SENATE BILL No. 324

By Committee on Public Health and Welfare


Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-1632 is hereby amended to read as follows: 65-1632. (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 every two years. The expiration date shall be established by rules and regulations adopted by the board. 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 prior to the expiration of the license 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.

Sec. 2. K.S.A. 2011 Supp. 65-1643 is hereby amended to read as
follows: 65-1643. 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;
and (3) or 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
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.

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.

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.

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.

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.

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. 2011 Supp. 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) (j) 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.

Sec. 3. K.S.A. 65-1644 is hereby amended to read as follows: 65-1644. 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 not exceed $1.25 for permits, and $10 for certificates of registration.

Sec. 4. K.S.A. 2011 Supp. 65-1645 is hereby amended to read as follows: 65-1645. (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, renewal 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,
renewal 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 every year. The
expiration date shall be established by rules and regulations adopted by
the board. Retail dealers' permits shall expire on the last day of February
every year. The expiration date shall be established by rules and
regulations adopted by the board. All registrations and permits shall be
renewed annually. Application blanks for Notice of 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 prior to 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 notice of renewal 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.

Sec. 5. K.S.A. 2011 Supp. 65-1663 is hereby amended to read as follows: 65-1663. (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. The expiration date shall be established by rules and regulations adopted 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 prior to the expiration date 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.

New Sec. 6. (a) It shall be unlawful for any person to function as a pharmacist intern in this state unless such person is registered with the board as a pharmacist intern.

(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 not to exceed $25.

(c) Each pharmacist intern registration issued by the board shall expire six years from the date of issuance.

(d) (1) The board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacist intern on any ground, that 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 temporarily suspend or temporarily limit the registration of any pharmacist intern 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 pharmacist intern functions would constitute an imminent danger to the public health and safety.

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

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

(f) Each pharmacy shall at all times maintain a list of the names of pharmacist interns employed by the pharmacy. A pharmacist intern shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the supervising pharmacist to determine that the pharmacist intern 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 pharmacist intern in the performance of the pharmacist intern's duties.

(g) A person holding a pharmacist intern registration shall display such registration in that part of the place of business in which such person is engaged in pharmacist intern activities.
(h) The board shall adopt such rules and regulations as are necessary to ensure that pharmacist interns are adequately trained as to the nature and scope of their lawful duties. The board may adopt rules and regulations as may be necessary to carry out the purposes of and enforce the provisions of this section.

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


Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.