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Kansas Board of Pharmacy

LAWS AND REGULATIONS

UPDATED August 2012

The following law book contains the current "unofficial" ***** pharmacy law and rules.

***** The permanent statutes of the Kansas State Board of Pharmacy have been codified in Chapter 65 of the Kansas Statutes Annotated. The KSA's are published by the Secretary of State's Office and contain all of the "official" agency laws. Chapter 68 of the Kansas Administrative Rules contains all "official" agency rules and is published by the Secretary of State's Office. The KAR's contain the "official" agency rules and regulations.

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Guide for selected content in this document:

* * *	Indicates redacted text that may not be of interest to pharmacists.
KSA	Kansas Statutes Annotated
KAR	Kansas Administrative Rules (Regulations)

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I. Pharmacy Practice Act-Statutes

Chapter 65.—Public Health
Article 16.—Regulation of Pharmacists

65-1601.
History: L. 1885, ch. 150, § 1; R.S. 1923, 65-1601; Repealed, L. 1953, ch. 290, § 37; Aug. 1.

65-1602.
History: L. 1885, ch. 150, § 3; R.S. 1923, 65-1602; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1603.
History: L. 1887, ch. 174, § 5; L. 1921, ch. 268, § 1; R.S. 1923, 65-1603; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1604.
History: L. 1921, ch. 269, § 1; R.S. 1923, 65-1604; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1605, 65-1606.
History: L. 1921, ch. 269, §§ 2, 3; R.S. 1923, 65-1605, 65-1606; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1607.
History: L. 1913, ch. 186, § 2; L. 1921, ch. 268, § 2; R.S. 1923, 65-1607; L. 1929, ch. 216, § 1; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1608.
History: L. 1921, ch. 268, § 3; R.S. 1923, 65-1608; L. 1929, ch. 216, § 2; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1609.
History: L. 1913, ch. 186, § 3; R.S. 1923, 65-1609; Repealed, L. 1953, ch. 290, § 37; Aug. 1.

65-1610, 65-1611.
History: L. 1913, ch. 186, §§ 4, 5; R.S. 1923, 65-1610, 65-1611; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1612, 65-1613.
History: L. 1913, ch. 186, §§ 6, 7; R.S. 1923, 65-1612, 65-1613; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1614.
History: L. 1913, ch. 186, § 8; R.S. 1923, 65-1614; Repealed, L. 1953, ch. 290, § 37; Aug. 1.

65-1615, 65-1616.
History: L. 1887, ch. 174, §§ 6, 7; R.S. 1923, 65-1615, 65-1616; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1617.
History: L. 1887, ch. 174, § 8; R.S. 1923, 65-1617; Repealed, L. 1943, ch. 269, § 28; June 30.

65-1618.
History: L. 1887, ch. 174, § 9; R.S. 1923, 65-1618; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1619.
History: L. 1885, ch. 150, § 13; R.S. 1923, 65-1619; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1620.
History: L. 1897, ch. 164, § 1; L. 1921, ch. 270, § 1; R.S. 1923, 65-1620; Repealed, L. 1953, ch. 290, § 38; July 1.

65-1621 to 65-1623.
History: L. 1933, ch. 87, §§ 1 to 3 (Special Session); Repealed, L. 1953, ch. 290, § 38; July 1.

65-1624.
History: L. 1953, ch. 290, § 1; Repealed, L. 1975, ch. 319, § 47; July 1.

65-1625. Title of act. This act shall be known and may be cited as the pharmacy act of the state of Kansas.
History: L. 1953, ch. 290, § 2; L. 1975, ch. 319, § 1; July 1.

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; (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," "drug store" 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, as amended), 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.

History: L. 1953, ch. 290, § 3; L. 1975, ch. 319, § 2; L. 1977, ch. 217, § 1; L. 1978, ch. 242, § 1; L. 1978, ch. 243, § 1; L. 1979, ch. 193, § 1; L. 1982, ch. 182, § 138; L. 1986, ch. 235, § 1; L. 1986, ch. 231, § 9; L. 1986, ch. 236, § 1; L. 1987, ch. 235, § 5; L. 1987, ch. 236, § 1; L. 1988, ch. 297, § 2; L. 1989, ch. 193, § 1; L. 1989, ch. 192, § 2; L. 1989, ch. 192, § 3; L. 1991, ch. 272, § 10; L. 1996, ch. 229, § 118; L. 1997, ch. 112, § 1; L. 1999, ch. 38, § 1; L. 1999, ch. 149, § 6; L. 2000, ch. 89, § 1; L. 2000, ch. 159, § 10; L. 2001, ch. 31, § 1; L. 2002, ch. 25, § 2; L. 2003, ch. 124, § 8; L. 2006, ch. 169, § 117; L. 2007, ch. 177, § 30; L. 2011, ch. 114, § 55; L. 2012, ch 107, § 1, May 17; L. 2012, ch 166, § 11; July 1.

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.
History: L. 1997, ch. 112, § 4; L. 2000, ch. 118, § 2; July 1.

65-1626b.
History: L. 1953, ch. 290, § 3; L. 1975, ch. 319, § 2; L. 1977, ch. 217, § 1; L. 1978, ch. 242, § 1; L. 1978, ch. 243, § 1; L. 1979, ch. 193, § 1; L. 1982, ch. 182, § 138; L. 1986, ch. 235, § 1; L. 1986, ch. 231, § 9; L. 1986, ch. 236, § 1; L. 1987, ch. 235, § 5; L. 1987, ch. 236, § 1; L. 1988, ch. 297, § 2; L. 1989, ch. 193, § 1; L. 1989, ch. 192, § 2; L. 1989, ch. 192, § 3; L. 1991, ch. 272, § 10; L. 1996, ch. 229, § 118; L. 1997, ch. 112, § 1; L. 1999, ch. 38, § 1; L. 1999, ch. 149, § 6; L. 2000, ch. 162, § 18; Repealed, L. 2001, ch. 31, § 5; July 1.

65-1626c.
History: L. 1953, ch. 290, § 3; L. 1975, ch. 319, § 2; L. 1977, ch. 217, § 1; L. 1978, ch. 242, § 1; L. 1978, ch. 243, § 1; L. 1979, ch. 193, § 1; L. 1982, ch. 182, § 138; L. 1986, ch. 235, § 1; L. 1986, ch. 231, § 9; L. 1986, ch. 236, § 1; L. 1987, ch. 235, § 5; L. 1987, ch. 236, § 1; L. 1988, ch. 297, § 2; L. 1989, ch. 193, § 1; L. 1989, ch. 192, § 2; L. 1989, ch. 192, § 3; L. 1991, ch. 272, § 10; L. 1996, ch. 229, § 118; L. 1997, ch. 112, § 1; L. 1999, ch. 38, § 1; L. 1999, ch. 149, § 6; L. 2000, ch. 89, § 1; L. 2000, ch. 159, § 10; L. 2001, ch. 31, § 1; L. 2002, ch. 25, § 2; L. 2003, ch. 124, § 8; L. 2006, ch. 200, § 110; Repealed, L. 2007, ch. 177, § 36; May 17.

65-1626d. History: L. 1953, ch. 290, § 3; L. 1975, ch. 319, § 2; L. 1977, ch. 217, § 1; L. 1978, ch. 242, § 1; L. 1978, ch. 243, § 1; L. 1979, ch. 193, § 1; L. 1982, ch. 182, § 138; L. 1986, ch. 235, § 1; L. 1986, ch. 231, § 9; L. 1986, ch. 236, § 1; L. 1987, ch. 235, § 5; L. 1987, ch. 236, § 1; L. 1988, ch. 297, § 2; L. 1989, ch. 193, § 1; L. 1989, ch. 192, § 2; L. 1989, ch. 192, § 3; L. 1991, ch. 272, § 10; L. 1996, ch. 229, § 118; L. 1997, ch. 112, § 1; L. 1999, ch. 38, § 1; L. 1999, ch. 149, § 6; L. 2000, ch. 89, § 1; L. 2000, ch. 159, § 10; L. 2001, ch. 31, § 1; L. 2002, ch. 25, § 2; L. 2003, ch. 124, § 8; L. 2006, ch. 169, § 117; L. 2007, ch. 195, § 34; Repealed, L. 2011, ch. 114 § 101; 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; 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 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 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.

