West's Kansas Statutes Annotated Currentness
Chapter 65. Public Health
➡ Article 16. Regulation of Pharmacists
➡ **65-1601. Repealed by Laws 1953, ch. 290, § 37**

➡ **65-1602. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1603. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1604. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1605, 65-1606. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1605, 65-1606. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1607. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1608. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1609. Repealed by Laws 1953, ch. 290, § 37**

➡ **65-1610, 65-1611. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1610, 65-1611. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1612, 65-1613. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1612, 65-1613. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1614. Repealed by Laws 1953, ch. 290, § 37**

➡ **65-1615, 65-1616. Repealed by Laws 1953, ch. 290, § 38**

➡ **65-1615, 65-1616. Repealed by Laws 1953, ch. 290, § 38**

65-1617. Repealed by Laws 1943, ch. 269, § 28

65-1618. Repealed by Laws 1953, ch. 290, § 38

65-1619. Repealed by Laws 1953, ch. 290, § 38

65-1620. Repealed by Laws 1953, ch. 290, § 38

65-1621 to 65-1623. Repealed by Laws 1953, ch. 290, § 38

65-1621 to 65-1623. Repealed by Laws 1953, ch. 290, § 38

65-1624. Repealed by Laws 1975, ch. 319, § 47

65-1625. Title of act

This act shall be known and may be cited as the pharmacy act of the state of Kansas.

65-1626. Definitions

For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner;

(2) the patient or research subject at the direction and in the presence of the practitioner; or

(3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription

applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) “Authorized distributor of record” means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(e) “Board” means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(f) “Brand exchange” means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed.

(g) “Brand name” means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(h) “Chain pharmacy warehouse” means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

(i) “Co-licensee” means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

(k) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(l) “Direct supervision” means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(m) “Dispense” means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(n) “Dispenser” means a practitioner or pharmacist who dispenses prescription medication.

(o) “Distribute” means to deliver, other than by administering or dispensing, any drug.

(p) “Distributor” means a person who distributes a drug.

(q) “Drop shipment” means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the “normal distribution channel.”

(r) “Drug” means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term “drug” shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(s) “Durable medical equipment” means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; or (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(t) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(u) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(v) “Electronic signature” means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(w) “Electronic transmission” means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(x) “Electronically prepared prescription” means a prescription that is generated using an electronic prescription application.

(y) “Exclusive distributor” means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

(z) “Facsimile transmission” or “fax transmission” means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. “Facsimile transmission” includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(aa) “Generic name” means the established chemical name or official name of a drug or drug product.

(bb)(1) “Institutional drug room” means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) “Institutional drug room” does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(cc) “Intermediary” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(dd) “Intracompany transaction” means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

(ee) “Medical care facility” shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

(ff) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose

of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(gg) “Manufacturer” means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

(hh) “Mid-level practitioner” means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

(ii) “Normal distribution channel” means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer's co-licensed partner, from that manufacturer to that manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(jj) “Person” means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(kk) “Pharmacist” means any natural person licensed under this act to practice pharmacy.

(ll) “Pharmacist-in-charge” means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy,

manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(mm) “Pharmacist intern” means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

(nn) “Pharmacy,” “drugstore” or “apothecary” means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apothecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(oo) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy's computers or servers, and is controlled by the pharmacy.

(pp) “Pharmacy technician” means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(qq) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(rr) “Preceptor” means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(ss) “Prescriber” means a practitioner or a mid-level practitioner.

(tt) “Prescription” or “prescription order” means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber's professional

practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form.

(uu) “Prescription medication” means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(vv) “Prescription-only drug” means any drug whether intended for use by man or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ww) “Probation” means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(xx) “Professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

(yy) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(zz) “Retail dealer” means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

(aaa) “Secretary” means the executive secretary of the board.

(bbb) “Third party logistics provider” means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(ccc) “Unprofessional conduct” means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ddd) “Vaccination protocol” means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(eee) “Valid prescription order” means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

(fff) “Veterinary medical teaching hospital pharmacy” means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

(ggg) “Wholesale distributor” means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers' and distributors' warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

(hhh) “Wholesale distribution” means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include:

(1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;

(2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;

(3) intracompany transactions, as defined in this section, unless in violation of own use provisions;

(4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;

(5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a

group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;

(7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement;

(8) the sale, purchase or trade of blood and blood components intended for transfusion;

(9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;

(10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;

(11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;

(12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or

(13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

65-1626a. Practice of pharmacy defined; persons engaged as pharmacists

(a) For the purpose of the pharmacy act of the state of Kansas, the following persons shall be deemed to be engaged in the practice of pharmacy:

(1) Persons who publicly profess to be a pharmacist, or publicly profess to assume the duties incident to being a pharmacist and their knowledge of drugs or drug actions, or both;

(2) persons who attach to their name any words or abbreviation indicating that they are a pharmacist licensed to practice pharmacy in Kansas.

(b) “Practice of pharmacy” means the interpretation and evaluation of prescription orders; the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders; the administering of vaccine pursuant to a vaccination protocol; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of prescription drugs and prescription devices and the

maintenance of proper records thereof in accordance with law; consultation with patients and other health care practitioners about the safe and effective use of prescription drugs and prescription devices; and participation in the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy. Nothing in this subsection shall be construed to add any additional requirements for registration or for a permit under the pharmacy act of the state of Kansas or for approval under subsection (g) of K.S.A. 65-1643 and amendments thereto, or to prevent persons other than pharmacists from engaging in drug utilization review, or to require persons lawfully in possession of prescription drugs or prescription devices to meet any storage or record keeping requirements except such storage and record keeping requirements as may be otherwise provided by law or to affect any person consulting with a health care practitioner about the safe and effective use of prescription drugs or prescription devices.

➡65-1626b. Repealed by Laws 2001, ch. 31, § 5

➡65-1626c. Repealed by Laws 2007, ch. 177, § 36, eff. May 17, 2007; Laws 2007, ch. 195, § 59, eff. July 1, 2007

➡65-1626d. Repealed by Laws 2011, ch. 91, § 41, eff. July 1, 2011; Laws 2011, ch. 114, § 101, eff. January 1, 2012

➡65-1627. Grounds for revocation, suspension, placement in probationary status, denial, temporary suspension or temporary limitation of license for pharmacist, permit for retail dealer or registration for pharmacy, manufacturer or distributor; emergency proceedings, procedure

(a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that:

(1) The license was obtained by fraudulent means;

(2) the licensee has been convicted of a felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;

(3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;

(4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(5) the licensee has violated a provision of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act;

(6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;

(7) the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;

(9) the licensee has failed to comply with the requirements of the board relating to the continuing education of pharmacists;

(10) the licensee as a pharmacist in charge or consultant pharmacist under the provisions of subsection (c) or (d) of K.S.A. 65-1648, and amendments thereto, has failed to comply with the requirements of subsection (c) or (d) of K.S.A. 65-1648, and amendments thereto;

(11) the licensee has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement;

(12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

(13) the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order; or

(14) the licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto; or

(15) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board.

(b) In determining whether or not the licensee has violated subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such violation exists, the investigative information shall be presented to the board as a whole. Information submitted to the board as a whole and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of pharmacy with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice pharmacy and who shall accept the privilege to practice pharmacy in this state by so practicing or by the making and filing of a renewal application to practice pharmacy in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

(c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under subsection (a) against the licensee and that the licensee's continuation in practice would constitute an imminent danger to the public health and safety.

(d) The board may suspend, revoke, place in a probationary status or deny a renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was issued are not being conducted according to law or the rules and regulations of the board. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(e) The board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that: (1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith; (2) the owner or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act or uniform controlled substances act of the state of Kansas, or the federal or state food, drug and cosmetic act; (3) the owner or any pharmacist employed by such pharmacy has fraudulently claimed

money for pharmaceutical services; or (4) the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(f) A registration to manufacture drugs, to distribute at wholesale a drug, to sell durable medical equipment or a registration for the place of business where any such operation is conducted may be suspended, revoked, placed in a probationary status or the renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent: (1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas; (2) has been convicted of a felony under any federal or state law relating to the manufacture or distribution of drugs; (3) has had any federal registration for the manufacture or distribution of drugs suspended or revoked; (4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629 , and amendments thereto; (5) has failed to keep, or has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations; or (6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas or has violated the uniform controlled substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

➡ 65-1627a. Same; jurisdiction of board; petition, who may file; stipulation, order based thereon

The board shall have jurisdiction of the proceedings to revoke, suspend, place in a probationary status or deny a renewal of any license, registration or permit issued by the board under the provision of the pharmacy act of the state of Kansas. The petition for the revocation, suspension, placing in a probationary status or denial of a renewal of a license, registration or permit may be filed: (a) By the attorney general in all cases; (b) by the district or county attorney of the county in which the licensee, or permit holder resides or in which a place of business or place of professional practice of such person is located; or (c) by a regularly employed attorney of the board. The petition shall be filed in the office of the executive secretary of the board.

The board and the person holding the license permit or registration may enter into a stipulation which shall be binding upon the board and such person entering into the stipulation, and the board may enter its enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the proceedings.

65-1627b. Same; direction by board to file petition or to prosecute

(a) The board may direct the attorney general, the district or county attorney or its regularly employed attorney to file such petition against the licensee, registrant or permit holder upon its own motion, or it may give such direction upon the sworn statement of some person who resides in the county in which a place of business or place of professional practice of such person is located.

(b) The attorney general shall comply with such directions of the board and prosecute the action on behalf of the state, but the district or county attorney of any county where the licensee, registrant or permit holder has operated a place of business or place of professional practice, at the request of the attorney general or the board, shall appear and prosecute such action.

65-1627c. Same; form of petition, rules

The following rules shall govern the form of the petition in such cases: (a) The board shall be named as plaintiff and the person who holds the license, registration or permit as defendant. (b) The charges against the person who holds the license, registration or permit shall be stated with reasonable definiteness. (c) Amendments may be made as in ordinary actions in the district court. (d) All allegations shall be deemed denied, but the person who holds the license, registration or permit may plead to the petition if such person so desires.

65-1627d. Repealed by Laws 2005, ch. 26, § 1

65-1627e. Repealed by Laws 2005, ch. 26, § 1

65-1627f. Same; powers of board; term of suspension, probation or revocation; hearing; orders

(a) Depositions may be used by either party. Upon the completion of any hearing held hereunder, the board shall have the power to enter an order of revocation, suspension, probation or denial of the renewal of a license, registration or permit. The license, registrant or permit holder shall not engage in the activity authorized by such license, registration or permit after a license, registration or permit is revoked or the renewal thereof denied or during the time for which it is suspended. If a license, registration or permit is suspended or placed on probation, the suspension or probation shall be for a definite period of time to be fixed by the board, and the license, registration or permit shall be reinstated and any limitations or conditions thereon removed upon the expiration of such period if all renewal fees have been paid. If such license, registration or permit is revoked, such revocation shall be for all time, except that at any time after the expiration of one year, application may be made for reinstatement of any license, registrant or permit holder whose license, registration or permit shall have been revoked, and such application shall be addressed to the executive secretary of the board. Such application shall be processed in accordance with the provisions of the Kansas administrative procedure act.

(b) All final orders entered in any proceeding shall be the action of the board with a quorum present at such meeting.

65-1627g. Repealed by Laws 2005, ch. 26, § 1

65-1627h. Costs of proceedings

(a) If the order is adverse to the licensee, registrant or permit holder, the costs shall be charged to such person as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid out of any money in the state board of pharmacy fee fund. Witness fees and costs may be taxed according to the statutes applicable in the district courts.

(b) All costs accrued at the instance of the state, when it is the successful party, and which the attorney general certifies cannot be collected from the licensee, registrant or permit holder, shall be paid out of any available funds in the state treasury to the credit of the board.

(c) The board may consider nonpayment of costs which have been assessed against a person under this section when considering a motion for reinstatement of a license or registration by such person, or as a condition of probation.

