Be between a licensed physician and a pharmacist.

(2) Comply with the requirements specified in section 9.1(e).

(3) Specify the terms under which a pharmacist providing the management of drug therapy is permitted to adjust drug regimen or to adjust drug strength, frequency of administration or route without prior written or oral consent by the collaborating physician.

(9.3 added June 1, 2010, P.L.201, No.29)

Section 9.4. Construction.--Nothing in this act shall be construed to provide prescriptive authority to a pharmacist.

(9.4 added June 1, 2010, P.L.201, No.29)

Section 10. Specific Repeals.--The following acts and parts of acts are repealed absolutely:

(1) The act of May 24, 1887 (P.L.189), entitled "An act to regulate the practice of pharmacy and sale of poisons, and to prevent adulterations in drugs and medicinal preparations, in the State of Pennsylvania."

(2) The act of June 25, 1895 (P.L.281), entitled "A supplement to the act entitled 'An act to regulate the practice of pharmacy and sale of poisons, and to prevent adulterations in drugs and medicinal preparations, in the State of Pennsylvania,' approved the twenty-fourth day of May, Anno Domini one thousand eight hundred and eighty-seven, requiring persons holding certificates of registrations or renewal certificates under the provisions of this act, to keep said certificates and renewal certificates in some conspicuous place in their retail drug stores and pharmacies, and providing a penalty for the violation thereof."

(3) The act of April 24, 1901 (P.L.99), entitled "An act amending the act prescribing the fees to be paid by applicants for examination by the State Pharmaceutical Examining Board, and regulating the exhibition of their certificate."

(4) The act of May 8, 1909 (P.L.470), entitled "An act to prevent the manufacture and sale of adulterated or misbranded drugs; defining the word 'drug'; prescribing penalties for violation of this act, and the method of its enforcement."

(5) The act of May 17, 1917 (P.L.208), entitled "An act to regulate the practice of pharmacy and sale of poisons and drugs, and providing penalties for the violation thereof; and defining the words 'drugs' and 'poison'; and providing for the appointment of a board which shall have in charge the enforcement of said law, and the power to make rules and regulations for the enforcement of said law; and providing for the purchase of samples of drugs for determining their quality, strength, and purity."

(6) The act of May 26, 1921 (P.L.1172), entitled "A supplement to the act, approved the seventeenth day of May, one thousand nine hundred seventeen (Pamphlet Laws, two hundred and eight), entitled 'An act to regulate the practice of pharmacy and sale of poisons and drugs, and providing penalties for the violation thereof; defining the words 'drug' and 'poison'; and providing for the appointment of a board which shall have in charge the enforcement of said law, and the power to make rules and regulations for the enforcement of said law; and providing for the purchase of samples of drugs for determining their quality, strength, and purity,' requiring permits to conduct pharmacies; providing for the revocation thereof; and prescribing penalties."

(7) The act of April 27, 1925 (P.L.299), entitled "A supplement to an act, approved the seventeenth day of May, one thousand nine hundred seventeen (Pamphlet Laws, two hundred and eight), entitled 'An act to regulate the practice of pharmacy and sale of poisons and drugs, and providing penalties for the violation thereof; defining the words 'drug' and 'poison'; and providing for the appointment of a board which shall have in charge the enforcement of said law, and the power to make rules and regulations for the enforcement of said law, and providing for the purchase of samples of drugs for determining their quality, strength, and purity,' providing for the registration of apprentices in pharmacy, requiring employers of such apprentices to see that they are registered, and imposing penalties."

(8) The act of May 16, 1945 (P.L.615), entitled "An act to protect the public health and safety by requiring registration with and the securing of certificates of registration from the State Board of Pharmacy by persons, copartnerships, associations and corporations engaged in the manufacture or production of drugs and medical supplies; regulating the manufacture of drugs and medical supplies as herein defined; prohibiting the manufacture, possession or sale of adulterated or misbranded drugs and medical supplies; prescribing certificates of registration; providing for inspections and the suspension and revocation of certificates of registration; conferring powers on the State Board of Pharmacy and courts; and providing penalties."

Section 11. General Repeal.--All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Section 12. Severability.--If any part, section, subsection, sentence, clause or phrase in this act shall be held unconstitutional or invalid for any reason, such invalidity shall not affect the validity of the remaining portion of the act.

Section 13. This act shall take effect on January 2, 1962.

(Act repealed insofar as it prohibits advertising of prescription drugs, Nov. 24, 1976, P.L.1163, No.259)

APPENDIX

Supplementary Provisions of Amendatory Statutes

1985, DECEMBER 20, P.L.433, NO.111

Section 11. This act, with respect to the State Board of Pharmacy, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Compiler's Note: Act 111 added or amended sections 2, 3, 3.1, 3.2, 4 and 5, repealed section 5.1 and added or amended sections 6, 7, 7.1, 7.2, 8, 8.1, 8.2 and 8.3 of Act 699.

Section 13. The presently confirmed members of the State Board of Pharmacy constituted under section 413 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as of December 31, 1985, shall continue to serve as board members until their present terms of office expire, provided that any present board member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the effective date of this act.

Section 14. Each rule and regulation of the board in effect on December 31, 1985, not inconsistent with this act, shall remain in effect after such date until repealed or amended by the board. Each fee of the board in effect on December 31, 1985, and not inconsistent with this act, shall remain in effect after such date until repealed or amended in accordance with the provisions of this act.

Section 15. Any person who holds a valid license issued by the State Board of Pharmacy under the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act, relating to the practice of pharmacy prior to the effective date of this amendatory act shall, on and after the effective date hereof, be deemed to be licensed by the State Board of Pharmacy as provided for in this amendatory act.