(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.

(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.

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

History: L. 1953, ch. 290, § 13; L. 1965, ch. 369, § 5; L. 1972, ch. 231, § 5; L. 1975, ch. 319, § 3; L. 1982, ch. 262, § 1; L. 1984, ch. 313, § 106; L. 1986, ch. 235, § 2; L. 1986, ch. 231, § 10; L. 1986, ch. 234, § 3; L. 1988, ch. 356, § 195; L. 1989, ch. 193, § 2; L. 1991, ch. 187, § 1; L. 1994, ch. 118, § 2; L. 1995, ch. 106, § 1; L. 1998, ch. 98, § 1; L. 1999, ch. 38, § 3; L. 1999, ch. 149, § 7; L. 2007, ch. 177, § 31; L. 2008, ch. 75. § 1; April 17.

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.

History: L. 1975, ch. 319, § 4; L. 1986, ch. 231, § 11; June 1.

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.

History: L. 1975, ch. 319, § 5; L. 1986, ch. 231, § 12; June 1.

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.
History: L. 1975, ch. 319, § 6; L. 1986, ch. 231, § 13; June 1.

65-1627d.
History: L. 1975, ch. 319, § 7; Repealed, L. 2005, ch. 26, § 1; July 1.

65-1627e.
History: L. 1975, ch. 319, § 8; L. 1986, ch. 231, § 14; L. 1988, ch. 356, § 196; Repealed, L. 2005, ch. 26, § 1; July 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.
History: L. 1975, ch. 319, § 9; L. 1986, ch. 231, § 15; L. 1988, ch. 356, § 197; L. 1998, ch. 98, § 2; Apr. 16.

65-1627g.
History: L. 1975, ch. 319, § 10; L. 1986, ch. 231, § 16; Repealed, L. 2005, ch. 26, § 1; July 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.
History: L. 1975, ch. 319, § 11; L. 1986, ch. 231, § 17; L. 1995, ch. 106, § 2; Apr. 13.

65-1627i.
History: L. 1953, ch. 290, § 13; L. 1965, ch. 369, § 5; L. 1972, ch. 231, § 5; L. 1975, ch. 319, § 3; L. 1982, ch. 262, § 1; L. 1984, ch. 313, § 106; L. 1986, ch. 235, § 2; L. 1986, ch. 231, § 10; L. 1986, ch.

234, § 3; L. 1988, ch. 356, § 195; L. 1989, ch. 193, § 2; L. 1991, ch. 187, § 1; L. 1994, ch. 118, § 2; L. 1995, ch. 106, § 1; L. 1998, ch. 142, § 10; Repealed, L. 1999, ch. 115, § 19; Repealed, L. 1999, ch. 38, § 6; July 1.

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.
History: L. 1999, ch. 38, § 2; July 1.

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 act for judicial review and civil enforcement of agency actions.
History: L. 1953, ch. 290, § 14; L. 1975, ch. 319, § 12; L. 1986, ch. 231, § 18; L. 1986, ch. 318, § 90; July 1.

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.
History: L. 1975, ch. 319, § 13; L. 1986, ch. 231, § 19; L. 1986, ch. 318, § 91; L. 1992, ch. 314, § 15; July 1.

65-1628b.
History: L. 1975, ch. 319, § 14; Repealed, L. 1986, ch. 318, § 146; July 1.

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.
History: L. 1953, ch. 290, § 15; L. 1975, ch. 319, § 15; L. 1979, ch. 193, § 2; July 1.

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.
History: L. 1953, ch. 290, § 16; L. 1975, ch. 319, § 16; L. 1988, ch. 366, § 16; June 1.

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.
History: L. 1953, ch. 290, § 17; L. 1962, ch. 37, § 1; L. 1967, ch. 342, § 1; L. 1972, ch. 231, § 6; L. 1974, ch. 252, § 1; L. 1975, ch. 319, § 17; L. 1981, ch. 247, § 1; L. 1982, ch. 263, § 1; L. 1986, ch. 235, § 3; L. 1986, ch. 231, § 20; L. 1986, ch. 236, § 2; L. 1987, ch. 236, § 2; L. 1988, ch. 243, § 7; L. 1991, ch. 187, § 2; L. 1998, ch. 98, § 3; L. 2002, ch. 184, § 1; July 1.

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.

History: L. 1953, ch. 290, § 18; L. 1962, ch. 37, § 2; L. 1967, ch. 342, § 2; L. 1974, ch. 252, § 2; L. 1975, ch. 319, § 18; L. 1982, ch. 263, § 2; L. 1984, ch. 313, § 107; L. 1986, ch. 231, § 21; L. 1987, ch. 236, § 3; L. 1988, ch. 356, § 198; L. 1990, ch. 224, § 1; L. 1991, ch. 187, § 3; L. 1998, ch. 98, § 4; L. 2002, ch. 184, § 2; July 1.

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.
History: L. 1953, ch. 290, § 19; L. 1962, ch. 37, § 3; L. 1975, ch. 319, § 19; L. 1982, ch. 263, § 3; L. 1986, ch. 231, § 22; June 1.

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.
History: L. 1953, ch. 290, § 20; L. 1975, ch. 319, § 20; L. 1986, ch. 231, § 23; June 1.

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.
History: L. 1953, ch. 290, § 21; L. 1975, ch. 319, § 21; L. 1982, ch. 262, § 6; L. 1982, ch. 263, § 6; L. 1983, ch. 210, § 1; L. 1997, ch. 2, § 1; L. 1999, ch. 38, § 4; July 1.

65-1635a. Administration of vaccine; education and reporting requirements; delegation of authority prohibited. (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 an 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, email 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.
History: L. 2000, ch. 118, § 3; L. 2006, ch. 41, § 1; L. 2007, ch. 177, § 32; L. 2010, ch 43, § 1. July 1.

65-1636. Sale of drugs limited to pharmacies. (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 cancer drug repository program established by K.S.A 2008 Supp. 65-1664 through 65-1667, and amendments thereto, and any rules and regulations promulgated thereunder shall not constitute a violation of this section.
(c) 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 promulgates thereunder shall not constitute a violation of this section.
History: L. 1953, ch. 290, § 22; L. 1975, ch. 319, § 22; L. 1986, ch. 231, § 24; L. 2009, ch..48, § 1; July 1.

65-1637. Pharmacist required to be in charge of pharmacy; compounding, filling and refilling of prescriptions; refusal to fill; brand exchange (Exact caption not yet provided). 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,’’ or
(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, or
(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.

History: L. 1953, ch. 290, § 23; L. 1975, ch. 319, § 23; L. 1978, ch. 242, § 2; L. 1979, ch. 194, § 1; L. 1986, ch. 231, § 25; L. 1991, ch. 188, § 1; L. 1994, ch. 247, § 3; L. 1998, ch. 87, § 1; L. 2005, ch. 88, § 1; L. 2007, ch. 19, § 1; March 29; 2012, ch. 121, §1; L. 2012, ch 121, § 1; July 1.

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.

History: L. 1979, ch. 193, § 5; L. 1986, ch. 231, § 26; June 1.

65-1637b. Transmission of prescription drug orders; filling and refilling of prescriptions; refusal to fill; brand exchange (Exact caption not yet provided). (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.
History: L. 2012, ch. 107, § 3, May 17.

65-1637c. Pharmacist required to be in charge of pharmacy; compounding, filling and refilling of prescriptions; refusal to fill; brand exchange (Exact caption not yet provided). (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.
History: L. 1953, ch. 290, § 23; L. 1975, ch. 319, § 23; L. 1978, ch. 242, § 2; L. 1979, ch. 194, § 1; L. 1986, ch. 231, § 25; L. 1991, ch. 188, § 1; L. 1994, ch. 247, § 3; L. 1998, ch. 87, § 1; L. 2005, ch. 88, § 1; L. 2007, ch. 19, § 1; March 29; 2012, ch. 121, §1; L. 2012, ch 107, § 2; May 17.