65-1627i. Repealed by Laws 1999, ch. 38, § 6

65-1627j. Subpoenas

(a) In all investigative and disciplinary matters pending before the board, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books and records, documentary evidence and materials. Any person failing or refusing to appear or testify regarding any matter about which such person may be lawfully questioned or to produce any papers, books, records, documentary evidence or materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so, upon application to any district judge of the state of Kansas, may be ordered to comply with such subpoena, and upon failure to comply with the order of the district judge, the court may compel obedience by attachment as for contempt as in the case of disobedience of a similar order or subpoena issued by the court. A subpoena may be served upon any person named therein, anywhere within the state of Kansas with the same fees and mileage by any officer authorized to serve subpoenas in civil actions in the same manner as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state.

(b) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

65-1628. Order; judicial review

(a) If any application for any license, registration or permit is refused or the renewal thereof denied or if any license, registration or permit is suspended, revoked or placed on probation, the board shall notify the person affected in writing of its decision and order and the reasons therefor.

(b) Any action of the board pursuant to K.S.A. 65-1627f, and amendments thereto, is subject to review in accordance with the Kansas judicial review act.

65-1628a. Review bond

If the licensee, registrant or permit holder petitions for review, the only bond required shall be one running to the state, in an amount to be fixed by the court for the payment of the costs both before the board and in the district court. Such bond shall be approved by the judge of the district court. The giving of such a bond by the licensee, registrant or permit holder shall not operate to stay the order of the board or restore the right of the licensee, registrant or permit holder to engage in the profession or business for which the license, registration or permit was issued or remove any condition upon engaging therein pending review, but a stay may be granted in accordance with K.S.A 77-616, and amendments thereto.

65-1628b. Repealed by Laws 1986, ch. 318, § 146

65-1629. Inspection of drugs by board; samples; analyses; publication of results

The board and its duly authorized agents and employees may inspect in a lawful manner the drugs kept for sale, offered for sale or for dispensing, or sold in the state of Kansas by any pharmacist, or kept in stock by any duly licensed practitioner or institutional drug room in the state, or when such inspection is required by the secretary of health and environment the drugs kept in stock by any medical care facility; and for this purpose shall have the right to enter and inspect during business hours any institutional drug room or any pharmacy or any other place in the state of Kansas where drugs are manufactured, packed, packaged, made, sold, offered for sale or kept for sale and may collect samples of such drugs upon payment therefor. The samples thus collected may be submitted for analysis to the office of laboratory services of the department of health and environment and the results of the analysis may be published by the state department of health and environment.

65-1630. Rules and regulations

The board may adopt and promulgate such reasonable rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes and enforce the provisions of this act, which rules and regulations shall be filed in the office of the secretary of state as required by article 4 of chapter 77 of the Kansas Statutes Annotated and amendments thereto.

➡65-1631. Licensure required of pharmacists; qualification of applicants; application for licensure by examination; reciprocal licensure; fees; applicants from schools outside United States

(a) It shall be unlawful for any person to practice as a pharmacist in this state unless such person is licensed by the board as a pharmacist. Except as otherwise provided in subsection (d), every applicant for licensure as a pharmacist shall be at least 18 years of age, shall be a graduate of a school or college of pharmacy or department of a university recognized and approved by the board, shall file proof satisfactory to the board, substantiated by proper affidavits, of a minimum of one year of pharmaceutical experience, acceptable to the board, under the supervision of a preceptor and shall pass an examination approved by the board. Pharmaceutical experience as required in this section shall be under the supervision of a preceptor and shall be predominantly related to the dispensing of prescription medication, compounding prescriptions, preparing pharmaceutical preparations and keeping records and making reports required under state and federal statutes. A school or college of pharmacy or department of a university recognized and approved by the board under this subsection (a) shall have a standard of education not below that of the university of Kansas school of pharmacy. The board shall adopt rules and regulations establishing the criteria which a school or college of pharmacy or department of a university shall satisfy in meeting the standard of education established under this subsection (a).

(b) All applications for licensure by examination shall be made on a form to be prescribed and furnished by the board. Each application for a new license by examination shall be accompanied by a license fee fixed by the board as provided in K.S.A. 65-1645 and amendments thereto.

(c) The board is authorized to adopt rules and regulations relating to the grades which an applicant must receive in order to pass the examination.

(d) Notwithstanding the preceding provisions of this section, the board may in its discretion license as a pharmacist, without examination, any person who is duly registered or licensed by examination in some other state, except that the board may require that such person take the law examination approved by the board. Such person shall file proof satisfactory to the board of having the education and training required of applicants for licensure under the provisions of the pharmacy act of this state. Persons who are registered or licensed as pharmacists by examination in other states shall be required to satisfy only the requirements which existed in this state at the time they become registered or licensed in such other states. The provisions of this subsection shall apply only if the state in which the person is registered or licensed grants, under like conditions, reciprocal registrations or licenses as pharmacists, without examination, to pharmacists duly licensed by examination in this state. Reciprocal licensure shall not be denied to any applicant otherwise qualified for reciprocal licensure under this section who has met the internship requirements of the state from which the applicant is reciprocating or who has at least one year of practice as a licensed pharmacist. A reciprocal licensure may be denied for any of the reasons set forth in subsections (a)(1) through (a)(13) of K.S.A. 65-1627 and amendments thereto.

(e) In the event that an applicant for reciprocal licensure has not been subject to laws requiring continuing education as a condition for renewal of a registration or license, such applicant shall be required to satisfy the board through a competency examination that the applicant has the knowledge and ability to meet Kansas

standards for licensure as a pharmacist.

(f) No applicant who has taken the examination for licensure approved by the board and has failed to complete it successfully shall be considered for licensure by reciprocity within one year from the date such applicant sat for the examination.

(g) All applicants for reciprocal licensure shall file their applications on a form to be prescribed and furnished by the board and such application shall be accompanied by a reciprocal licensure fee fixed by the board as provided in K.S.A. 65-1645 and amendments thereto. The reciprocal licensure fee established by this section immediately prior to the effective date of this act shall continue in effect until a different reciprocal licensure fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645 and amendments thereto.

(h) The board shall take into consideration any felony conviction of such person, but such conviction shall not automatically operate as a bar to licensure.

(i) All applicants for licensure who graduate from a school or college of pharmacy outside the United States or who graduate from a school or college of pharmacy not approved by the board shall submit information to the board, as specified by rules and regulations, and this information shall be accompanied by an evaluation fee fixed by the board as provided in K.S.A. 65-1645 and amendments thereto, which evaluation fee shall be in addition to any other fee paid by the applicant under the pharmacy act of the state of Kansas. The evaluation fee fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until a different evaluation fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645 and amendments thereto. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about such schools or colleges of pharmacy. In entering such contracts the authority to approve schools or colleges of pharmacy shall remain solely with the board.

(j) All applicants for licensure who graduate from a school or college of pharmacy outside the United States or who are not citizens of the United States shall provide proof to the board that the applicant has a reasonable ability to communicate with the general public in English. The board may require such applicant to take the test of English as a foreign language and to attain the grade for passing such test as established by the board by rules and regulations.

(k) Every registered pharmacist holding a valid registration as a pharmacist in effect on the day preceding the effective date of this act shall be deemed to be a licensed pharmacist under this act, and such person shall not be required to file an original application hereunder for a license.

➡65-1632. Renewal of license; fee; denial; conditions; continuing education; inactive status license; reinstatement after nonrenewal; penalty fee

(a) Each license to practice as a pharmacist issued by the board, shall expire on June 30 of the year specified

by the board for the expiration of the license and shall be renewed on a biennial basis in accordance with this section. Each application for renewal of a license as a pharmacist shall be made on a form prescribed and furnished by the board. Except as otherwise provided in this subsection, the application, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the license, shall have the effect of temporarily renewing the applicant's license until actual issuance or denial of the renewal. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's license, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's license. Every licensed pharmacist shall pay to the secretary of the board a renewal fee fixed by the board as provided in K.S.A. 65-1645 and amendments thereto.

(b) Commencing with the renewal of licenses which expire on June 30, 1998, each license shall be renewed on a biennial basis. To provide for a system of biennial renewal of licenses, the board may provide by rules and regulations that licenses issued or renewed may expire less than two years from the date of issuance or renewal.

(c) The board may deny renewal of any license of a pharmacist on any ground which would authorize the board to deny an initial application for licensure or on any ground which would authorize the board to suspend, revoke or place on probation a license previously granted. Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

(d) The payment of the renewal fee by a person who is a holder of a license as a pharmacist shall entitle the person to renewal of license if no grounds exist for denying the renewal of the license and if the person has furnished satisfactory evidence to the board that the person has successfully complied with the rules and regulations of the board relating to continuing professional education. These educational requirements shall be fixed by the board at not less than 20 clock hours nor more than 40 clock hours biennially of a program of continuing education approved by the board. Continuing education hours may be prorated for licensure periods which are less than biennial in accordance with rules and regulations of the board. The maximum number of continuing education hours required by the board to meet the requirements for cancellation of inactive status licensure and renewal of license under subsection (e) or reinstatement of license because of nonpayment of fees under subsection (f) shall not exceed 60.

(e) The payment of the renewal fee by the person who is a holder of a license as a pharmacist but who has not complied with the continuing education requirements fixed by the board, if no grounds exist for denying the renewal of the license other than that the person has not complied with the continuing education requirements fixed by the board, shall entitle the person to inactive status licensure by the board. No person holding an inactive status license from the board shall engage in the practice of pharmacy in this state. Upon furnishing satisfactory evidence to the board of compliance with the continuing education requirements fixed by the board and upon the payment to the board of all applicable fees, a person holding an inactive status license from the board shall be entitled to cancellation of the inactive status license and to renewal of licensure as a pharmacist.

(f) If the renewal fee for any pharmacist's license has not been paid by August 1 of the renewal year, the license is hereby declared void, and no license shall be reinstated except upon payment of any unpaid renewal fee plus a penalty fee fixed by the board as provided in K.S.A. 65-1645 and amendments thereto and proof satisfactory to the board of compliance with the continuing education requirements fixed by the board. The penalty fee established by this section immediately prior to the effective date of the act shall continue in effect until a different penalty fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645 and amendments thereto. Payment of any unpaid renewal fee plus a penalty fee and the submission of proof satisfactory to the board of compliance with the continuing education requirements fixed by the board shall entitle the license to be reinstated. The nonpayment of renewal fees by a previously licensed pharmacist for a period exceeding three years shall not deprive the previously licensed pharmacist of the right to reinstate the license upon the payment of any unpaid fees and penalties and upon compliance with the continuing education requirements fixed by the board, except that the board may require such previously licensed pharmacist to take and pass an examination approved by the board for reinstatement as a pharmacist and to pay any applicable application fee.

➡65-1633. Change of address of pharmacist

Every pharmacist who changes residential address shall within 30 days thereof by letter notify the executive secretary of the board of such change, and upon receipt of the notice the executive secretary shall make the proper alterations in the record kept for that purpose.

➡65-1634. Responsibility for quality of drugs sold; adulteration or mislabeling unlawful

Every person holding a license, registration or permit under the pharmacy act of the state of Kansas who engages in the sale of drugs, medicines, chemicals and poisons shall be responsible for the quality of all such drugs, medicines, chemicals and poisons which such person may sell, compound or put up except when sold in the original and unbroken pack, package, box or other container of the manufacturer. If any person intentionally adulterates or mislabels any drugs, medicines, chemicals or poisons, or causes the same to be adulterated or mislabeled or exposed for sale knowing the same to be adulterated or mislabeled, such person shall be guilty of a class A misdemeanor.

➡65-1635. Dispensing and administering of drugs by duly licensed practitioners, nurses and other persons

(a) Nothing contained in the pharmacy act of the state of Kansas shall prohibit any duly licensed practitioner from purchasing and keeping drugs, from compounding prescriptions or from administering, supplying or dispensing to such practitioner's patients such drugs as may be fit, proper and necessary. Except as provided in subsection (b) or (c), such drugs shall be dispensed by such practitioner and shall comply with the Kansas food, drug and cosmetic act and be subject to inspection as provided by law.

