

As Amended by Senate Committee

Session of 2012

SENATE BILL No. 324

By Committee on Public Health and Welfare

1-24

1 AN ACT concerning the board of pharmacy; relating to licensure of
2 pharmacists and registration of pharmacist interns; amending K.S.A.
3 65-1632 and 65-1644 and K.S.A. 2011 Supp. 65-1643, 65-1645 and 65-
4 1663 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 65-1632 is hereby amended to read as follows: 65-
8 1632. (a) Each license to practice as a pharmacist issued by the board,
9 shall expire ~~on June 30 of the year specified by the board for the expiration~~
10 ~~of the license and shall be renewed on a biennial basis in accordance with~~
11 ~~this section every two years. The expiration date shall be established by~~
12 ~~rules and regulations adopted by the board.~~ Each application for renewal
13 of a license as a pharmacist shall be made on a form prescribed and
14 furnished by the board. Except as otherwise provided in this subsection,
15 the application, when accompanied by the renewal fee and received by the
16 executive secretary of the board on or before the date of expiration of the
17 license, shall have the effect of temporarily renewing the applicant's
18 license until actual issuance or denial of the renewal. If at the time of filing
19 a proceeding is pending before the board which may result in the
20 suspension, probation, revocation or denial of the applicant's license, the
21 board may by emergency order declare that the application for renewal
22 shall not have the effect of temporarily renewing such applicant's license.
23 Every licensed pharmacist shall pay to the secretary of the board a renewal
24 fee fixed by the board as provided in K.S.A. 65-1645, and amendments
25 thereto.

26 (b) Commencing with the renewal of licenses which expire on June
27 30, 1998, each license shall be renewed on a biennial basis. To provide for
28 a system of biennial renewal of licenses, the board may provide by rules
29 and regulations that licenses issued or renewed may expire less than two
30 years from the date of issuance or renewal.

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

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

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

29 (f) If the renewal fee for any pharmacist's license has not been paid
30 ~~by August 1~~ *prior to the expiration of the license* of the renewal year, the
31 license is hereby declared void, and no license shall be reinstated except
32 upon payment of any unpaid renewal fee plus a penalty fee fixed by the
33 board as provided in K.S.A. 65-1645, and amendments thereto, and proof
34 satisfactory to the board of compliance with the continuing education
35 requirements fixed by the board. The penalty fee established by this
36 section immediately prior to the effective date of the act shall continue in
37 effect until a different penalty fee is fixed by the board by rules and
38 regulations as provided in K.S.A. 65-1645, and amendments thereto.
39 Payment of any unpaid renewal fee plus a penalty fee and the submission
40 of proof satisfactory to the board of compliance with the continuing
41 education requirements fixed by the board shall entitle the license to be
42 reinstated. The nonpayment of renewal fees by a previously licensed
43 pharmacist for a period exceeding three years shall not deprive the

1 previously licensed pharmacist of the right to reinstate the license upon the
2 payment of any unpaid fees and penalties and upon compliance with the
3 continuing education requirements fixed by the board, except that the
4 board may require such previously licensed pharmacist to take and pass an
5 examination approved by the board for reinstatement as a pharmacist and
6 to pay any applicable application fee.

7 Sec. 2. K.S.A. 2011 Supp. 65-1643 is hereby amended to read as
8 follows: 65-1643. It shall be unlawful:

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

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

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

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

1 sale.

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

9 (f) Except as otherwise provided in this subsection (f), for any person
10 operating a store or place of business to sell, offer for sale or distribute any
11 drugs to the public without first having obtained a registration or permit
12 from the board authorizing such person so to do. No retail dealer who sells
13 12 or fewer different nonprescription drug products shall be required to
14 obtain a retail dealer's permit under the pharmacy act of the state of Kansas
15 or to pay a retail dealer new permit or permit renewal fee under such act. It
16 shall be lawful for a retail dealer who is the holder of a valid retail dealer's
17 permit issued by the board or for a retail dealer who sells 12 or fewer
18 different nonprescription drug products to sell and distribute
19 nonprescription drugs which are prepackaged, fully prepared by the
20 manufacturer or distributor for use by the consumer and labeled in
21 accordance with the requirements of the state and federal food, drug and
22 cosmetic acts. Such nonprescription drugs shall not include: (1) A
23 controlled substance; (2) a prescription-only drug; or (3) a drug product
24 intended for human use by hypodermic injection; but such a retail dealer
25 shall not be authorized to display any of the words listed in subsection (dd)
26 of K.S.A. 65-1626, and amendments thereto, for the designation of a
27 pharmacy or drugstore.

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

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

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

39 ~~(j)~~(i) For any person to operate a veterinary medical teaching hospital
40 pharmacy without first having obtained a registration to do so from the
41 board. Such registration shall be subject to the provisions of K.S.A. 65-
42 1662, and amendments thereto, and any rules and regulations adopted
43 pursuant thereto.