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.
History: L. 1953, ch. 290, § 24; L. 1965, ch. 506, § 29; L. 1975, ch. 319, § 24; L. 1979, ch. 194, § 2; L. 1986, ch. 231, § 27; June 1.

65-1639.
History: L. 1953, ch. 290, § 25; L. 1975, ch. 319, § 25; Repealed, L. 1979, ch. 194, § 4; July 1.

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.
History: L. 1953, ch. 290, § 26; L. 1975, ch. 319, § 26; L. 1979, ch. 194, § 3; July 1.

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.
History: L. 1953, ch. 290, § 27; L. 1975, ch. 319, § 27; L. 1986, ch. 231, § 28; June 1.

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.
History: L. 1953, ch. 290, § 28; L. 1975, ch. 319, § 28; L. 1982, ch. 262, § 2; L. 1986, ch. 235, § 4; L. 1987, ch. 236, § 4; L. 1989, ch. 194, § 1; L. 1994, ch. 254, § 5; L. 1997, ch. 112, § 2; L. 2003, ch. 85, § 2; July 1.

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. 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) 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.

History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 263, § 7; L. 1983, ch. 210, § 2; L. 1986, ch. 231, § 29; L. 1997, ch. 112, § 3; L. 1997, ch. 184, § 2; L. 1999, ch. 38, § 5; L. 1999, ch. 149, § 8; L. 2000, ch. 89, § 2; L. 2005, ch. 153, § 1; L. 2007, ch. 169, § 11; L. 2009, ch. 131, § 9; July 1.

65-1643a.

History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 262, § 3; Repealed, L. 1983, ch. 210, § 3; April 14.

65-1643b.
History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 263, § 7; L. 1983, ch. 210, § 2; L. 1986, ch. 231, § 29; L. 1997, ch. 112, § 3; L. 1997, ch. 184, § 2; L. 1999, ch. 38, § 5; L. 1999, ch. 149, § 8; L. 2000, ch. 89, § 2; L. 2005, ch. 153, § 1; L. 2007, ch. 177, § 33; Repealed, L. 2009, ch. 131, § 14; Repealed, L. 2009, ch. 143, § 37; July 1.

65-1643c.
History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 263, § 7; L. 1983, ch. 210, § 2; L. 1986, ch. 231, § 29; L. 1997, ch. 112, § 3; L. 1997, ch. 184, § 2; L. 1999, ch. 38, § 5; L. 1999, ch. 149, § 8; L. 2000, ch. 89, § 2; L. 2005, ch. 153, § 1; L. 2007, ch. 169, § 11; L. 2009, ch. 143, 24; Repealed, L. 2010, ch. 25, § 155; June 3.

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.
History: L. 1953, ch. 290, § 30; L. 1962, ch. 37, § 4; L. 1974, ch. 252, § 3; L. 1975, ch. 319, § 30; L. 1986, ch. 231, § 30; June 1.

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.

History: L. 1953, ch. 290, § 31; L. 1962, ch. 37, § 5; L. 1967, ch. 342, § 4; L. 1974, ch. 252, § 4; L. 1975, ch. 319, § 31; L. 1979, ch. 195, § 1; L. 1979, ch. 196, § 1; L. 1982, ch. 263, § 4; L. 1986, ch. 235, § 5; L. 1987, ch. 236, § 5; L. 1988, ch. 356, § 199; L. 1991, ch. 187, § 4; L. 1991, ch. 189, § 2; L. 1998, ch. 98, § 5; L. 2000, ch. 89, § 3; L. 2002, ch. 184, § 3; L. 2007, ch. 177, § 34; May 17.

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.
History: L. 1953, ch. 290, § 32; L. 1975, ch. 319, § 32; L. 1982, ch. 262, § 4; L. 1984, ch. 313, § 108; July 1, 1985.

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.
History: L. 1953, ch. 290, § 33; L. 1975, ch. 319, § 33; July 1.

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.

History: L. 1953, ch. 290, § 34; L. 1967, ch. 342, § 5; L. 1975, ch. 319, § 34; L. 1982, ch. 262, § 5; L. 1985, ch. 214, § 1; L. 2001, ch. 34, § 1; July 1.

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.

History: L. 1953, ch. 290, § 35; L. 1967, ch. 342, § 6; L. 1975, ch. 319, § 45; July 1.

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.

History: L. 1974, ch. 252, § 5; L. 1975, ch. 319, § 35; July 1.

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.

History: L. 1975, ch. 319, § 46; July 1.

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.
History: L. 2006, ch. 177, § 2; July 1.

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.
History: L. 1976, ch. 261, § 5; L. 1986, ch. 231, § 31; June 1.

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.
History: L. 1986, ch. 231, § 38; June 1.

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.
History: L. 1989, ch. 193, § 3; July 1.

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.

History: L. 1991, ch. 189, § 1; L. 1995, ch. 106, § 4; L. 2007, ch. 177, § 35; May 17.

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.

History: L. 1992, ch. 304, § 1; L. 1994, ch. 247, § 1; L. 1998, ch. 86, § 1; Apr. 16.

65-1657. Nonresident pharmacy registration; information required; 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. A violation of this section is a class C misdemeanor.

(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.

History: L. 1992, ch. 304, § 2; L. 1994, ch. 247, § 2; L. 2001, ch. 5, § 228; L. 2008, ch. 75, §2, L. 2008, ch. 150, §7, July 1.

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.
History: L. 1994, ch. 118, § 1; L. 1995, ch. 106, § 5; L. 1998, ch. 98, § 6; L. 2001, ch. 5, § 229; L. 2002, ch. 184, § 4; July 1.

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.

History: L. 1996, ch. 132, § 1; Apr. 11.

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.

History: L. 1998, ch. 91, § 1; L. 1999, ch. 115, § 11; Apr. 1, 2000.

65-1661.

History: L. 1998, ch. 91, § 2; Repealed, L. 2006, ch. 34, § 1; July 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.

History: L. 2000, ch. 89, § 4; Apr. 27.

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.
History: L. 2003, ch. 85, § 1; L. 2005, ch. 66, § 1; L. 2006, ch. 40, § 1; L. 2009, ch. 131, § 11; July 1.

65-1664. Cancer drug repository program; definitions; drug eligibility criteria. (a) For the purposes of this act:
(1) "Cancer drug" means a prescription drug used to treat:
(A) Cancer or its side effects; or
(B) the side effects of a prescription drug used to treat cancer or its side effects.
(2) "Hospital" has the same meaning as in K.S.A. 65-425 and amendments thereto.
(3) "Nonprofit clinic" means a charitable nonprofit corporation organized as a nonprofit corporation under the laws of this state or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons. "Nonprofit clinic" does not include a hospital or a facility that is operated for profit.
(4) "Prescription-only drug" has the same meaning as in K.S.A. 65-1626 and amendments thereto.
(5) "Unit dose" means a packaging system that:
(A) Contains individual sealed doses of a drug;
(B) may or may not attach the sealed doses to each other by placement in a card or other container; and
(C) is nonreusable.
(6) "Person" means any individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.
(b) The state board of pharmacy shall establish the cancer drug repository program to accept and dispense prescription-only cancer drugs donated for the purpose of being dispensed to cancer patients who are residents of this state and meet eligibility standards established in rules and regulations adopted by the board under K.S.A. 2007 Supp. 65-1667, and amendments thereto. Only cancer drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed. The packaging must be unopened, except that cancer drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed. A cancer drug that bears an expiration date that is less than six months after the date the cancer drug is being donated shall not be accepted or dispensed. A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated or misbranded.
History: L. 2005, ch. 121, § 1; July 1.