(b) Nothing contained in the pharmacy act of the state of Kansas shall be construed to prohibit any nurse or

other person, acting under the direction of a duly licensed practitioner, from administering drugs to a patient.

(c) Nothing contained in the pharmacy act of the state of Kansas shall be construed to prohibit any registered nurse, acting under the supervision of a person who is licensed to practice medicine and surgery as of July 1, 1982, from dispensing drugs to patients of such person so long as the principal office of such person is, and as of July 1, 1982, was, located in a city not having a registered pharmacy within its boundaries. For the purposes of this subsection (c), “supervision” means guidance and direction of the dispensing of drugs by the person licensed to practice medicine and surgery who shall be physically present in the general location at which the drugs are being dispensed.

(d) Nothing contained in the pharmacy act of the state of Kansas shall be construed to prohibit a duly registered wholesaler from distributing a prescription-only drug pursuant to a veterinarian practitioner's written prescription or order, where a valid veterinarian-client-patient relationship, VCPR, as defined in K.S.A. 47-816, and amendments thereto, exists, to the layman responsible for the control of the animal.

➡65-1635a. Administration of vaccine; education and reporting requirements; delegation of authority prohibited; "pharmacist" defined

(a) A pharmacist or a pharmacy student or intern who is working under the direct supervision and control of a pharmacist may administer influenza vaccine to a person six years of age or older and may administer vaccine, other than influenza vaccine, to a person 18 years of age or older pursuant to a vaccination protocol if the pharmacist, pharmacy student or intern has successfully completed a course of study and training, approved by the accreditation council for pharmacy or the board, in vaccination storage, protocols, injection technique, emergency procedures and recordkeeping and has taken a course in cardiopulmonary resuscitation (CPR) and has a current CPR certificate when administering vaccine. A pharmacist or pharmacy student or intern who successfully completes such a course of study and training shall maintain proof of completion and, upon request, provide a copy of such proof to the board.

(b) All vaccinees will be given a written immunization record for their personal files. The administering pharmacist or pharmacist supervising an administering pharmacy student or intern shall promptly report a record of the immunization to the vaccinee's primary-care provider by mail, electronic facsimile, e-mail or other electronic means. If the vaccinee does not have a primary care provider, then the administering pharmacist or pharmacist supervising an administering pharmacy student or intern shall promptly report a record of the immunization to the person licensed to practice medicine and surgery by the state board of healing arts who has entered into the vaccination protocol with the pharmacist. The immunization will also be reported to appropriate county or state immunization registries.

(c) A pharmacist, pharmacy student or intern may not delegate to any person the authority granted under this act to administer a vaccine.

(d) As used in this section, “pharmacist” means a pharmacist as defined in K.S.A. 65-1626, and amendments

thereto, who has successfully completed a course of study and training, approved by the accreditation council for pharmacy or the board, in vaccination storage, protocols, injection technique, emergency procedures and record keeping and has taken a course in cardiopulmonary resuscitation (CPR) and has a current CPR certificate.

(e) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1636. Sale of drugs limited to pharmacies; violations; exceptions

(a) Except as otherwise provided in this act, the sale and distribution of drugs shall be limited to pharmacies operating under registrations as required by this act, and the actual sale or distribution of drugs shall be made by a pharmacist or other persons acting under the immediate personal direction and supervision of the pharmacist.

(b) The donation, acceptance, transfer, distribution or dispensing of any drug in compliance with the provisions of the utilization of unused medications act and any rules and regulations promulgated thereunder shall not constitute a violation of this section.

➡65-1637. Pharmacist required to be in charge of pharmacy; compounding, filling and refilling of prescriptions; refusal to fill; brand exchange

In every store, shop or other place defined in this act as a “pharmacy” there shall be a pharmacist in charge and, except as otherwise provided by law, the compounding and dispensing of prescriptions shall be limited to pharmacists only. Except as otherwise provided by the pharmacy act of this state, when a pharmacist is not in attendance at a pharmacy, the premises shall be enclosed and secured. Prescription orders may be written, oral, telephonic or by electronic transmission unless prohibited by law. Blank forms for written prescription orders may have two signature lines. If there are two lines, one signature line shall state: “Dispense as written” and the other signature line shall state: “Brand exchange permissible.” Prescriptions shall only be filled or refilled in accordance with the following requirements:

(a) All prescriptions shall be filled in strict conformity with any directions of the prescriber, except:

(1) That a pharmacist may provide up to three-month supply of a prescription drug that is not a controlled substance or psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but included sufficient numbers of refills for a three-month supply; and

(2) that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription signed by the prescriber and written on a blank form

containing two signature lines, signs the signature line following the statement “dispense as written,”

(B) the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber's own handwriting “dispense as written” on the prescription,

(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated, or

(D) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.

(b) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the physician shall bear the name of the person so telephoning. Nothing in this paragraph shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(c)(1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this subsection (c)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (c)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (c)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(d) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(e) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(f) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist's professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled.

MULTIPLE AMENDMENTS

<An amendment of this section by Laws 2012, ch. 107, § 2, was classified as K.S.A. 65-1637c.>

➡65-1637a. Institutional drug rooms; supervision and record-keeping; rules and regulations

(a) An institutional drug room shall be under the supervision of a pharmacist or a practitioner, who may be retained on a part-time basis and who shall be responsible for recordkeeping and storage of drugs by such drug room. For the purposes of this section, “practitioner” means any person licensed to practice medicine and surgery.

(b) The board shall adopt such rules and regulations relating to record-keeping and storage of drugs by institutional drug rooms as necessary for proper control of drugs by such drug rooms.

(c) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1637b. Transmission of prescription drug orders; filling and refilling of prescriptions; refusal to fill; brand exchange

(a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. A pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.

(b) The prescriber may authorize an agent to transmit to the pharmacy a prescription order orally, by facsimile transmission or by electronic transmission provided that the first and last names of the transmitting agent are included in the order.

(c)(1) A new written or electronically prepared and transmitted prescription order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the first and last names of the transmitting agent shall be included in the order.

(2) If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

(3) An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription which is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

(4) In consultation with industry, the state board of pharmacy shall conduct a study on the issues of electronic transmission of prior authorizations and step therapy protocols. The report on the results of such study shall be completed and submitted to the legislature no later than January 15, 2013.

(5) The board is hereby authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose.

(d) An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent, and the first and last names of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form or directions for use, the prescriber shall sign the order as provided by paragraph (1).

(e) Regardless of the means of transmission to a pharmacy, only a pharmacist or a pharmacist intern shall be authorized to receive a new prescription order from a prescriber or transmitting agent. A pharmacist, a pharmacist intern or a registered pharmacy technician may receive a refill or renewal order from a prescriber or transmitting agent if such registered pharmacy technician's supervising pharmacist has authorized that function.

(f) A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription order.

(1) A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued.

(2) A prescription for a schedule III, IV or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued.

(g) Prescriptions shall only be filled or refilled in accordance with the following requirements:

(1) All prescriptions shall be filled in strict conformity with any directions of the prescriber, except that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription manually or electronically signed by the prescriber and prepared on a form containing two signature lines, signs the signature line following the statement “dispense as written”;

(B) the prescriber, in the case of a written prescription signed by the prescriber, writes in the prescriber's own handwriting “dispense as written” on the prescription;

(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or

(D) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.

(h) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(i) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the prescriber, shall bear the name of the person so telephoning. Nothing in this section shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(j)(1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this subsection (j)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (j)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (j)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(k) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(l) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

(m) Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist's professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled.

➡ 65-1637c. Pharmacist required to be in charge of pharmacy; filling of certain prescriptions; refusal to fill; brand exchange

(a) In every store, shop or other place defined in this act as a “pharmacy” there shall be a pharmacist-in-charge and, except as otherwise provided by law, the compounding and dispensing of prescriptions shall be limited to pharmacists only.

(b) Except as otherwise provided by the pharmacy act of this state, when a pharmacist is not in attendance at a pharmacy, the premises shall be enclosed and secured.

MULTIPLE AMENDMENTS

<K.S.A. 65-1637 was also amended by Laws 2012, ch. 121, § 1.>

➡65-1638. Sale of drugs and poisons by registered pharmacist

A pharmacist shall have the right to keep and sell, subject to such restrictions as may be provided by law, all drugs and poisons listed in the national formulary, the United States pharmacopoeia and other standard pharmaceutical and medical works of recognized utility, but nothing in the pharmacy act of the state of Kansas shall be construed to protect any pharmacist who violates or in any way abuses this trust from the penalties for violations of the laws relating to the sale or distribution of drugs.

Nothing in the pharmacy act of the state of Kansas shall prohibit pharmacists from repackaging poisons according to applicable state and federal packaging and labeling laws. The sale of poisons shall conform to applicable state and federal laws.

➡65-1639. Repealed by Laws 1979, ch. 194, § 4

➡65-1640. Act not applicable to manufacture or to certain sales of poisons

Nothing contained in the pharmacy act of the state of Kansas shall prevent the manufacture by any person of any poisons, nor shall anything in such act prevent the sale by any person of any poisons when the poison is sold in unbroken packages and is labeled as required by law.

➡65-1641. Display of pharmacist license; when unlawful

A person holding a license as a pharmacist shall display conspicuously such license in that part of the place of business in which such person is engaged in the profession of pharmacy, and which is usually occupied by the public or which is visible to the public. It shall be unlawful for any licensed pharmacist to permit such license to be displayed in any place of business unless such pharmacist is actively engaged in the profession of pharmacy in such place of business.

➡65-1642. Equipment of pharmacy; records of prescription orders; medication profile record system; electronic transmission of prescription drug orders

(a) Each pharmacy shall be equipped with proper pharmaceutical utensils, in order that prescriptions can be properly filled and United States pharmacopoeia and national formulary preparations properly compounded, and with proper sanitary appliances which shall be kept in a clean and orderly manner. The board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess.

(b) Each pharmacy shall keep a suitable book or file which records every prescription order filled at the pharmacy and a medication profile record system as provided under subsection (d). The book or file of prescription orders shall be kept for a period of not less than five years. The book or file of prescription orders shall at all times be open to inspection by members of the board, the secretary of health and environment, the

duly authorized agents or employees of such board or secretary and other proper authorities.

(c)(1) A medication profile record system shall be maintained in all pharmacies for persons for whom prescriptions are dispensed. The following information shall be recorded: (A) The name and address of the patient for whom the medication is intended; (B) the prescriber's name, the original date the prescription is dispensed and the number or designation identifying the prescription; (C) the name, strength and quantity of the drug dispensed and the name of the dispensing pharmacist; and (D) drug allergies and sensitivities.

(2) Upon receipt of a prescription order, the pharmacist shall examine the patient's medication profile record before dispensing the medication to determine the possibility of a harmful drug interaction or reaction to medication. Upon recognizing a potential harmful drug interaction or reaction to the medication, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the prescriber with documentation of actions taken on the prescription record.

(3) A medication profile record shall be maintained for a period of not less than five years from the date of the last entry in the record.

(4) All prescription drug orders communicated by way of electronic transmission shall conform to federal and state laws and the provisions of the board's rules and regulations.

(d) No registration shall be issued or continued for the conduct of a pharmacy until or unless the provisions of this section have been complied with.

➡65-1643. Registration or permit required; pharmacies, manufacturers, wholesalers, auctions, sales, distribution or dispensing of samples, retailers, institutional drug rooms, pharmacy students, veterinary medical teaching hospital pharmacies; certain acts declared unlawful

It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection (dd) of K.S.A. 65-1626, and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a, and amendments

thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy student without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy student registration fee of $25 to the board.

(j) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662, and amendments thereto and any rules and regulations adopted pursuant thereto.