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

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

7 (B) any person purchasing, receiving or otherwise acquiring any such
8 controlled substance produces a photo identification showing the date of
9 birth of the person and signs a log and enters in the log, or allows the seller
10 to enter in the log, such person's address and the date and time of sale or
11 allows the seller to enter such information into an electronic logging
12 system pursuant to K.S.A. 2011 Supp. 65-16,102, and amendments
13 thereto. The log or database required by the board shall be available for
14 inspection during regular business hours to the board of pharmacy and any
15 law enforcement officer;

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

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

21 (2) there is a lawful prescription.

22 ~~(h)~~(k) For any pharmacy to allow customers to have direct access to
23 any controlled substance designated in subsection (e) or (f) of K.S.A. 65-
24 4113, and amendments thereto. Such controlled substance shall be placed
25 behind the counter or stored in a locked cabinet that is located in an area of
26 the pharmacy to which customers do not have direct access.

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

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

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

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

38 Sec. 3. K.S.A. 65-1644 is hereby amended to read as follows: 65-
39 1644. The board may issue duplicate licenses, registrations or permits
40 upon return of the original, or upon a sworn statement that the original has
41 been lost or destroyed, and has not been given away or disposed of to
42 some other person. Applications for such duplicate licenses, registrations
43 and permits and the affidavits required by this section shall be made on

1 forms furnished by the board. The fee for the issuance of a duplicate
2 registration or permit shall ~~be not exceed~~ \$1.25 for permits, and \$10 for
3 certificates of registration.

4 Sec. 4. K.S.A. 2011 Supp. 65-1645 is hereby amended to read as
5 follows: 65-1645. (a) Application for registrations or permits under K.S.A.
6 65-1643, and amendments thereto, shall be made on a form prescribed and
7 furnished by the board. Applications for registration to distribute at
8 wholesale any drugs shall contain such information as may be required by
9 the board in accordance with the provisions of K.S.A. 65-1655, and
10 amendments thereto. The application shall be accompanied by the fee
11 prescribed by the board under the provisions of this section. When such
12 application and fees are received by the executive secretary of the board
13 on or before the due date, such application shall have the effect of
14 temporarily renewing the applicant's registration or permit until actual
15 issuance or denial of the renewal. However, if at the time of filing a
16 proceeding is pending before the board which may result in the
17 suspension, probation, revocation or denial of the applicant's registration
18 or permit, the board may declare, by emergency order, that such
19 application for renewal shall not have the effect of temporarily renewing
20 such applicant's registration or permit. Separate applications shall be made
21 and separate registrations or permits issued for each separate place at
22 which is carried on any of the operations for which a registration or permit
23 is required by K.S.A. 65-1643, and amendments thereto ~~except that the~~
24 ~~board may provide for a single registration for a business entity registered~~
25 ~~to manufacture any drugs or registered to distribute at wholesale any drugs~~
26 ~~and operating more than one facility within the state, or for a parent entity~~
27 ~~with divisions, subsidiaries or affiliate companies, or any combination~~
28 ~~thereof, within the state when operations are conducted at more than one~~
29 ~~location and there exists joint ownership and control among all the entities.~~

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

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

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

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

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

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

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

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

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

43 (9) wholesaler, new registration not more than \$500, renewal not

1 more than \$400, except that a wholesaler dealing exclusively in
2 nonprescription drugs, the manufacturing, distributing or dispensing of
3 which does not require registration under the uniform controlled
4 substances act, shall be assessed a fee for registration and reregistration
5 not to exceed \$50;

6 (10) special auction not more than \$50;

7 (11) samples distribution not more than \$50, *renewal not more than*
8 *\$50*;

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

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

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

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

17 (16) durable medical equipment registration fee, not more than \$300,
18 *renewal not more than \$300*.

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

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

30 (e) The board may deny renewal of any registration or permit
31 required by K.S.A. 65-1643, and amendments thereto, on any ground
32 which would authorize the board to suspend, revoke or place on probation
33 a registration or permit previously granted pursuant to the provisions of
34 K.S.A. 65-1643, and amendments thereto. Registrations and permits issued
35 under the provisions of K.S.A. 65-1643 and 65-1644, and amendments
36 thereto, shall be conspicuously displayed in the place for which the
37 registration or permit was granted. Such registrations or permits shall not
38 be transferable. All such registrations and permits ~~except retail dealer~~
39 ~~permits shall expire on June 30 following date of issuance every year. The~~
40 ~~expiration date shall be established by rules and regulations adopted by~~
41 ~~the board. Retail dealers' permits shall expire on the last day of February~~
42 ~~every year. The expiration date shall be established by rules and~~
43 ~~regulations adopted by the board.~~ All registrations and permits shall be

1 renewed annually. ~~Application blanks for~~ *Notice of renewal* of registrations
2 and permits shall be mailed by the board to each registrant or permittee at
3 least 30 days prior to expiration of the registration or permit. If application
4 for renewal is not made ~~before 30 days after such~~ *prior to* expiration, the
5 existing registration or permit shall lapse and become null and void on the
6 date of its expiration, and no new registration or permit shall be granted
7 except upon payment of the required renewal fee plus a penalty equal to
8 the renewal fee. Failure of any registrant or permittee to receive such
9 ~~application blank~~ *notice of renewal* shall not relieve the registrant or
10 permittee from the penalty hereby imposed if the renewal is not made as
11 prescribed.