65-1665. Same; drug donation; provider participation; dispensing; handling fee; resale prohibited. (a) Any person may donate prescription cancer drugs to the cancer drug repository program. The cancer drugs must be donated at a physician's office, pharmacy, hospital or nonprofit clinic that elects to participate in the cancer drug repository program. Participation in the cancer drug repository program is voluntary. Nothing in this act or any other statutes of this state requires a physician's office, pharmacy, hospital or nonprofit clinic to participate in the program.
(b) The cancer drugs shall be dispensed by the following persons who are authorized pursuant to K.S.A. 65-1635, and amendments thereto, to dispense drugs: (1) Licensed physicians who are dispensing practitioners pursuant to K.A.R. 100-21-1 and (2) licensed pharmacists. The cancer drug

may be dispensed only pursuant to a prescription issued by a person authorized to prescribe drugs. A pharmacy, hospital or nonprofit clinic that accepts donated cancer drugs shall comply with all applicable federal laws and laws of this state dealing with storage and distribution of dangerous drugs and shall inspect all cancer drugs prior to dispensing them to determine that they are not adulterated. The pharmacy, hospital or nonprofit clinic may charge individuals receiving donated cancer drugs a handling fee established in accordance with rules and regulations adopted by the board. Cancer drugs donated to the repository may not be resold.
History: L. 2005, ch. 121, § 2; July 1.

65-1666. Same; criminal or civil liability. (a) Any person who in good faith donates cancer drugs without charge to the cancer drug repository program which drugs are in compliance with the provisions of this 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 drugs unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.
(b) Any person who in good faith accepts cancer drugs, in accordance with the provisions of this act and as part of the cancer drug repository program, which drugs are in compliance with the provisions of this act at the time accepted, shall not be subject to criminal or civil liability arising from any injury or death due to the condition of such drugs unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.
(c) Any person who in good faith dispenses cancer drugs without charge, except as provided in this act, in accordance with the provisions of this act and as part of the cancer drug repository program which drugs are in compliance with the provisions of this act at the time dispensed shall not be subject to criminal or civil liability arising from any injury or death due to the condition of such drugs unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.
(d) A manufacturer of drugs shall not be subject to criminal or civil liability for any injury or death related to the donation, acceptance or dispensing of a cancer drug as part of the cancer drug repository program created under this act which drug was manufactured by the drug manufacturer unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of the drug manufacturer.
History: L. 2005, ch. 121, § 3; July 1.

65-1667. Same; rules and regulations; standards, procedures and forms. The state board of pharmacy shall adopt rules and regulations governing the cancer drug repository program that establishes the following:
(a) Standards and procedures for accepting, safely storing and dispensing donated cancer drugs;
(b) standards and procedures for inspecting donated cancer drugs to determine that the original unit dose packaging is sealed and tamper-evident and that the cancer drugs are unadulterated, safe and suitable for dispensing;
(c) a form that an individual receiving a cancer drug from the repository must sign before receiving the cancer drug to confirm that the individual understands the immunity provisions of the program;
(d) a form each donor must sign stating the relationship of the person or entity to whom the cancer drug was prescribed;
(e) a formula to determine the amount of a handling fee that pharmacies, hospitals and nonprofit clinics may charge to cancer drug recipients to cover restocking and dispensing costs;
(f) a category of cancer drugs acceptable for dispensing or distribution under the cancer drug repository program; and
(g) any other standards, procedures or matters the board considers appropriate to carry out the provisions of K.S.A. 2007 Supp. 65-1664 through 65-1667, and amendments thereto.

History: L. 2005, ch. 121, § 4; July 1.

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, section 4901 of public law 105-33, 42 U.S.C. 1397aa et seq., and amendments thereto.
History: L. 2008, ch. 9, § 1; Mar. 27.

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 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) ‘‘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.
(h) ‘‘Medical care facility’’ has the same meaning as such term is defined in K.S.A. 65-425, and amendments thereto.
(i) ‘‘Medically indigent’’ has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.
(j) ‘‘Medication’’ means a prescription drug or drug as defined by this section.
(k) ‘‘Mid-level practitioner’’ has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.
(l) ‘‘Practitioner’’ has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.
(m) ‘‘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), and amendments thereto.
(n) ‘‘Qualifying center or clinic’’ means an indigent health care clinic, federally qualified health center or community mental health center.
History: L. 2008, ch. 9, § 2; Mar. 27; L. 2011, ch. 114, § 8, July 1.

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, other than drugs defined as controlled substances, 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.
History: L. 2008, ch. 9, § 3; Mar. 27.

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 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; 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.
History: L. 2008, ch. 9, § 4; Mar. 27; L. 2011, ch. 114, § 9, July 1.

65-1672. Same; participation; adult care homes; powers and duties of 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.
History: L. 2008, ch. 9, § 5; Mar. 27.

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 midlevel 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.

History: L. 2008, ch. 9, § 6; Mar. 27.

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

(a) The state board of pharmacy shall adopt rules and regulations by December 1, 2008, 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 for acceptance of unused medications from donating entities; and

(4) establish, in consultation with the department of health and environment and the department on aging, 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, other than prescription drugs defined as controlled substances, for dispensation to medically indigent persons.

History: L. 2008, ch. 9, § 7; Mar. 27.

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.
History: L. 2008, ch. 9, § 8; Mar. 27.

65-1676 to 65-1679. Reserved.

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. 2009 Supp. 72-8258, and amendments thereto.
History: L. 2009, ch. 102, § 3; July 1.

65-1681. Prescription monitoring program act. This act shall be known and may be cited as the prescription monitoring program act.
History: L. 2008, ch. 104, § 1; July 1.

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 of 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;
(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 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 and 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).
History: L. 2008, ch. 104, § 2; July 1.

65-1683 Same; required information to be submitted by dispenser; rules and regulations; waiver.
(a) The board shall establish and maintain a prescription drug 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 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.
History: L. 2008, ch. 104, § 3; L. 2012, ch 107, § 4; July 1.

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 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.
History: L. 2008, ch. 104, § 4; July 1.

65-1685 Same; database information privileged and confidential; persons authorized to receive data. (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 of federal law and regulatory 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 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 the individual practitioners, dispensers, patients, or persons who received prescriptions from dispensers.

History: L. 2008, ch. 104, § 5; L. 2012, ch. 102, § 24; L. 2012, ch 107, § 5; July 1.

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 or prescription information in K.S.A. 65-1685, and amendments thereto, and shall be subject to the penalties specified in L. 2008, ch. 104, § 14; July 1, and amendments thereto, for unlawful acts.

History: L. 2008, ch. 104, § 6; July 1.

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 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 the specific information or records in accordance with procedures adopted by the board.

History: L. 2008, ch. 104, § 7; July 1.

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 0f concern did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drugs 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 drugs of concern to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drugs of concern to such patient.

History: L. 2008, ch. 104, § 8; July 1.

65-1689 Same; advisory committee created; members; terms. (a) There is hereby created the Prescription Monitoring Program Advisory Committee which, subject to 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 Kansa 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 the 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.
History: L. 2008, ch. 104, § 9; July 1.

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 he 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.
History: L. 2008, ch. 104, § 10; July 1.

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.
History: L. 2008, ch. 104, § 11; July 1.

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.
History: L. 2008, ch. 104, § 12; July 1.

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 non-person 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, non-person 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 non-person 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.
History: L. 2008, ch. 104, § 13; L. 2012, ch 107, § 6; July 1.

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 associations department of state legislative and regulatory affairs and 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 5 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.
History: L. 2008, ch. 104, § 15; July 1.

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 shall take appropriate action to prevent a recurrence.
(b) Reports, memoranda, proceedings, findings, and other records generated as part of the pharmacy 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 effect the discoverability of any record not solely generated for or maintained as part of the pharmacy's CQI program.

(c) No person in attendance at any meeting conducted as part of the 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 the 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 omission of any matters that are confidential and privileged under subsection (b) are proposed, the board of pharmacy shall hold a 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 testimony, record, or report.

(f) The board may establish by rules and regulations requirements regarding the function 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.

History: L. 2008, ch. 104, § 16; July 1.

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.
History: L. 2009, ch. 131, § 10; July 1.