(k) For any person to sell or distribute in a pharmacy a controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, unless:

(1)(A) Such controlled substance is sold or distributed by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or clerk supervised by a licensed pharmacist;

(B) any person purchasing, receiving or otherwise acquiring any such controlled substance produces a photo identification showing the date of birth of the person and signs a log and enters in the log, or allows the seller to enter in the log, such person's address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to K.S.A. 65-16,102, and amendments thereto. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

(C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

(D) the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

(l) For any pharmacy to allow customers to have direct access to any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

(m) A seller who in good faith releases information in a log pursuant to subsection (k) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(n) For any person to sell or lease or offer for sale or lease durable medical equipment without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:

(1) Sales not made in the regular course of the person's business; or

(2) sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, as amended.

➡65-1643a. Repealed by Laws 1983, ch. 210, § 3

➡65-1643b. Repealed by Laws 2009, ch. 131, § 14, eff. July 1, 2009; Laws 2009, ch. 143, § 37, eff. July 1, 2009

➡65-1643c. Repealed by Laws 2010, ch. 155, § 25, eff. June 3, 2010

➡65-1644. Duplicate licenses, registrations and permits; fees

The board may issue duplicate licenses, registrations or permits upon return of the original, or upon a sworn statement that the original has been lost or destroyed, and has not been given away or disposed of to some other person. Applications for such duplicate licenses, registrations and permits and the affidavits required by this section shall be made on forms furnished by the board. The fee for the issuance of a duplicate registration or permit shall be $1.25 for permits, and $10 for certificates of registration.

➡65-1645. Applications for registrations and permits; renewals; forms; establishment of fees; establishment of retail dealer classes; display of registrations and permits; expiration dates; penalty fee for renewal after lapse; proration of fees

(a) Application for registrations or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the board. Applications for registration to distribute at wholesale any drugs shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655, and amendments thereto. The application shall be accompanied by the fee prescribed by the board under the provisions of this section. When such application and fees are received by the executive secretary of the board on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. However, if at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which is carried on any of the operations for which a registration or permit is required by K.S.A. 65-1643,

and amendments thereto, except that the board may provide for a single registration for a business entity registered to manufacture any drugs or registered to distribute at wholesale any drugs and operating more than one facility within the state, or for a parent entity with divisions, subsidiaries or affiliate companies, or any combination thereof, within the state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(b) The nonrefundable fees required for the issuing of the licenses, registrations or permits under the pharmacy act of the state of Kansas shall be fixed by the board as herein provided, subject to the following:

(1) Pharmacy, new registration not more than $150, renewal not more than $125;

(2) pharmacist, new license by examination not more than $350;

(3) pharmacist, reinstatement application fee not more than $250;

(4) pharmacist, biennial renewal fee not more than $200;

(5) pharmacist, evaluation fee not more than $250;

(6) pharmacist, reciprocal licensure fee not more than $250;

(7) pharmacist, penalty fee, not more than $500;

(8) manufacturer, new registration not more than $500, renewal not more than $400;

(9) wholesaler, new registration not more than $500, renewal not more than $400, except that a wholesaler dealing exclusively in nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and reregistration not to exceed $50;

(10) special auction not more than $50;

(11) samples distribution not more than $50;

(12) institutional drug room, new registration not more than $40, renewal not more than $35;

(13) retail dealer selling more than 12 different nonprescription drug products, new permit not more than $12, renewal not more than $12;

(14) certification of grades for each applicant for examination and registration not more than $25;

(15) veterinary medical teaching hospital pharmacy, new registration not more than $40, renewal not more than $35; or

(16) durable medical equipment registration fee, not more than $300.

(c) For the purpose of fixing fees, the board may establish classes of retail dealers' permits for retail dealers selling more than 12 different nonprescription drug products, and the board may fix a different fee for each such class of permit.

(d) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall fix by rules and regulations the fees authorized for such year at the sum deemed necessary for such purposes. The fees fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(e) The board may deny renewal of any registration or permit required by K.S.A. 65-1643, and amendments thereto, on any ground which would authorize the board to suspend, revoke or place on probation a registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643, and amendments thereto. Registrations and permits issued under the provisions of K.S.A. 65-1643 and 65-1644, and amendments thereto, shall be conspicuously displayed in the place for which the registration or permit was granted. Such registrations or permits shall not be transferable. All such registrations and permits except retail dealer permits shall expire on June 30 following date of issuance. Retail dealers' permits shall expire on the last day of February. All registrations and permits shall be renewed annually. Application blanks for renewal of registrations and permits shall be mailed by the board to each registrant or permittee at least 30 days prior to expiration of the registration or permit. If application for renewal is not made before 30 days after such expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee. Failure of any registrant or permittee to receive such application blank shall not relieve the registrant or permittee from the penalty hereby imposed if the renewal is not made as prescribed.

(f) In each case in which a license of a pharmacist is issued or renewed for a period of time less than two years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to this section.

(g) The board may require that fees paid for any examination under the pharmacy act of the state of Kansas be paid directly to the examination service by the person taking the examination.

➡65-1646. Violations of act or rules and regulations; penalty; revocation or suspension of registration or permit; notice and hearing

Any person violating any of the provisions of this act or any valid rule and regulation made under the authority conferred by this act shall be guilty of a misdemeanor. Upon conviction, any person holding a registration or permit under the provisions of K.S.A. 65-1643 and amendments thereto may have such registration or permit revoked or suspended. No registration or permit shall be suspended or revoked without first giving the registrant or permitee notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

➡65-1647. Repeated violations of act or rules and regulations may be enjoined

The board may in its discretion, in addition to the remedies set forth in the preceding section, apply to the court having jurisdiction over the parties and subject matter for a writ of injunction to restrain repetitious violations of the provisions of the pharmacy act of the state of Kansas or violations of any valid rule and regulation made under the authority conferred by such act.

➡65-1648. Distribution and control of prescription medications by a medical care facility pharmacy, health department, indigent health care clinic, federally qualified health center or family planning clinic; maintenance and use of emergency medication kit by adult care home; rules and regulations

(a) Any medical care facility pharmacy registered by the board may keep drugs in such facility and may supply drugs to its inpatients and outpatients. Distribution and control of prescription medications in a medical care facility pharmacy shall be under the supervision of a pharmacist in charge. A designated registered nurse or nurses or a licensed physician assistant approved by the pharmacist in charge and under the supervision of the pharmacist in charge shall be in charge of the distribution and control of drugs of a medical care facility pharmacy when a pharmacist is not on the premises. Drugs supplied to outpatients when a pharmacist is not on the premises shall be limited to the quantity necessary until a prescription can be filled.

(b) Nothing contained in this act shall be construed as prohibiting an adult care home which utilizes the services of a pharmacist, from maintaining an emergency medication kit approved by the adult care home's medical staff composed of a duly licensed practitioner and a pharmacist. The emergency medication kit shall be used only in emergency cases under the supervision and direction of a duly licensed practitioner, and a pharmacist shall have supervisory responsibility of maintaining said emergency medication kit.

(c) Every adult care home which maintains an emergency medication kit under subsection (b) shall comply with the following requirements:

(1) Drugs in an emergency medication kit shall be maintained under the control of the pharmacist in charge of the pharmacy from which the kit came until administered to the patient upon the proper order of a practitioner.

(2) Drugs contained within the emergency medication kit may include controlled substances, but in such case a pharmaceutical services committee shall be responsible for specifically limiting the type and quantity of controlled substance to be placed in each emergency kit.

(3) Administration of controlled substances contained within the emergency medication kit shall be in compliance with the provisions of the uniform controlled substances act.

(4) The consultant pharmacist of the adult care home shall be responsible for developing procedures, proper control and accountability for the emergency medication kit and shall maintain complete and accurate records of the controlled substances, if any, placed in the emergency kit. Periodic physical inventory of the kit shall be required.

(d)(1) The state department of health and environment, any county, city-county or multicounty health department, indigent health care clinic, federally qualified health center and any private not-for-profit family planning clinic, when registered by the board, may keep drugs for the purpose of distributing drugs to patients being treated by that health department, indigent health care clinic, federally qualified health center or family planning clinic. Distribution and control of prescription medications in a health department, indigent health care clinic, federally qualified health center or family planning clinic shall be under the supervision of a pharmacist in charge. A designated registered nurse or nurses or a licensed physician assistant approved by the pharmacist in charge shall be in charge of distribution and control of drugs in the health department, indigent health care clinic, federally qualified health center or family planning clinic under the supervision of the pharmacist in charge when a pharmacist is not on the premises. Drugs supplied to patients when a pharmacist is not on the premises shall be limited to the quantity necessary to complete a course of treatment as ordered by the practitioner supervising such treatment.

(2) The board shall adopt rules and regulations relating to specific drugs to be used, to recordkeeping and to storage of drugs by a health department, indigent health care clinic, federally qualified health center or family planning clinic as are necessary for proper control of drugs.

➡65-1649. Invalidity of part

If any clause, sentence, paragraph, section or part of the pharmacy act of the state of Kansas or the application thereof to any person or circumstances shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence or paragraph, section or part thereof involved in the controversy, in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared to be the legislative intent that such act would have been enacted had such unconstitutional or invalid provisions not been included.

➡65-1650. Regulation of advertising of prescription-only drugs; exceptions and exclusions

The board of pharmacy is hereby authorized to regulate the advertising, but not the prices or discounts, of prescription-only drugs. The provisions of this section shall not be construed to: (1) Authorize the state board of pharmacy to require, regulate or prohibit the posting within a pharmacy of the current charges by such pharmacy for prescription-only drugs and services, nor, (2) restrict the offering of discounts on prescription-only drugs.

➡65-1651. Sections part of and supplemental to pharmacy act

The provisions of K.S.A. 65-1627a to 65-1627h, inclusive, 65-1628a, 65-1628b and 65-1650, are hereby declared to be a part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1651a. Study of regulating wholesale prescription drug distributors; pedigrees for prescription drugs

The state board of pharmacy shall conduct a study on the issue of licensing wholesale prescription drug distributors and the use of pedigree for prescription drugs and the penalty aspects for violation of any pedigree requirements. The results of such study shall be completed and presented along with a licensing and pedigree plan and recommendations for licensing and pedigree legislation to the legislature no later than January 15, 2007.

➡65-1652. Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions

(a) No person reporting to the board of pharmacy under oath and in good faith any information such person may have relating to alleged incidents of malpractice or the qualifications, fitness or character or a pharmacist shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association of pharmacists and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice or the qualifications, fitness or character of any pharmacist to the board of pharmacy or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such information or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

(c) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1653. References to registered pharmacists deemed to apply to licensed pharmacists

(a) Whenever registered pharmacist, or words of like effect, is referred to or designated by a statute, rule and regulation, contract or other document in reference to a pharmacist registered under the pharmacy act of the state of Kansas, such reference or designation shall be deemed to apply to a licensed pharmacist under this act.

(b) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1654. Privileged communications

(a) The confidential communications between a licensed pharmacist and the pharmacist's patient and records of prescription orders filled by the pharmacist are placed on the same basis of confidentiality as provided by law for communications between a physician and the physician's patient and records of prescriptions dispensed by a physician. Nothing in this subsection shall limit the authority of the board or other persons, as provided by law, from inspecting the book or file of prescription orders kept by a pharmacy or firm performing any duty or exercising any authority as otherwise provided by law.

(b) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1655. Information required of applicant for registration to distribute at wholesale any drugs; factors in reviewing qualifications of applicants; denial of application if not in public interest; qualifications of personnel; inspection by the board; rules and regulations

(a) The board shall require an applicant for registration to distribute at wholesale any drugs under K.S.A. 65-1643, and amendments thereto, or an applicant for renewal of such a registration, to provide the following information:

(1) The name, full business address and telephone number of the applicant;

(2) all trade or business names used by the applicant;

(3) addresses, telephone numbers, and the names of contact persons for all facilities used by the applicant for the storage, handling and distribution of prescription drugs;

(4) the type of ownership or operation of the applicant;

(5) the name of the owner or operator, or both, of the applicant, including:

(A) If a person, the name of the person;

(B) if a partnership, the name of each partner, and the name of the partnership;

(C) if a corporation, the name and title of each corporate officer and director, the corporate names and the name of the state of incorporation;

(D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and

(6) such other information as the board deems appropriate. Changes in any information in this subsection (a) shall be submitted to the board as required by such board.