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

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

19 Sec. 5. K.S.A. 2011 Supp. 65-1663 is hereby amended to read as
20 follows: 65-1663. (a) It shall be unlawful for any person to function as a
21 pharmacy technician in this state unless such person is registered with the
22 board as a pharmacy technician. Every person registered as a pharmacy
23 technician shall pass an examination approved by the board within 30 days
24 of becoming registered. The board shall adopt rules and regulations
25 establishing the criteria for the required examination and a passing score.

26 (b) All applications for registration shall be made on a form to be
27 prescribed and furnished by the board. Each application for registration
28 shall be accompanied by a registration fee fixed by the board by rule and
29 regulation of not to exceed \$50.

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

33 (d) Each pharmacy technician registration issued by the board shall
34 ~~expire on October 31 of the year specified by the board~~ *expire every two years.*
35 *The expiration date shall be established by rules and regulations adopted*
36 *by the board.* Each applicant for renewal of a pharmacy technician
37 registration shall be made on a form prescribed and furnished by the board
38 and shall be accompanied by a renewal fee fixed by the board by rule and
39 regulation of not to exceed \$25. Except as otherwise provided in this
40 subsection, the application for registration renewal, when accompanied by
41 the renewal fee and received by the executive secretary of the board on or
42 before the date of expiration of the registration, shall have the effect of
43 temporarily renewing the applicant's registration until actual issuance or

1 denial of the renewal registration. If at the time of filing a proceeding is
2 pending before the board which may result in the suspension, probation,
3 revocation or denial of the applicant's registration, the board may by
4 emergency order declare that the application for renewal shall not have the
5 effect of temporarily renewing such applicant's registration. If the renewal
6 fee is not paid by ~~December 1~~ *prior to the expiration date* of the renewal
7 year, the registration is void.

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

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

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

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

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

27 (g) Each pharmacy shall at all times maintain a list of the names of
28 pharmacy technicians employed by the pharmacy. A pharmacy technician
29 shall work under the direct supervision and control of a pharmacist. It shall
30 be the responsibility of the supervising pharmacist to determine that the
31 pharmacy technician is in compliance with the applicable rules and
32 regulations of the board, and the supervising pharmacist shall be
33 responsible for the acts and omissions of the pharmacy technician in the
34 performance of the pharmacy technician's duties. The ratio of pharmacy
35 technicians to pharmacists in the prescription area of a pharmacy shall be
36 prescribed by the board by rule and regulation. Any change in the ratio of
37 pharmacy technicians to pharmacists in the prescription area of the
38 pharmacy must be adopted by a vote of no less than six members of the
39 board.

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

43 (i) The board shall adopt such rules and regulations as are necessary

1 to ensure that pharmacy technicians are adequately trained as to the nature
2 and scope of their lawful duties.

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

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

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

10 (b) All applications for registration shall be made on a form to be
11 prescribed and furnished by the board. Each application for registration
12 shall be accompanied by a registration fee fixed by the board by rule and
13 regulation not to exceed \$25.

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

16 (d) (1) The board may limit, suspend or revoke a registration or deny
17 an application for issuance or renewal of any registration as a pharmacist
18 intern on any ground, that would authorize the board to take action against
19 the license of a pharmacist under K.S.A. 65-1627, and amendments
20 thereto.

21 (2) The board may temporarily suspend or temporarily limit the
22 registration of any pharmacist intern in accordance with the emergency
23 adjudicative proceedings under the Kansas administrative procedure act, if
24 the board determines that there is cause to believe that grounds exist for
25 disciplinary action under this section against the registrant and that the
26 registrant's continuation of pharmacist intern functions would constitute an
27 imminent danger to the public health and safety.

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

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

33 (f) Each pharmacy shall at all times maintain a list of the names of
34 pharmacist interns employed by the pharmacy. A pharmacist intern shall
35 work under the direct supervision and control of a pharmacist. It shall be
36 the responsibility of the supervising pharmacist to determine that the
37 pharmacist intern is in compliance with the applicable rules and
38 regulations of the board, and the supervising pharmacist shall be
39 responsible for the acts and omissions of the pharmacist intern in the
40 performance of the pharmacist intern's duties.

41 (g) A person holding a pharmacist intern registration shall display
42 such registration in that part of the place of business in which such person
43 is engaged in pharmacist intern activities.

1 (h) The board shall adopt such rules and regulations as are necessary
2 to ensure that pharmacist interns are adequately trained as to the nature
3 and scope of their lawful duties. The board may adopt rules and
4 regulations as may be necessary to carry out the purposes of and enforce
5 the provisions of this section.

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

8 Sec. 7. K.S.A. 65-1632 and 65-1644 and K.S.A. 2011 Supp. 65-1643,
9 65-1645 and 65-1663 are hereby repealed.

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