65-1697 to 65-16,100. Reserved.

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.
History: L. 2009, ch. 131, § 1; July 1.

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.
History: L. 2009, ch. 131, § 2; July 1.

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.
History: L. 2009, ch. 131, § 3; July 1.

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.
History: L. 2009, ch. 131, § 4; July 1.

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 section 2, 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 section 2, 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 section 7, 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.
History: L. 2009, ch. 131, § 5; July 1.

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.
History: L. 2009, ch. 131, § 6; July 1.

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 purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.
History: L. 2009, ch. 131, § 7; July 1.

65-16, 108. Same; short title. K.S.A. 2009 Supp. 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.
History: L. 2009, ch. 131, § 8; July 1.

65-16,121. Pharmacy audit integrity act. (a) K.S.A. 2011 Supp. 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.
History: L. 2011, ch. 114, § 1; June 9.

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.
History: L. 2011, ch. 114, § 2; June 9.

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.

History: L. 2011, ch. 114, § 3; June 9.

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.

History: L. 2011, ch. 114, § 4; June 9.

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.

History: L. 2011, ch. 114, § 5; June 9.

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.

History: L. 2011, ch. 114, § 6; June 9.

Chapter 74.—State Boards, Commissions, and Authorities
Article 16.—Board of Pharmacy

74-1601.
History: L. 1885, ch. 150, § 2; L. 1887, ch. 174, § 1; R.S. 1923, 74-1601; Repealed, L. 1953, ch. 290, § 38; July 1.

74-1602.
History: L. 1885, ch. 150, § 9; L. 1887, ch. 174, § 3; R.S. 1923, 74-1602; L. 1927, ch. 290, § 1; Repealed, L. 1953, ch. 290, § 38; July 1.

74-1603. State board of pharmacy; creation, membership; vacancies; number of terms limited.
(a) There is hereby created a state board of pharmacy which shall consist of seven members, six of whom shall be licensed pharmacists, and one of whom shall be a representative of the general public.
(b) Vacancies occurring on the board other than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment was made. No person who has been appointed to and qualified for two terms as a member of the board of pharmacy shall be eligible to be appointed as a member of the board. On July 1, 2009, the term of office of each existing board member shall be extended by one year.
(c) The office of the state board of pharmacy shall be located in the city of Topeka, Kansas.
History: L. 1953, ch. 290, § 4; L. 1975, ch. 319, § 36; L. 1978, ch. 308, § 57; L. 1981, ch. 299, § 53; L. 1982, ch. 263, § 5; L. 1986, ch. 231, § 34; L. 2009, ch. 131, § 12; July 1.

74-1604. Same; appointment; terms; qualifications. The governor shall appoint the members of the board and such members appointed on and after July 1, 2009, shall serve for terms of four years and until their successors are appointed and qualified.
No pharmacist shall be eligible for appointment as a member of the board unless such pharmacist has been a resident of the state and actively employed in or engaged in the practice of pharmacy in Kansas for at least five years immediately preceding the date of appointment.
History: L. 1953, ch. 290, § 5; L. 1975, ch. 319, § 37; L. 1986, ch. 231, § 35; L. 2009, ch. 131, § 12, July 1.

74-1605. Same; names submitted by state pharmaceutical association for consideration; oaths.
Upon the expiration of the term of any pharmacist, the state pharmaceutical association shall submit to the governor a list of pharmacists who meet the qualifications established by K.S.A. 74-1604 and amendments thereto, for membership on the board containing the names of not less than three times the number of registered pharmacists to be appointed to the board. In making appointments to the board, the governor shall give consideration to such list of persons. Within 30 days after their appointments, appointees to the board shall each take and subscribe to the oath prescribed by law for state officers, which shall be filed in the office of the secretary of state.
History: L. 1953, ch. 290, § 6; L. 1975, ch. 319, § 38; L. 1986, ch. 231, § 36; June 1.

74-1606. Officers of board; executive secretary; compensation; employees. (a) Annually, the board shall organize by electing a president and a vice-president and shall also appoint a full-time executive secretary who shall not be a member of the board and whose employment shall at all times be subject to the pleasure of the board. The executive secretary shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the board and approved by the state finance council.
(b) The board may employ, in accordance with the Kansas civil service act, such inspectors, chemists, agents and clerical help as may be necessary for the purpose of administering and enforcing the

provisions of this act and may employ an attorney to assist in prosecutions under this act and for such other purposes as the board may designate.
History: L. 1953, ch. 290, § 7; L. 1973, ch. 311, § 1; L. 1975, ch. 319, § 39; L. 1995, ch. 106, § 3; L. 2007, ch. 20, § 1; July 1.

74-1607. Same; compensation and expenses of board members. Members of the state board of pharmacy attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223.
History: L. 1953, ch. 290, § 8; L. 1967, ch. 443, § 7; L. 1973, ch. 311, § 2; L. 1974, ch. 348, § 52; L. 1975, ch. 319, § 40; July 1.

74-1608. Same; meetings, notice; reports. The board shall hold at least four meetings each year for the transaction of such business as may legally come before it. Due notice of all meetings shall be given each member at least 10 days prior to the date fixed for the meeting except that such notice shall not be required in those cases where a member of the board shall file a written waiver of notice with the executive secretary. The board shall make such reports of its activities as are required by K.S.A. 75-3044 to 75-3048, and amendments thereto.
History: L. 1953, ch. 290, § 9; L. 1975, ch. 319, § 41; L. 1986, ch. 231, § 37; L. 2007, ch. 20, § 2; July 1.

74-1609. Same; executive secretary, duties; disposition of moneys received; pharmacy fee fund. The executive secretary of the board shall be the executive officer in charge of the office of the board. Such secretary shall make, keep, and be in charge of all records and record books required to be kept by such board, including a record of all registrations and permits required under this act, and shall attend to the correspondence of the board and perform such other duties as the board may require in carrying out and administering this act.
The executive secretary shall receive and receipt for all fees collected under this act. The executive secretary of the board shall remit all moneys received by or for such secretary 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. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the state board of pharmacy fee fund which is hereby created. 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 executive secretary or by the president of the board, or both, as the board shall determine.
History: L. 1953, ch. 290, § 10; L. 1956, ch. 52, § 19; L. 1957, ch. 431, § 14; L. 1963, ch. 398, § 21; L. 1967, ch. 434, § 28; L. 1973, ch. 309, § 29; L. 1975, ch. 319, § 42; L. 2001, ch. 5, § 307; July 1.

74-1610. Same; administration of oaths by president and executive secretary. Each member of the board and the executive secretary thereof shall have power to administer oaths in connection with the duties of the board.
History: L. 1953, ch. 290, § 11; L. 1975, ch. 319, § 43; July 1.

74-1611. Same; records admissible in evidence. The books, registers and records of the board as made and kept by the executive secretary or under his or her supervision, subject to the direction of the board, or any portion thereof when certified by the executive secretary shall be prima facie evidence of the matter therein recorded and shall be deemed lawful evidence in any court of this state.
History: L. 1953, ch. 290, § 12; L. 1975, ch. 319, § 44; July 1.

II. Pharmacy Practice Act-Regulations

KAR Agency 68.—Kansas State Board of Pharmacy
Article 1: Registration and Examination of Pharmacists

68-1-1 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-1-1a Application for registrations or permits; withdrawal of application. After an application for a registration or permit has been accepted, the failure of the applicant or authorized representative to respond to official correspondence regarding the application, when sent by registered or certified mail, return receipt requested, shall be deemed to be a withdrawal of the application.
(Authorized by and implementing K.S.A. 65-1630 and K.S.A. 2000 Supp. 65-1631; effective, E-76-31, Aug. 11, 1975; effective May 1, 1976; amended May 1, 1978; amended May 1, 1983; amended June 6, 1994; amended March 20, 1995; amended May 31, 2002.)