(b) In reviewing the qualifications for applicants for initial registration or renewal of registration to distribute at wholesale any drugs, the board shall consider the following factors:

(1) Any convictions of the applicant under any federal, state or local laws relating to drug samples, wholesale or retail drug distribution or distribution of controlled substances;

(2) any felony convictions of the applicant under federal or state laws;

(3) the applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(4) the furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;

(5) suspension or revocation by federal, state or local government of any license or registration currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(6) compliance with registration requirements under previously granted registrations, if any;

(7) compliance with requirements to maintain or make available to the board or to federal state or local law enforcement officials those records required by federal food, drug and cosmetic act, and rules and regulations adopted pursuant thereto; and

(8) any other factors or qualifications the board considers relevant to and consistent with the public health and safety.

(c) After consideration of the qualifications for applicants for registration to distribute at wholesale any drugs, the board may deny an initial application for registration or application for renewal of a registration if the board determines that the granting of such registration would not be in the public interest. The authority of the board under this subsection to deny a registration to distribute at wholesale any drugs shall be in addition to the authority of the board under subsection (e) of K.S.A. 65-1627, and amendments thereto, or subsection (e) of K.S.A. 65-1645, and amendments thereto.

(d) The board by rules and regulations shall require that personnel employed by persons registered to distribute at wholesale any drugs have appropriate education or experience, or both, to assume responsibility for positions related to compliance with state registration requirements.

(e) The board by rules and regulations may implement this section to conform to any requirements of the federal prescription drug marketing act of 1987 (21 U.S.C. § 321 et seq.) in effect on the effective date of this act.

(f) Each facility that engages in wholesale distribution must undergo an inspection by the board or a third party recognized by the board to inspect and accredit wholesale distributors for the purpose of inspecting the wholesale distribution operations prior to initial registration and periodically thereafter in accordance with a schedule to be determined by the board but not less than once every three years. The board shall have the authority to waive registration requirements for wholesale distributors that are accredited by an accrediting agency approved by the board. The board shall adopt rules and regulations to establish standards and requirements for the issuance and maintenance of a wholesale distributor registration, including inspections of wholesale distributor facilities domiciled in the state.

(1) Individual or third party inspectors must demonstrate to the board that they have received training or demonstrate familiarity with the inspection standards. Evidence such as a letter of certification from a training program, notice from the inspector's employing third party organization or other means recognized by the board shall be accepted as meeting the requirement.

(2) The board may register a wholesale distributor that is licensed or registered under the laws of another state if:

(A) The requirements of that state are deemed by the board to be substantially equivalent; or

(B) the applicant is inspected and accredited by a third party recognized and approved by the board.

(g) A person licensed or approved by the federal food and drug administration to engage in the manufacture of drugs or devices engaged in wholesale distribution need only satisfy the minimum federal requirements for licensure provided in federal food and drug administration regulations 21 C.F.R. Part 205 to provide wholesale distribution services.

(h) The board by rule and regulation shall establish standards and requirements for the issuance and maintenance of a wholesale distributor registration, including, but not limited to, requirements regarding the following: (1) An application and renewal fee; (2) a surety bond; (3) registration and periodic inspections; (4) certification of a designated representative; (5) designation of a registered agent; (6) storage of drugs and devices; (7) handling, transportation and shipment of drugs and devices; (8) security; (9) examination of drugs and devices and treatment of those found to be unacceptable as defined by the board; (10) due diligence regarding other wholesale distributors; (11) creation and maintenance of records, including transaction

records; and (12) procedures for operation.

(i) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1656. Filling transferred prescriptions; exceptions and conditions; common electronic prescription files authorized; rules and regulations

(a) Nothing contained in the pharmacy act of the state of Kansas shall prohibit a pharmacist licensed in this state from filling or refilling a valid prescription for prescription drugs not listed in schedule II of the uniform controlled substances act, which is on file in a pharmacy licensed in any state and has been transferred from one pharmacy to another by any means, including by way of electronic data processing equipment, upon the following conditions and exceptions:

(1) Prior to dispensing pursuant to any such prescription, the dispensing pharmacist shall:

(A) Advise the patient that the prescription file at such other pharmacy must be canceled before the dispensing pharmacist will be able to fill the prescription;

(B) determine that the prescription is valid and on file at such other pharmacy and that such prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on such prescription;

(C) notify the pharmacy where the prescription is on file that the prescription must be canceled;

(D) record the prescription order, the name of the pharmacy at which the prescription was on file, the prescription number, the name of the drug and the original amount dispensed, the date of original dispensing and the number of remaining authorized refills; and

(E) obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the professional judgment of the dispensing pharmacist, so requires. Any interference with the professional judgment of the dispensing pharmacist by any other licensed pharmacist, agents of the licensed pharmacist or employees shall be grounds for revocation or suspension of the registration issued to the pharmacy.

(2) Upon receipt of a request for prescription information set forth in subsection (a)(1)(D), if the requested pharmacist is satisfied in the professional judgment of the pharmacist that such request is valid and legal, the requested pharmacist shall:

(A) Provide such information accurately and completely;

(B) record on the prescription the name of the requesting pharmacy and pharmacist and the date of request; and

(C) cancel the prescription on file. No further prescription transfer shall be given or medication dispensed pursuant to such original prescription.

(3) In the event that, after the information set forth in subsection (a)(1)(D) has been provided, a prescription is not dispensed by the requesting pharmacist, then such pharmacist shall provide notice of this fact to the pharmacy from which such information was obtained, such notice shall then cancel the prescription in the same manner as set forth in subsection (a)(2)(C).

(4) When filling or refilling a valid prescription on file in another state, the dispensing pharmacist shall be required to follow all the requirements of Kansas law which apply to the dispensing of prescription drugs. If anything in Kansas law prevents the filling or refilling of the original prescription it shall be unlawful to dispense pursuant to this section.

(5) In addition to any other requirement of this section, the transfer of original prescription information for a controlled substance listed in schedules III, IV and V for the purposes of refill dispensing shall be made in accordance with the requirements of section 1306.25 of chapter 21 of the code of federal regulations.

(b) Two or more pharmacies may establish and use a common electronic file to maintain required dispensing information. Pharmacies using such a common electronic file are not required to physically transfer prescriptions or information for dispensing purposes between or among pharmacies participating in the same common prescription file, except that any such common file must contain complete and adequate records of such prescription and refill dispensed as required by the pharmacy act of the state of Kansas.

(c) The board may formulate such rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes of and to enforce the provisions of this section except that the board shall not impose greater requirements on either common electronic files or a hard copy record system.

(d) Drugs shall in no event be dispensed more frequently or in larger amounts than the prescriber ordered without direct prescriber authorization by way of a new prescription order.

(e) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1657. Nonresident pharmacy registration; information required; civil fine; regulatory requirements; drug product selection rules; interstate delivery guidelines; disciplinary action; pharmacies prohibited from advertising unless registered; penalties for violations; injunctive relief; rules and regulations

(a) No nonresident pharmacy shall ship, mail or deliver, in any manner, prescription drugs to a patient in this

state unless registered under this section as a nonresident pharmacy. Applications for a nonresident pharmacy registration under this section shall be made on a form furnished by the board. A nonresident pharmacy registration shall be granted for a period of one year upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the registration fee established under K.S.A. 65-1645, and amendments thereto, for a pharmacy registration. A nonresident pharmacy registration shall be renewed annually on forms provided by the board, upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the renewal fee established under K.S.A. 65-1645, and amendments thereto, for the renewal of a pharmacy registration.

(b) As conditions for the granting of a registration and for the renewal of a registration for a nonresident pharmacy, the nonresident pharmacy shall comply with the following:

(1) Provide information to the board to indicate the person or persons applying for the registration, the location of the pharmacy from which the prescription drugs will be dispensed, the names and titles of all principal owners and corporate officers, if any, and the names of all pharmacists dispensing prescription drugs to residents of Kansas;

(2) be registered and in good standing in the state in which such pharmacy is located;

(3) maintain, in readily retrievable form, records of prescription drugs dispensed to Kansas patients;

(4) supply upon request, all information needed by the board to carry out the board's responsibilities under this section and rules and regulations adopted pursuant to this section;

(5) maintain pharmacy hours that permit the timely dispensing of drugs to Kansas patients and provide reasonable access for the patients to consult with a licensed pharmacist about such patients' medications;

(6) provide toll-free telephone communication consultation between a Kansas patient and a pharmacist at the pharmacy who has access to the patient's records, and ensure that the telephone number(s) will be placed upon the label affixed to each prescription drug container dispensed in Kansas; and

(7) provide to the board such other information as the board may reasonably request to administer the provisions of this section.

(c) When any nonresident pharmacy fails to supply requested information to the board or fails to respond to proper inquiry of the board, after receiving notice by certified mail, the board may assess a civil fine in accordance with the provisions in K.S.A. 65-1658, and amendments thereto.

(d) Each nonresident pharmacy shall comply with the following unless compliance would be in conflict with

specific laws or rules and regulations of the state in which the pharmacy is located:

(1) All statutory and regulatory requirements of Kansas for controlled substances, including those that are different from federal law;

(2) labeling of all prescriptions dispensed, to include, but not be limited to, identification of the product and quantity dispensed;

(3) all the statutory and regulatory requirements of Kansas for dispensing prescriptions in accordance with the quantities indicated by the prescriber; and

(4) the Kansas law regarding the maintenance and use of the patient medication profile record system.

(e) In addition to subsection (d) requirements, each nonresident pharmacy shall comply with all the statutory and regulatory requirements of Kansas regarding drug product selection laws whether or not such compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located, except that compliance which constitutes only a minor conflict with specific laws or rules and regulations of the state in which the pharmacy is located would not be required under this subsection.

(f) Each nonresident pharmacy shall develop and provide the board with a policy and procedure manual that sets forth:

(1) Normal delivery protocols and times;

(2) the procedure to be followed if the patient's medication is not available at the nonresident pharmacy, or if delivery will be delayed beyond the normal delivery time;

(3) the procedure to be followed upon receipt of a prescription for an acute illness, which policy shall include a procedure for delivery of the medication to the patient from the nonresident pharmacy at the earliest possible time, or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible time; and

(4) the procedure to be followed when the nonresident pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mailed prescription drugs become available.

(g) Except in emergencies that constitute an immediate threat to the public health and require prompt action by the board, the board may file a complaint against any nonresident pharmacy that violates any provision of this section. This complaint shall be filed with the regulatory or licensing agency of the state in which the

nonresident pharmacy is located. If the regulatory or licensing agency of the state in which the nonresident pharmacy is located fails to resolve the violation complained of within a reasonable time, not less than 180 days from the date that the complaint is filed, disciplinary proceedings may be initiated by the board. The board also may initiate disciplinary actions against a nonresident pharmacy if the regulatory or licensing agency of the state in which the nonresident pharmacy is located lacks or fails to exercise jurisdiction.

(h) The board shall adopt rules and regulations that make exceptions to the requirement of registration by a nonresident pharmacy when the out-of-state pharmacy supplies lawful refills to a patient from a prescription that was originally filled and delivered to a patient within the state in which the nonresident pharmacy is located, or when the prescriptions being mailed into the state of Kansas by a nonresident pharmacy occurs only in isolated transactions. In determining whether the prescriptions being mailed into the state of Kansas by a nonresident pharmacy are isolated transactions, the board shall consider whether the pharmacy has promoted its services in this state and whether the pharmacy has a contract with any employer or organization to provide pharmacy services to employees or other beneficiaries in this state.

(i) It is unlawful for any nonresident pharmacy which is not registered under this act to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy which has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

(j) Upon request of the board, the attorney general may bring an action in a court of competent jurisdiction for injunctive relief to restrain a violation of the provisions of this section or any rules and regulations adopted by the board under authority of this section. The remedy provided under this subsection shall be in addition to any other remedy provided under this section or under the pharmacy act of the state of Kansas.

(k) The board may adopt rules and regulations as necessary and as are consistent with this section to carry out the provisions of this section.