68-1-1b. Continuing educational unit. (a) Ten clock-hours of continuing education approved by the board shall constitute one continuing educational unit (C.E.U.). ‘‘Continuing education’’ shall mean an organized and systematic education experience beyond basic preparation that is designed to achieve the following:
(1)(A) Increase knowledge, improve skills, or enhance the practice of pharmacy; or
(B) improve protection of the public health and welfare;
and
(2) ensure continued competence.
(b) Three C.E.U.s shall be required for renewal during each licensure period. Continuing education hours may be prorated for licensure periods that are less than biennial
at a rate of .125 C.E.U.s per month.
(c)(1) Each continuing education program administered by a provider approved by the accreditation council for pharmacy education (ACPE) shall be approved by the board.
(2) Each continuing education program shall be a program of continuing education that has been approved by the board. Each provider not approved by the ACPE shall submit the continuing education program to the board at least 120 days in advance for consideration for approval.
Except for continuing education programs provided by an ACPE-approved provider, continuing education programs shall not include in-service programs, on-the-job training, orientation for a job, an education program open to the general public, a cardiopulmonary resuscitation (CPR) course, a basic cardiac life support (BCLS) course, emergency or disaster training or direct experience at a healthcare facility under a code blue, testing out of a course, medical school courses, and continuing medical education (CME) category 1 programs.
(3) The criteria for continuing education specified in paragraphs (a)(1) and (2) shall be considered by the board when deciding whether to approve a continuing education program submitted by a provider not approved by the ACPE.
(d) Attendance at a scheduled board meeting shall be accepted by the board for C.E.U. credit according to this schedule:
(1) 0.1 C.E.U. for each two hours of attendance at a
scheduled board meeting; and
(2) a maximum of 0.8 C.E.U. for a biennial licensing
period.
(e) In each biennial licensing period, the total number of combined C.E.U. credits from attendance at programs of a provider not approved by the ACPE and from attendance at a scheduled board meeting

shall not exceed 0.8 C.E.U., for purposes of meeting the continuing education requirement for license renewal.
(f) A licensee shall not be allowed to carry forward excess hours earned in one licensure period into the next licensure period.
(Authorized by and implementing K.S.A. 65-1632; effective, E 76-31, Aug. 11, 1975; effective May 1, 1976; amended May 1, 1978; amended May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended July 1, 1990; amended July 31, 1998; amended Oct. 20, 2006; amended April 23, 2010.)

68-1-1c (Authorized by and implementing K.S.A. 1982 Supp. 65-1631

68-1-1d Approved schools. The following may be recognized and approved by the board:
(a) Any school or college of pharmacy or department of a university accredited by the accreditation council for pharmacy education; and
(b) any other school or college of pharmacy or department of a university that, as determined by the board, has a standard of education not below that of the university of Kansas school of pharmacy.
(Authorized by and implementing K.S.A. 65-1631; effective May 1, 1983; amended May 1, 1987; amended Oct. 20, 2006.)

68-1-1e (Authorized by and implementing K.S.A. 65-1631; effective May 1, 1983; amended May 1, 1987; revoked March 22, 2002.)

68-1-1f Foreign graduates. (a) Each applicant who has graduated from a school or college of pharmacy or a pharmacy department of a university located outside of the United States or who is not a citizen of the United States shall provide proof that the applicant has reasonable ability to communicate verbally and in writing with the general public in English as specified in this regulation.
(b) Each foreign applicant shall be required to meet one of the following English language requirements for licensure under the pharmacy act of the state of Kansas:
(1) Pass the test of English as a foreign language (TOEFL) with a score of at least 570 and the test of spoken English (TSE) with a score of at least 50; or
(2) pass the internet-based TOEFL (iBT) as specified in K.A.R. 68-1-1g.
(Authorized by and implementing K.S.A. 65-1631; effective May 1, 1983; amended June 6, 1994; amended March 20, 1995; amended Aug. 1, 1997; amended Oct. 20, 2006.)

68-1-1g Internet-based TOEFL. Except as specified in K.A.R. 68-1-1f, each foreign applicant shall be required to meet the English language requirement for licensure under the pharmacy act of the state of Kansas by passing the internet-based TOEFL (iBT) with at least the following minimum scores:
(a) 24 in writing;
(b) 26 in speaking;
(c) 18 in listening; and
(d) 21 in reading.
(Authorized by and implementing K.S.A. 65-1631; effective Oct. 20, 2006.)

68-1-1h. Foreign pharmacy graduate equivalency examination. In addition to meeting the requirements of K.A.R. 68-1-1f, each foreign applicant shall meet the following requirements for licensure under the pharmacy act of the state of Kansas:
(a) Pass the foreign pharmacy graduate equivalency examination (FPGEE) with a score of at least 75;
(b) obtain foreign pharmacy graduate examination committee (FPGEC) certification from the national association of boards of pharmacy (NABP); and
(c) submit a copy of the FPGEC certificate to the board.

(Authorized by and implementing K.S.A. 65-1631; effective Oct. 23, 2009.)

68-1-2 Grades required. (a) Each successful applicant for licensure by examination under the pharmacy act of the state of Kansas shall:

(1) pass an examination approved by the board; and

(2) obtain a grade of not less than 75% on the law examination administered by the board.

(b) Each successful applicant for licensure by reciprocity from another state shall score not less than 75% on the law examination administered by the board.

(c) This regulation shall be effective on May 1, 1989.

(Authorized by and implementing K.S.A. 1987 Supp. 65-1631(c), as amended by L. 1988, Ch. 243, Sec. 7; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; amended May 1, 1980; amended May 1, 1985; amended May 1, 1986; amended May 1, 1989.)

68-1-2a Pharmacist-in-charge examination; acknowledgment. (a) Each prospective pharmacist-in-charge shall take a pharmacy law examination administered by the board, with a passing score of at least 85%. The examination shall include the statutes and rules and regulations, both state and federal, governing the practice of pharmacy.

(b) Each pharmacy or registrant required to have a pharmacist-in-charge that operates for more than 30 days without a designated pharmacist-in-charge who meets the requirements of this regulation shall be deemed to be in violation of K.S.A. 65-1627(e) and amendments thereto.

(c) A pharmacist who has already passed the pharmacist-in-charge examination required by the board shall not be required to retake the examination upon assuming the duties of a pharmacist-in-charge but shall, at the time of assuming these duties, sign an acknowledgment that states both of the following:

(1) The pharmacist is not currently prevented from performing the duties of a pharmacist-in-charge by an order of the board.

(2) The pharmacist has reviewed the pharmacy act and the board's regulations and is aware of the responsibilities of a pharmacist-in-charge.

The pharmacist-in-charge shall immediately provide this acknowledgment to the board. A copy of the acknowledgment shall be maintained at the premises where the pharmacist is functioning as a pharmacist-in-charge.

(Authorized by K.S.A. 2000 Supp. 65-1643 and K.S.A. 2000 Supp. 65-1627; implementing K.S.A. 2000 Supp. 65-1643, K.S.A. 2000 Supp. 65-1627 and K.S.A. 2000 Supp. 65-1626, as amended by L. 2001, ch. 31, sec. 1; effective Aug. 1, 1997; amended May 31, 2002.)

68-1-3 (Authorized by and implementing K.S.A. 65-1630; effective Jan. 1, 1966; amended Jan. 1, 1967; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; amended May 1, 1983; revoked March 22, 2002.)

68-1-3a Qualifying pharmaceutical experience. (a) Pharmaceutical experience that qualifies as one year of experience shall consist of 1,500 clock-hours as a pharmacy student or registered intern while being supervised by a preceptor. A preceptor may supervise no more than two individuals who are pharmacy students or interns at any time. All hours worked when the pharmacy student or intern is in regular attendance at an approved school of pharmacy and during vacation times and other times when the pharmacy student or intern is enrolled but not in regular attendance at an approved school of pharmacy may be counted as qualified hours. However, not more than 60 hours of work shall be acquired in any one week.

(b) No time may accrue to a pharmacy student before acceptance in an approved school of pharmacy or before being registered as an intern with the board. However, any foreign pharmacy graduate who has

passed equivalent examinations as specified in K.A.R. 68-1-1f and K.A.R. 68-1-1h may apply for registration as an intern.
(c) Once registered as an intern, the intern shall complete all required hours within six years.
(d) Reciprocity shall not be denied to any applicant who is otherwise qualified and who meets either of the following conditions:
(1) Has met the internship requirements of the state from which the applicant is reciprocating; or
(2) has at least one year of experience as a registered pharmacist.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 65-1631; effective, E-76-31, Aug. 11, 1975; effective May 1, 1976; amended May 1, 1983; amended May 1, 1985; amended May 31, 2002; amended Jan. 14, 2005; amended Oct. 23, 2009.)

68-1-4 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-1-5 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1987.)

68-1-6 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-1-7 Reinstatement after lapse. Upon failure of a pharmacist to renew a registration under the provisions of K.S.A. 65-1632 for three consecutive years or more, the board shall require the applicant to take a written or oral examination prior to reinstatement. Upon satisfactory completion of that examination and compliance with the provisions of K.S.A. 65-1632, the applicant shall be entitled to a renewal of registration if no grounds exist for denying the renewal.
(Authorized by and implementing K.S.A. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1983.)

68-1-8 Registered pharmacist to be on duty. It shall be the duty of the pharmacist in charge of every premise having a pharmacy registration, to ensure that a registered pharmacist is on duty at all times during which the pharmacy is open.
(Authorized by and implementing K.S.A. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; amended May 1, 1983.)

Article 2: Drugstores

68-2-1 to 68-2-4 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-2-5 Pharmacist-in-charge; notice to board. Each pharmacist shall notify the board in writing within five days of ceasing to serve as the pharmacist-in-charge at a pharmacy or registrant required to have a pharmacist-in-charge. The notice shall include the pharmacist's name, the name and address of the pharmacy or registrant, and the date the pharmacist ceased to serve as the pharmacist-in-charge.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2000 Supp. 65-1626(t) and K.S.A. 2000 Supp. 65-1643(a); effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; amended May 1, 1988; amended Aug. 1, 1997; amended March 22, 2002.)

68-2-6 to 68-2-8 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-2-9 Change of ownership; duty of registrant to notify board. Each registrant shall notify the executive secretary of the board in writing of any change in majority ownership of the operation for which the registration was issued within five days after the date the change in ownership becomes effective.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1643; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; amended Aug. 1, 1997; amended Feb. 7, 2003.)

68-2-10 Cessation of operations. Each registrant that ceases operations at the particular location for which the registration was received shall, within five days after termination of operations at that location, deliver to the executive secretary of the board the registration and a written explanation of the disposition of the remaining stocks of drugs.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1643; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended Feb. 7, 2003.)

68-2-11 Security. Each premises for which a pharmacy registration is issued, except medical care facilities, shall be constructed so that the pharmacy can be secured to prevent access to prescription-only drugs when a pharmacist is not on duty.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1637 and K.S.A. 2001 Supp. 65-1643; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended Feb. 7, 2003.)

68-2-12 (Authorized by K.S.A. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; revoked May 1, 1983.)

68-2-12a Minimum requirements for library, equipment, and supplies. (a) Each registered pharmacy, other than a medical care facility pharmacy, shall have a reference library, either immediately accessed by a computer or printed, that is updated at least annually and that includes the following:

(1) A current copy of the Kansas pharmacy practice act, the Kansas uniform controlled substances act, and the regulations under both acts;

(2) a drug information reference specifically drafted for patients, which may include the "professional's guide to patient drug facts," published by facts and comparisons, or "United States pharmacopeia dispensing information," volume II;

(3) one recognized reference in toxicology, pharmacology, and drug interactions;

(4) one recognized reference in drug equivalencies; and

(5) a medical dictionary.

(b) Each registered pharmacy shall also have on the premises the equipment and supplies necessary to compound, dispense, label, administer, and distribute drugs. The equipment shall be in good repair and shall be available in sufficient quantities to meet the needs of the practice of pharmacy conducted there.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1642; effective May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended April 30, 1990; amended March 20, 1995; amended Dec. 27, 1999; amended Feb. 7, 2003.)

68-2-13 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-2-14 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1987.)

68-2-15 Nametags.
(a) The following individuals shall wear a visible nametag under the following conditions:
(1) Each pharmacist, pharmacy student, and intern, while performing pharmacist functions in a pharmacy; and
(2) each pharmacy technician, while performing technician functions in a pharmacy.
(b) Each nametag shall include the person's name and the designation of whether the person is a pharmacist, a pharmacy student, an intern, or a pharmacy technician.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1642; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended April 18, 2003.)

68-2-16 Branches, agents and pickup stations. No pharmacy nor pharmacist shall have, participate in, or permit an arrangement, branch, connection or affiliation whereby prescriptions are solicited, accepted, collected, or picked up, or advertised to be such, from or at any location other than a pharmacy for which a registration in good standing has been issued by the board. (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976.)

68-2-17 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-2-18 (Authorized by K.S.A. 65-1630; effective Jan. 1, 1966; revoked May 1, 1987.)

68-2-19 Prescription copies. (A) No registered pharmacist shall fill, and no pharmacy shall permit the filling of, a copy of a prescription.
(B) Every reference copy of a prescription shall bear the following legend-"This prescription copy is issued for reference only."
(Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976.)

68-2-20 Pharmacist's function in filling a prescription. (a) As used in this regulation, the following terms shall have the meanings specified in this subsection:
(1) ‘‘Authorized prescriber’’ shall mean a ‘‘practitioner’’ as defined by K.S.A. 65-1626(gg) and amendments thereto, a ‘‘mid-level practitioner’’ as defined by K.S.A. 65-1626(ss) and amendments thereto, or a person authorized to issue a prescription by the laws of another state.
(2) ‘‘Legitimate medical purpose,’’ when used in regard to the dispensing of a prescription drug, shall mean that the prescription for the drug was issued with a valid preexisting patient-prescriber relationship rather than with a relationship established through an internet-based questionnaire, an internet-based consultation, or a telephonic consultation.
(b) Those judgmental functions that constitute the filling or refilling of a prescription shall be performed only by a licensed pharmacist or by a pharmacy student or
intern under the direct supervision of a licensed pharmacist and shall consist of the following steps:
(1) Read and interpret the prescription of the prescriber;

(2) limit any filling or refilling of a prescription to one year from the date of origin, except as provided by K.S.A. 65-1637 and amendments thereto;

(3) verify the compounding, counting, and measuring of ingredients and document the accuracy of the prescription;

(4) identify, in the pharmacy record, the pharmacist who verifies the accuracy of the completed prescription;

(5) personally offer to counsel each patient or the patient's agent with each new prescription dispensed, once yearly on maintenance medications, and, if the pharmacist deems appropriate, with prescription refills in accordance with subsection (c);

(6) ensure the proper selection of the prescription medications, devices, or suppliers as authorized by law;

(7) when supervising a pharmacy technician, delegate only nonjudgmental duties associated with the preparation of medications and conduct in-process and final checks;

(8) prohibit all other pharmacy personnel from performing those judgmental functions restricted to the pharmacist; and

(9) interpret and verify patient medication records and perform drug regimen reviews.

(c) In order to comply with paragraph (b)(5), the pharmacist or the pharmacy student or intern under the pharmacist's supervision shall perform the following:

(1) Personally offer to counsel each patient or the patient's agent with each new prescription dispensed, once yearly on maintenance medications, and, if the pharmacist deems appropriate, with prescription refills;

(2) provide the verbal counseling required by this regulation in person, whenever practical, or by the utilization of a telephone service available to the patient or patient's agent. Any pharmacist may authorize an exception to the verbal counseling requirement on a case-by-case basis for refills, maintenance medications, or continuous medications for the same patient;

(3) when appropriate, provide alternative forms of patient information to supplement verbal patient counseling. These supplemental forms of patient information may include written information, leaflets, pictogram labels, video programs, and auxiliary labels on the prescription vials. However, the supplemental forms of patient information shall not be used as a substitute for the verbal counseling required by this regulation;

(4) encourage proper patient drug utilization and medication administration. The pharmacist shall counsel the patient or patient's agent on those elements that, in the pharmacist's professional judgment, are significant for the patient. These elements may include the following:

(A) The name and a description of the prescribed medication or device;

(B) the dosage form, dosage, route of administration, and duration of therapy;

(C) special directions and precautions for preparation, administration, and use by the patient;

(D) common side effects, adverse effects or interactions, or therapeutic contraindications that could be encountered; the action required if these effects, interactions, or contraindications occur; and any activities or substances to be avoided while using the medication;

(E) techniques for self-monitoring drug therapy;

(F) proper storage requirements; and

(G) action to be taken in the event of a missed dose; and

(5) expressly notify the patient or the patient's agent if a brand exchange has been exercised.