(l) The executive secretary of the board shall remit all moneys received from fees under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the manner specified under K.S.A. 74-1609, and amendments thereto.

(m) A violation of this section is a severity level 10, nonperson felony.

(n) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

65-1658. Civil fines for violations

The state board of pharmacy, in addition to any other penalty prescribed under the pharmacy act of the state of

Kansas, may assess a civil fine, after notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against any licensee or registrant under subsections (a), (c), (d) and (e) of K.S.A. 65-1627, and amendments thereto, for violation of the pharmacy act of the state of Kansas or rules and regulations of the state board of pharmacy adopted under the pharmacy act of the state of Kansas or for violation of the uniform controlled substances act or rules and regulations of the state board of pharmacy adopted under the uniform controlled substances act, in an amount not to exceed $5,000 for each violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Of the amount so remitted, an amount equal to the board's actual costs related to the case in which the fine was assessed, as certified by the president of the board to the state treasurer, shall be credited to the state board of pharmacy fee fund, and the balance shall be credited to the state general fund.

➡65-1659. Pharmacies authorized to place certain drugs with home health agencies and hospices; protocols for drug handling and storage; review and inspection; definitions

(a) A pharmacy will be allowed to place certain drugs with a home health agency's authorized employees and with a hospice's authorized employees for the betterment of public health. The pharmacy shall remain the legal owner of the drugs. A written agreement between the pharmacy and home health agency or hospice shall document the protocol for handling and storage of these drugs by authorized employees and shall be approved by the pharmacist in charge. The pharmacist in charge shall review the protocol to assure that safe, secure and accountable handling of legend drugs is maintained under the protocol before giving approval. The pharmacist in charge or a pharmacist designee shall physically inspect and review the drug storage and handling at the home health agency and the hospice at least quarterly during the year.

(b) The home health agency protocol and the hospice protocol shall include, but not be limited to, the following:

(1) Safe and secure storage of drugs;

(2) access to drugs limited to authorized employees;

(3) records of drugs checked out to authorized employees and records of drugs, amounts, to whom and by whom administered;

(4) prompt notification of the pharmacy when a drug is used, including the prescriber, patient, drug, dosage form, directions for use and other pertinent information;

(5) billing information;

(6) procedures for handling drugs beyond their expiration date; and

(7) inventory control.

(c) The following legend drugs shall be allowed under these agreements:

(1) Sterile water for injection or irrigation;

(2) sterile saline solution for injection or irrigation;

(3) heparin flush solution;

(4) diphenhydramine injectable; and

(5) epinephrine injectable.

(d) As used in this section: (1) “Authorized employee” means any employee of a home health agency or hospice who, in the course of the employee's duties, is licensed by the employee's appropriate licensing agency to administer legend drugs; (2) “home health agency” means an entity required to be licensed under K.S.A. 65-5102 and amendments thereto; and (3) hospice means an entity authorized to hold itself out to the public as a hospice or as a licensed hospice under K.S.A. 65-6202 and amendments thereto.

(e) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1660. Dialysates, devices or drugs designated by board for treatment of persons with chronic kidney failure; inapplicability of pharmacy act; rules and regulations

(a) Except as otherwise provided in this section, the provisions of the pharmacy act of the state of Kansas shall not apply to dialysates, devices or drugs which are designated by the board for the purposes of this section relating to treatment of a person with chronic kidney failure receiving dialysis and which are prescribed or ordered by a physician or a mid-level practitioner for administration or delivery to a person with chronic kidney failure if:

(1) The wholesale distributor is registered with the board and lawfully holds the drug or device; and

(2) the wholesale distributor (A) delivers the drug or device to: (i) A person with chronic kidney failure for self-administration at the person's home or specified address; (ii) a physician for administration or delivery to a person with chronic kidney failure; or (iii) a medicare approved renal dialysis facility for administering or delivering to a person with chronic kidney failure; and (B) has sufficient and qualified supervision to adequately protect the public health.

(b) The wholesale distributor pursuant to subsection (a) shall be supervised by a pharmacist consultant pursuant to rules and regulations adopted by the board.

(c) The board shall adopt such rules or regulations as are necessary to effectuate the provisions of this section.

(d) As used in this section, "physician" means a person licensed to practice medicine and surgery; "mid-level practitioner" means mid-level practitioner as such term is defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto.

(e) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1661. Repealed by Laws 2006, ch. 34, § 1

➡65-1662. Veterinary medical teaching hospital pharmacy; distribution and control of prescription-only drugs; pharmacist in charge

(a) Distribution and control of prescription-only drugs in a veterinary medical teaching hospital pharmacy shall be under the supervision of a pharmacist in charge. The pharmacist in charge shall also be responsible for establishing and maintaining adequate policies and procedures for training of personnel; storage and maintenance of prescription-only drugs and equipment; quality assurance, labeling, packaging and distribution of prescription-only drugs; recordkeeping and security.

(b) The board shall adopt such rules and regulations relating to the policies and procedures for veterinary medical teaching hospital pharmacies as necessary for proper control of prescription-only drugs by such veterinary medical teaching hospital pharmacies and adequate safety.

(c) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1663. Registration of pharmacy technicians; applications; registration fee; qualifications for registration; expiration and renewal of registration; grounds for denial of application or registration; revocation, suspension or limitation of registration; responsibilities of pharmacists and pharmacies; rules and regulations

(a) It shall be unlawful for any person to function as a pharmacy technician in this state unless such person is registered with the board as a pharmacy technician. Every person registered as a pharmacy technician shall pass an examination approved by the board within 30 days of becoming registered. The board shall adopt rules and regulations establishing the criteria for the required examination and a passing score.

(b) All applications for registration shall be made on a form to be prescribed and furnished by the board. Each

application for registration shall be accompanied by a registration fee fixed by the board by rule and regulation of not to exceed $50.

(c) The board shall take into consideration any felony conviction of an applicant, but such conviction shall not automatically operate as a bar to registration.

(d) Each pharmacy technician registration issued by the board shall expire on October 31 of the year specified by the board. Each applicant for renewal of a pharmacy technician registration shall be made on a form prescribed and furnished by the board and shall be accompanied by a renewal fee fixed by the board by rule and regulation of not to exceed $25. Except as otherwise provided in this subsection, the application for registration renewal, when accompanied by the renewal fee and received by the executive secretary of the board on or before the date of expiration of the registration, shall have the effect of temporarily renewing the applicant's registration until actual issuance or denial of the renewal registration. If at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration, the board may by emergency order declare that the application for renewal shall not have the effect of temporarily renewing such applicant's registration. If the renewal fee is not paid by December 1 of the renewal year, the registration is void.

(e)(1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground, which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.

(2) The board may require a physical or mental examination, or both, of a person applying for or registered as a pharmacy technician.

(3) The board may temporarily suspend or temporarily limit the registration of any pharmacy technician in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under this section against the registrant and that the registrant's continuation of pharmacy technician functions would constitute an imminent danger to the public health and safety.

(4) Proceedings under this section shall be subject to the Kansas administrative procedure act.

(f) Every registered pharmacy technician, within 30 days of obtaining new employment, shall furnish the board's executive secretary notice of the name and address of the new employer.

(g) Each pharmacy shall at all times maintain a list of the names of pharmacy technicians employed by the pharmacy. A pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the supervising pharmacist shall be responsible for the acts and omissions of the pharmacy technician in the performance of the pharmacy technician's duties. The

ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall be prescribed by the board by rule and regulation. Any change in the ratio of pharmacy technicians to pharmacists in the prescription area of the pharmacy must be adopted by a vote of no less than six members of the board.

(h) A person holding a pharmacy technician registration shall display such registration in that part of the place of business in which such person is engaged in pharmacy technician activities.

(i) The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

(j) The board may adopt rules and regulations as may be necessary to carry out the purposes and enforce the provisions of this act.

(k) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-1664 to 65-1667. Repealed by Laws 2013, ch. 114, § 12, eff. July 1, 2013

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➡65-1668. Utilization of unused medications act; not applicable to certain medications

(a) K.S.A. 65-1668 through 65-1675, and amendments thereto, shall be known and may be cited as the "utilization of unused medications act".

(b) The provisions of the utilization of unused medications act shall not apply to any drug, prescription drug or medication purchased or provided with moneys provided under title XIX of the federal social security act, 42 U.S.C. § 1396 et seq., and amendments thereto, or title XXI of the federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments thereto.

➡65-1669. Same; definitions

As used in the utilization of unused medications act:

(a) "Adult care home" has the same meaning as such term is defined in K.S.A. 39-923, and amendments

thereto.

(b) “Community mental health center” has the same meaning as such term is defined in K.S.A. 75-3307c, and amendments thereto.

(c) “Donating entities” means adult care homes, mail service pharmacies, institutional drug rooms and medical care facilities who elect to participate in the program.

(d) “Drug” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(e) “Federally qualified health center” means a center which meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of the public health service act, and amendments thereto, and which has been designated as a “federally qualified health center” by the federal government.

(f) “Indigent health care clinic” has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(g) “Institutional drug room” has the meaning as such term is defined in K.S.A. 65-1626(bb), and amendments thereto.

(h) “Mail service pharmacy” means a licensed Kansas pharmacy that ships, mails or delivers by any lawful means a lawfully dispensed medication in tamper-resistant packaging to residents of this state or another state.

(i) “Medical care facility” has the same meaning as such term is defined in K.S.A. 65-425, and amendments thereto.

(j) “Medically indigent” has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(k) “Medication” means a prescription drug or drug as defined by this section.

(l) “Mid-level practitioner” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(m) “Practitioner” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(n) “Prescription drug” means a drug which may be dispensed only upon prescription of a practitioner or mid-level practitioner authorized by law and which is approved for safety and effectiveness as a prescription drug

under section 505 or 507 of the federal food, drug and cosmetic act,52 Stat. 1040 (1938), 21 U.S.C.A. § 301.

(o) "Qualifying center or clinic" means an indigent health care clinic, federally qualified health center or community mental health center.

(p) "Samples of medications or injectables" means a unit of drug that is not intended to be sold and is intended to promote the sale of the drug.

65-1670. Same; duties of the board of pharmacy; duties of qualifying center or clinic

(a) The board of pharmacy shall establish and implement a program consistent with public health and safety through which unused drugs may be transferred from donating entities that elect to participate in the program for the purpose of distributing the unused medications to Kansas residents who are medically indigent.

(b) A qualifying center or clinic in consultation with a pharmacist shall establish procedures necessary to implement the program established by the utilization of unused medications act.

(c) The state board of pharmacy shall provide technical assistance to entities who may wish to participate in the program.

65-1671. Same; criteria for accepting unused medications; dispensing

The following criteria shall be used in accepting unused medications for use under the utilization of unused medications act:

(a) The medications shall have come from a controlled storage unit of a donating entity;

(b) only medications in their original or pharmacist sealed unit dose packaging or in tamper evident packaging, unit of use or sealed, unused injectables, including samples of medications or injectables, shall be accepted and dispensed pursuant to the utilization of unused medications act;

(c) expired medications shall not be accepted;

(d) a medication shall not be accepted or dispensed if the person accepting or dispensing the medication has reason to believe that the medication is adulterated;

(e) no controlled substances shall be accepted, unless the state board of pharmacy designates certain controlled substances as accepted medications in the adoption of rules and regulations pursuant to K.S.A.

65-1674, and amendments thereto; and

(f) subject to the limitation specified in this section, unused medications dispensed for purposes of a medical assistance program or drug product donation program may be accepted and dispensed under the utilization of unused medications act.

65-1672. Same; participation; adult care homes; powers and duties of a qualifying center or clinic

(a) Participation in the utilization of unused medications act by residents of adult care homes and donating entities shall be voluntary. Nothing in the utilization of unused medications act shall require any resident of an adult care home or any donating entity to participate in the program.

(b) A qualifying center or clinic which meets the eligibility requirements established in the utilization of unused medications act may:

(1) Dispense medications donated under the utilization of unused medications act to persons who are medically indigent residents of Kansas; and

(2) charge persons receiving donated medications a handling fee not to exceed 200% of the medicaid dispensing fee.

(c) A qualifying center or clinic which meets the eligibility requirements established and authorized by the utilization of unused medications act which accepts donated medications shall:

(1) Comply with all applicable federal and state laws related to the storage and distribution of medications;

(2) inspect all medications prior to dispensing the medications to determine that such medications are not adulterated; and

(3) dispense prescription drugs only pursuant to a prescription issued by a practitioner or mid-level practitioner.

(d) Medications donated under the utilization of unused medications act shall not be resold but are available for transfer to another qualifying center or clinic.

(e) For purposes of the utilization of unused medications act, medications dispensed by qualifying centers or clinics shall not be considered resale of such medications.

➡65-1673. Same; criminal and civil liability under the act

(a) For matters related only to the lawful donation, acceptance or dispensing of medications under the utilization of unused medications act, the following persons and entities, in compliance with the utilization of unused medications act, in the absence of bad faith or gross negligence, shall not be subject to criminal or civil liability for injury other than death, or loss to person or property, or professional disciplinary action:

(1) The state board of pharmacy;

(2) the department of health and environment;

(3) the department on aging;

(4) any governmental entity or donating entity donating medications under the utilization of unused medications act;

(5) any qualifying center or clinic that accepts or dispenses medications under the utilization of unused medications act; and

(6) any qualifying center or clinic that employs a practitioner or mid-level practitioner who accepts or can legally dispense prescription drugs under the utilization of unused medications act and the pharmacy act of the state of Kansas.

(b) For matters related to the donation, acceptance or dispensing of a medication manufactured by the prescription drug manufacturer that is donated by any entity under the utilization of unused medications act, a prescription drug manufacturer shall not, in the absence of bad faith or gross negligence, be subject to criminal or civil liability for injury other than for death, or loss to person or property including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(c) Any person who in good faith donates medications without charge under the utilization of unused medications act, which medications are in compliance with such act at the time donated, shall not be subject to criminal or civil liability arising from any injury or death due to the condition of such medications unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.

CHANGE OF NAME

<The department on aging is renamed the Kansas department for aging and disability services, pursuant to Executive Reorganization Order No. 41, Laws 2012, ch. 185, § 1, eff. July 1, 2012, K.S.A. 39-1901.>

65-1674. Same; rules and regulations; duties of the board of pharmacy

(a) The state board of pharmacy shall adopt rules and regulations to implement the utilization of unused medications act. Such rules shall:

(1) Include standards and procedures for transfer, acceptance and safe storage of donated medications;

(2) include standards and procedures for inspecting donated medications to ensure that the medications are in compliance with the utilization of unused medications act and to ensure that, in the professional judgment of a pharmacist, the medications meet all federal and state standards for product integrity;

(3) establish standards and procedures for acceptance of unused medications from donating entities;

(4) establish standards and procedures for designating certain controlled substances as accepted donated medications;

(5) establish standards and procedures for a qualifying center or clinic to prepare any donated medications for dispensing or administering; and

(6) establish, in consultation with the department of health and environment and the Kansas department for aging and disability services, any additional rules and regulations, and standards and procedures it deems appropriate or necessary to implement the provisions of the utilization of unused medications act.

(b) In accordance with the rules and regulations and procedures of the program established pursuant to this section, a resident of an adult care home, or the representative or guardian of a resident may donate unused medications for dispensation to medically indigent persons.

65-1675. Same; duties of the secretary of health and environment; records

The secretary of health and environment shall maintain records of program participation including the number of donating entities donating medications, recipient locations, the amount of medications received and the number of clients served.

65-1680. Epinephrine kits in schools; rules and regulations

The state board of pharmacy may adopt any rules and regulations which the board deems necessary in relation to the maintenance of epinephrine kits under K.S.A. 72-8258, and amendments thereto.

65-1681. Prescription monitoring program act

This act shall be known and may be cited as the prescription monitoring program act.

65-1682. Same; definitions

As used in this act, unless the context otherwise requires:

(a) “Board” means the state board of pharmacy.

(b) “Dispenser” means a practitioner or pharmacist who delivers a scheduled substance or drug of concern to an ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a medical care facility as defined in K.S.A. 65-425, and amendments thereto, practitioner or other authorized person who administers such a substance;

(3) a registered wholesale distributor of such substances;

(4) a veterinarian licensed by the Kansas board of veterinary examiners who dispenses or prescribes a scheduled substance or drug of concern; or

(5) a practitioner who has been exempted from the reporting requirements of this act in rules and regulations promulgated by the board.

(c) “Drug of concern” means any drug that demonstrates a potential for abuse and is designated as a drug of concern in rules and regulations promulgated by the board.

(d) “Patient” means the person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(e) “Pharmacist” means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(f) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, optometrist or other person authorized by law to prescribe or dispense scheduled substances and drugs of concern.

(g) “Scheduled substance” means controlled substances included in schedules II, III or IV of the schedules designated in K.S.A. 65-4107, 65-4109 and 65-4111, and amendments thereto, respectively, or the federal controlled substances act (21 U.S.C. § 812).

➡65-1683. Same; required information to be submitted by dispenser; rules and regulations; waiver; acceptance of gifts and grants

(a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the nationally recognized telecommunications format to be used for submission of information that each dispenser shall submit to the board. Such information may include, but not be limited to:

(1) The dispenser identification number;

(2) the date the prescription is filled;

(3) the prescription number;

(4) whether the prescription is new or is a refill;

(5) the national drug code for the drug dispensed;

(6) the quantity dispensed;

(7) the number of days’ supply of the drug;

(8) the patient identification number;

(9) the patient's name;

(10) the patient's address;

(11) the patient's date of birth;

(12) the prescriber identification number;

(13) the date the prescription was issued by the prescriber; and

(14) the source of payment for the prescription.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

(e) The board is hereby authorized to apply for and to accept grants and may accept any donation, gift or bequest made to the board for furthering any phase of the prescription monitoring program.

(f) The board shall remit all moneys received by it under subsection (e) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the non-federal gifts and grants fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

➡65-1684. Same; charges and fees prohibited

The board shall not impose any charge for the establishment or maintenance of the prescription monitoring program database on a registered wholesale distributor, pharmacist, dispenser or other person authorized to prescribe or dispense scheduled substances and drugs of concern. The board shall not charge any fees for the transmission of data to the database or for the receipt of information from the database, except that the board may charge a fee to an individual who requests the individual's own prescription monitoring information in accordance with procedures adopted by the board.

➡65-1685. Same; database information privileged and confidential; persons authorized to receive data; advisory committee review of information

(a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons

engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c) and (d).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense scheduled substances and drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the department of health and environment regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena, inquisition subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program;

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(9) persons authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse or diversion of scheduled substances or drugs of concern; and

(10) medical examiners, coroners or other persons authorized under law to investigate or determine causes of death.

(d) The prescription monitoring program advisory committee established pursuant to K.S.A. 65-1689, and amendments thereto, is authorized to review and analyze the data for purposes of identifying patterns and activity of concern.

(1) If a review of information appears to indicate a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances and drugs of concern, the advisory committee is authorized to notify the prescribers and dispensers who prescribed or dispensed the prescriptions. If the review identifies patterns or other evidence sufficient to create a reasonable suspicion of criminal activity, the advisory committee is authorized to notify the appropriate law enforcement agency.

(2) If a review of information appears to indicate that a violation of state or federal law relating to prescribing controlled substances and drugs of concern may have occurred, or that a prescriber or dispenser has knowingly prescribed, dispensed or obtained controlled substances and drugs of concern in a manner that is inconsistent with recognized standards of care for the profession, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in prescribing or dispensing of controlled substances and drugs of concern or to the appropriate law enforcement agency is warranted.

(A) For purposes of such determination the advisory committee may, in consultation with the appropriate regulatory agencies and professional organizations, establish criteria regarding appropriate standards and utilize volunteer peer review committees of professionals with expertise in the particular practice to create such standards and review individual cases.

(B) The peer review committee or committees appointed herein shall have authority to request and receive information in the prescription monitoring program database from the director of the prescription monitoring program.

(C) If the determination is made that a referral to a regulatory or law enforcement agency is not warranted but educational or professional advising might be appropriate, the advisory committee may refer the prescribers or dispensers to other such resources.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

➡**65-1685a. Repealed by Laws 2013, ch. 133, § 37, eff. July 1, 2013**

65-1686. Same; another agency as contractor

The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in K.S.A. 65-1685, and amendments thereto, and shall be subject to the penalties specified in K.S.A. 65-1693, and amendments thereto, for unlawful acts.

65-1687. Same; maintenance of records

All information collected for the prescription monitoring program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity or an entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

65-1688. Same; act does not create civil liability or duty

No person authorized to prescribe or dispense scheduled substances and drugs of concern shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense scheduled substances and drugs of concern did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense scheduled substances and drug of concern to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to such patient.

65-1689. Same; advisory committee created; members; terms

(a) There is hereby created the prescription monitoring program advisory committee which, subject to the oversight of the board, shall be responsible for the operation of the prescription monitoring program. The advisory committee shall consist of at least nine members appointed by the board as follows:

(1) Two licensed physicians, one nominated by the Kansas medical society and one nominated by the Kansas association of osteopathic medicine;

(2) two licensed pharmacists nominated by the Kansas pharmacists association;

(3) one person representing the Kansas bureau of investigation nominated by the attorney general;

(4) one person representing the university of Kansas school of medicine nominated by the dean of such school;

(5) one person representing the university of Kansas school of pharmacy nominated by the dean of such school;

(6) one licensed dentist nominated by the Kansas dental association; and

(7) one person representing the Kansas hospital association nominated by such association. The board may also appoint other persons authorized to prescribe or dispense scheduled substances and drugs of concern, recognized experts and representatives from law enforcement.

(b) The appointments to the advisory committee shall be for terms of three years.

(c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.

(d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.

(f) All members of the advisory committee shall serve without compensation.

65-1690. Same; advisory committee in cooperation with other entities

(a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.

(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.

(c) The advisory committee shall work with the Kansas bureau of investigation to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.

65-1691. Same; board consultation with advisory committee; annual report

In consultation with and upon recommendation of the prescription monitoring program advisory committee, the board shall review the effectiveness of the prescription monitoring program and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

65-1692. Same; rules and regulations

The board is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this act.

65-1693. Same; penalties

(a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) A person who knowingly, and without authorization, obtains or attempts to obtain prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(e) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

65-1694. Same; veterinary prescription monitoring program task force; study; members; report

(a) There is hereby established the veterinary prescription monitoring program task force which shall study and determine whether to require veterinarians to report to a prescription monitoring program under this act. Such study shall include appropriate methods and procedures of reporting by the veterinarians with the necessary database field information. The task force shall utilize nationally available resources afforded by the American association of veterinary state boards and the American veterinary medical association's department of state legislative and regulatory affairs in development of the plan in consultation with the advisory

committee.

(b) The task force shall consist of three members as follows: One member appointed by the prescription monitoring program advisory committee, one member appointed by the Kansas board of veterinary examiners and one member nominated by the Kansas veterinary medical association and appointed by the Kansas board of veterinary examiners.

(c) Appointments shall be made within 120 days after the effective date of this act. The initial meeting of the task force shall be convened within 180 days after the effective date of this act. The task force shall elect a chairperson and may elect any additional officers from among its members. All task force members shall serve without compensation.

(d) The task force shall report its findings and progress to the prescription monitoring program advisory committee at least annually or when requested by the advisory committee. The task force shall report its progress to the senate committee on public health and welfare and the house committee on health and human services, if requested, and report its conclusions and recommendations to such committees within five years after the effective date of this act. Based on the recommendation by the task force this act shall be amended to include the veterinarians as practitioners.

➡65-1695. Continuous quality improvement program; purpose; confidential peer review documents; rules and regulations

(a) No later than July 1, 2009, each pharmacy shall establish a continuous quality improvement (CQI) program. The purpose of the CQI program shall be to assess errors that occur in the pharmacy in dispensing or furnishing prescription medications so that the pharmacy may take appropriate action to prevent a recurrence.

(b) Reports, memoranda, proceedings, findings and other records generated as part of a pharmacy's CQI program shall be considered confidential and privileged peer review documents and not subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action other than an administrative proceeding initiated by the board of pharmacy. Nothing in this section shall be construed to prohibit a patient from accessing such patient's own prescription records. Nothing in this section shall affect the discoverability of any record not solely generated for or maintained as a part of a pharmacy's CQI program.

(c) No person in attendance at any meeting being conducted as part of a CQI program shall be compelled to testify in any civil, criminal or administrative action, other than an administrative proceeding initiated by the board of pharmacy as to any discussions or decisions which occurred as part of the CQI program.

(d) All reports and records generated as part of a pharmacy's CQI program shall be available for inspection by the board of pharmacy within a time period established by the board in rules and regulations.

(e) In conducting a disciplinary proceeding in which admission of any matters that are confidential and privileged under subsection (b) are proposed, the board of pharmacy shall hold the hearing in closed session when any report, record or testimony is disclosed. Unless otherwise provided by law, the board of pharmacy in conducting a disciplinary proceeding may close only that portion of the hearing in which disclosure of such privileged matters are proposed. In closing a portion of a hearing as provided in this subsection, the presiding officer may exclude any person from the hearing except members of the board, the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and appropriate staff support for either counsel.

The board of pharmacy shall make the portions of the administrative record in which such privileged matters are disclosed subject to a protective order prohibiting further disclosure. Such privileged matters shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity. No person in attendance at a closed portion of a disciplinary proceeding shall be required to testify at a subsequent civil, criminal or administrative hearing regarding the privileged matters, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing.

The board of pharmacy may review any matters that are confidential and privileged under subsection (b) in conducting a disciplinary proceeding but must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in an open meeting of the board of pharmacy. Offering such testimony or records in an open public hearing shall not be deemed a waiver of the peer review privilege relating to any peer review committee testimony, record or report.

(f) The board may establish by rules and regulations requirements regarding the functions and record keeping of a pharmacy CQI program.

(g) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

65-1696. State board of pharmacy; fingerprinting and criminal history

(a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of pharmacy may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of pharmacy is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of pharmacy may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the state board of pharmacy in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate

and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the state board of pharmacy.

(c) The state board of pharmacy may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the pharmacy fee fund. The board of pharmacy shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pharmacy fee fund.

(d) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

➡65-16,101. Statewide electronic logging system for sale of methamphetamine precursor act; definitions

As used in the statewide electronic logging system for sale of methamphetamine precursor act, unless the context otherwise requires:

(a) “Board” means the state board of pharmacy.

(b) “Methamphetamine precursor” means any compound, mixture or preparation containing pseudoephedrine, ephedrine or phenylpropanolamine, or any of their salts or optical isomers, or salts of optical isomers, but does not include products that have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts for precursors, and does not include animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

(c) “Pharmacy” means premises, laboratory, area or other place, including in-state and out-of-state facilities that are required to be registered under K.S.A. 65-1643 or 65-1657, and amendments thereto: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apothecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited.

➡65-16,102. Same; maintenance of program by the board of pharmacy; rules and regulations; waiver and liability

(a) The board shall establish and maintain a program for a statewide electronic logging system for sale of methamphetamine precursors.

(b) Each pharmacy shall maintain an electronic methamphetamine precursor recording log documenting the sale of methamphetamine precursors. The board shall promulgate rules and regulations specifying a standardized format for the log and the information that each pharmacy shall submit to the board, which shall include, but not be limited to:

(1) The name and address of the person purchasing, receiving or otherwise acquiring the methamphetamine precursor;

(2) the name of the product and quantity purchased;

(3) the date and time of the purchase; and

(4) the name, or initials, of the licensed pharmacist, registered pharmacy technician or pharmacy intern or clerk supervised by a licensed pharmacist who sold the product.

(c) Notwithstanding the requirements of this section, each pharmacy shall maintain the purchaser's signature in accordance with subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) Each pharmacy that is capable shall submit the information from the log in real time in accordance with transmission methods specified in rules and regulations promulgated by the board.

(e) The board may grant a waiver exempting a pharmacy from compliance with the requirements of this section upon showing of good cause by the pharmacy that it is otherwise unable to submit log information by electronic means for various reasons, including, but not limited to, mechanical or electronic failure or financial, technological or any other undue burden on the pharmacy, established by rules and regulations. Such waiver may permit the pharmacy to submit log information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

(f) No pharmacy or pharmacy employee shall be liable to any person in a civil action for damages or other relief arising from a sale of a methamphetamine precursor that occurs at another pharmacy.

(g) The requirements of this section shall not apply where there is a lawful prescription present for the methamphetamine precursor sold.

65-16,103. Same; no cost charged to pharmacies; funding of program

(a) The cost of establishing and maintaining the statewide electronic logging system shall be borne by the state, other non-state units of government, private entities, or others. Pharmacies shall not be required to bear the costs associated with establishing and maintaining the electronic logging system, through any additional

charges, whether statewide, regional, county-wide or otherwise as provided in this section.

(b) In the event that funding for a statewide program is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally or county-wide or otherwise. The board shall, by rules and regulations, prescribe that such regional or non-statewide program comply with requirements applicable to a statewide program, including that such non-state governmental units or regional programs may not utilize different vendors. Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if a regional program is established, and all other pharmacies in the state shall be exempt from requirements for the electronic logging system required pursuant to this act.

(c) If the state, other non-state units of government, private entities or others are unable to bear the costs of establishing and maintaining the electronic logging system, pharmacies within the state, or in the case of regional or other non-statewide programs, pharmacies within those program areas shall be relieved of any obligation to comply with the statewide electronic logging system program pursuant to this act. Such pharmacies shall still be subject to the requirements of maintaining a log as provided in subsection (k) of K.S.A. 65-1643, and amendments thereto.

(d) The board shall not impose any additional charges for the establishment or maintenance of the program for the recording of methamphetamine precursors on a pharmacy. The board shall not charge any fees for the transmission of data to the program database or for the receipt of information from the database.

(e) The state board of pharmacy may receive and expend, or supervise the expenditure of, any donation, gift, grant or bequest made to the board for furthering any phase of the statewide electronic logging system program.

➡ 65-16,104. Same; confidential information; authorized access to data in the log

(a) Methamphetamine precursor recording log information submitted to the board shall be confidential and not a public record and not subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c) and (d).

(c) The board shall be authorized to provide data in the log to the following persons:

(1) Any person authorized to prescribe or dispense products containing pseudoephedrine, ephedrine or phenylpropanolamine, for the purpose of complying with the provisions of this act; and

(2) local, state and federal law enforcement or prosecutorial officials.

(d) The board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received methamphetamine precursors from pharmacies.

➡65-16,105. Same; another agency or private vendor as contractor; maintenance and destruction of records; educational program for pharmacies; annual report

(a) The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective implementation and operation of the methamphetamine precursor recording log. The state agency or private vendor selected shall have the technological capability to receive electronic log data from pharmacies submitted pursuant to K.S.A. 65-16,102, and amendments thereto, and to send real time notification to law enforcement officials. Regardless of the entity selected to manage the program, pharmacies are not required to use any one particular vendor's product to comply with the requirements under K.S.A. 65-16,102, and amendments thereto. Any electronic system implemented by the state shall be capable of bridging with existing and future operational systems used by pharmacies at no cost to such pharmacies. Any contractor shall be bound to comply with the provisions regarding confidentiality of log information in this section, and amendments thereto, and shall be subject to the penalties specified in K.S.A. 65-16,107, and amendments thereto, for unlawful acts.

(b) All information collected for the program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

(c) The board shall develop and implement a program to educate pharmacies and pharmacy employees about the program for the recording of methamphetamine precursors.

(d) The board shall review the effectiveness of the program for the recording of methamphetamine precursors and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

➡65-16,106. Same; rules and regulations

The board shall adopt, within six months after the effective date of this act, such rules and regulations the board deems necessary to carry out the provisions of this act.

➡65-16,107. Same; penalties

(a) A pharmacy that knowingly fails to submit methamphetamine precursor recording log information to the board as required by this act or knowingly submits incorrect log information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have log information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have log information pursuant to this act who knowingly uses such information in a manner or for a propose in violation of this act shall be guilty of a severity level 10, nonperson felony.

➡65-16,108. Same; short title

K.S.A. 65-16,101 through 65-16,108, and amendments thereto, shall be known and may be cited as the statewide electronic logging system for sale of methamphetamine precursor act.

➡65-16,121. Pharmacy audit integrity act

(a) K.S.A. 65-16,121 through 65-16,126, and amendments thereto, shall be known and may be cited as the pharmacy audit integrity act.

(b) This section shall take effect on and after July 1, 2011.

➡65-16,122. Same; definitions

(a) As used in this act, “pharmacy benefits manager” or “PBM” means a person, business or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, not-for-profit hospital or medical service organization, insurance company, third-party payor or health program administered by the state board of pharmacy.

(b) This section shall take effect on and after July 1, 2011.

➡65-16,123. Same; procedural requirements

(a) The entity conducting the audit shall follow the following procedures:

(1) An entity conducting an on-site audit must give the pharmacy at least seven days written notice before conducting an initial audit;

(2) an audit that involves clinical or professional judgment must be conducted by or in consultation with a licensed pharmacist;

(3) the period covered by the audit may not exceed two years from the date that the claim was submitted to or adjudicated by the entity;

(4) the pharmacy may request an extension not to exceed seven days from the date of an originally scheduled on-site audit;

(5) the pharmacy may use the records of a hospital, physician or other authorized practitioner to validate the pharmacy record;

(6) any legal prescription, in compliance with the requirements of the state board of pharmacy, may be used to validate claims in connection with prescriptions, refills or changes in prescriptions;

(7) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies; and

(8) the entity conducting the audit must establish a written appeals process.

(b) The entity conducting the audit shall also comply with the following requirements:

(1) A finding of overpayment or underpayment must be based on the actual overpayment or underpayment and not a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;

(2) the entity conducting the audit shall not use extrapolation in calculating the recoupments or penalties for audits, unless required by state or federal contracts;

(3) the auditing company or agent may not receive payment based on a percentage of the amount recovered, unless required by contracts; and

(4) interest may not accrue during the audit period.

(c) This section shall take effect on and after July 1, 2011.

➡ **65-16,124. Same; audit reports; recoupment and repayment of funds; access to audit information**

(a) Any preliminary audit report must be delivered to the pharmacy within 60 days after the conclusion of the audit. Any pharmacy shall be allowed at least 30 days following receipt of the preliminary audit to provide documentation to address any discrepancy found in the audit. Any final audit report shall be delivered to the pharmacy within 120 days after receipt of the preliminary audit report or final appeal, whichever is later.

(b) Recoupment of any disputed funds or repayment of funds to the entity by the pharmacy, if permitted pursuant to contracts, shall occur, to the extent demonstrated or documented in the pharmacy audit findings, after final internal disposition of the audit including the appeals process. If the identified discrepancy for an individual audit exceeds $20,000, any future payments to the pharmacy may be withheld pending finalization of the audit. Unless otherwise required by the federal or state law, any audit information may not be shared. Auditors shall only have access to previous audit reports on a particular pharmacy conducted by that same entity.

(c) This section shall take effect on and after July 1, 2011.

65-16,125. Same; final report; availability

(a) Any auditing entity, upon request of the plan sponsor, shall provide a copy of the final report, including the disclosure of any money recouped in the audit. The pharmacy may provide a copy of the report to the commissioner of insurance, provided such report shall not contain any personally identifiable health information in violation of the provisions of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191).

(b) This section shall take effect on and after July 1, 2011.

65-16,126. Same; application of the act

(a) This act shall apply to contracts between an auditing entity and a pharmacy entered into, extended or renewed on or after the effective date of this act. This act shall not apply to any audit, review or investigation that is initiated based upon suspected or alleged fraud, willful misrepresentation or abuse.

(b) This section shall take effect on and after July 1, 2011.

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