(d) Nothing in this regulation shall be construed to require a pharmacist to provide the required patient counseling if either of the following occurs:

(1) The patient or the patient's agent refuses counseling.

(2) The pharmacist, based upon professional judgment, determines that the counseling may be detrimental to the patient's care or to the relationship between the patient and the patient's prescriber.

(e) Each pharmacist shall make a reasonable effort to ensure that any prescription, regardless of the means of transmission, has been issued for a legitimate medical purpose by an authorized prescriber.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2008 Supp. 65-1626,
K.S.A. 2008 Supp. 65-1637, and K.S.A. 2008 Supp. 65-1642; effective, E-77-39, July 22, 1976; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1988; amended Nov. 30, 1992; amended March 20, 1995; amended Aug. 14, 1998; amended Dec. 27, 1999; amended Feb. 7, 2003; amended Jan. 8, 2010.)

68-2-21 (Authorized by K.S.A. 65-1630; implementing K.S.A. 1984 Supp. 65-1642; effective May 1, 1986; revoked May 1, 1987.)

68-2-22 Electronic transmission of a prescription. (a) Each prescription drug order transmitted electronically shall be issued for a legitimate medical purpose by a prescriber acting within the course of legitimate professional practice.
(b) Each prescription drug order communicated by way of electronic transmission shall meet these requirements:
(1) Be transmitted to a pharmacist in a licensed pharmacy of the patient's choice, exactly as transmitted by the prescriber;
(2) identify the transmitter's phone number for verbal confirmation, the time and date of transmission, and the identity of the pharmacy intended to receive the transmission, as well as any other information required by federal and state laws and regulations;
(3) be transmitted by an authorized prescriber or the prescriber's designated agent; and
(4) be deemed the original prescription drug order, if the order meets the requirements of this regulation.
(c) Any prescriber may authorize an agent to communicate a prescription drug order orally or electronically to a pharmacist in a licensed pharmacy, if the identity of the transmitting agent is included in the order.
(d) Each pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order communicated by way of electronic transmission, consistent with existing federal and state laws and regulations.
(e) All electronic equipment for receipt of prescription drug orders communicated by way of electronic transmission shall be maintained so as to ensure against unauthorized access.
(f) Persons other than those bound by a confidentiality agreement shall not have access to pharmacy records containing confidential information or personally identifiable information concerning the pharmacy's patients.
(g) If communicated by electronic transmission, the prescription drug order shall be maintained in hard copy or as an electronic document for the time required by existing federal or state laws and regulations, whichever is longer.
(h) Any prescription drug order, including that for any controlled substance listed in Schedules III, IV, and V and, in certain situations, that for any controlled substance listed in Schedule II, may be communicated by way of electronic transmission, if all requirements of K.A.R. 68-20-10a are met.
(i) After the pharmacist views the prescription drug order, this order shall be immediately reduced to a hard copy or an electronic document and shall contain all information required by federal and state laws and regulations.
(j) Each electronic prescription drug order created and transmitted in conformance with 21 CFR part 1311 shall be considered an original, written signed prescription drug order even if the order is transmitted electronically.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 2009 Supp. 65-1642; effective Feb. 5, 1999; amended Dec. 27, 1999; amended June 2, 2006; amended Oct. 23, 2009; amended May 20, 2011.)

Article 3: Retail Dealers Permit

68-3-1 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-3-2 (Authorized by K.S.A. 1977 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1978.)

68-3-3 and 68-3-4 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-3-5 Retail dealer permit required. A retail dealer may engage in the selling in Kansas of nonprescription drugs that 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 only if the retail dealer has obtained a permit to do so from the board.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1643; effective Sept. 24, 1999.)

68-3-6 Minimum required information for permit.
(a) Each retail dealer shall provide the board with the following minimum information as part of the application for the permit required by K.S.A. 65- 1643(f), and amendments thereto, and as part of any renewal of this permit:
(1) The name, full business address, and telephone number of the permit holder;
(2) each trade or business name used by the permit holder; and
(3) the address, telephone number, and name of the contact person for each facility used by the permit holder for the storage, handling, and distribution of drugs.
(b) Each permit holder shall submit all revised information required by subsection (a) within 30 days after any change in that information.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1643; effective Sept. 24, 1999.)

Article 4: Manufacturers

68-4-1 to 68-4-4 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-4-5 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1986.)

Article 5: General Rules

68-5-1 Definitions. The following words and phrases as used throughout these rules and regulations shall have the meanings specified below, unless otherwise indicated by the context of the specific regulation.
(a) Beyond-use date. The term "beyond-use date" means a date placed on a prescription label at the time of dispensing, repackaging, or prepackaging that is intended to indicate to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(b) Intern. The word "intern" means an individual who is a prospective candidate for examination as a licensed pharmacist and who is qualified to receive and is obtaining pharmaceutical experience as set forth in the pharmacy act of the state of Kansas and its rules and regulations.
(c) Medication order. The term "medication order" means an order by a prescriber for a registered patient of a Kansas licensed medical care facility.
(d) Prescriber. The word "prescriber" means a person who is authorized to issue a prescription order.
(Authorized by and implementing K.S.A. 65-1630; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Jan. 1, 1968; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1988; amended April 28, 2000.)

68-5-2 (Authorized by K.S.A. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1980.)

68-5-3 to 68-5-5 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-5-6 (Authorized by K.S.A. 1977 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; revoked May 1, 1987.)

68-5-7 and 68-5-8 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-5-9 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1986.)

68-5-10 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; amended Jan. 1, 1968; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked May 1, 1987.)

68-5-11 (Authorized by K.S.A. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; revoked April 10, 1989.)

68-5-12 and 68-5-13 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1966; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-5-14 (Authorized by K.S.A. 1977 Supp. 65-1630; effective Jan. 1, 1966; amended, E-76-31, Aug. 11, 1975; amended May 1, 1976; amended May 1, 1978; revoked May 1, 1987.)

68-5-15 Training of pharmacy technicians.
(a) The pharmacist-in-charge of any pharmacy in which one or more pharmacy technicians perform any tasks authorized by the pharmacy act shall insure that each pharmacy technician complies with the training requirements in this regulation.
(b) The pharmacist-in-charge of any pharmacy in which one or more pharmacy technicians perform any tasks authorized by the pharmacy act shall insure that there exists for the pharmacy a current pharmacy technician training course, designed for the functioning of that pharmacy and addressing at least the following:
(1) Knowledge and understanding of the different pharmacy practice settings;
(2) knowledge and understanding of the duties and responsibilities of a pharmacy technician in relationship to other pharmacy personnel and knowledge of standards, ethics, laws, and regulations governing the practice of pharmacy;

(3) knowledge and ability to identify and employ pharmaceutical and medical terms, abbreviations, and symbols commonly used in prescribing and dispensing drugs and in record keeping;

(4) knowledge of and the ability to carry out calculations required for common dosage determinations;

(5) knowledge and understanding of the identification of drugs, drug dosages, routes of administration, dosage forms, storage requirements, and manufacturer recalls;

(6) knowledge of and the ability to perform the manipulative and record-keeping functions involved in and related to dispensing prescriptions or other drug distribution systems; and

(7) knowledge of and the ability to perform procedures and techniques, including aseptic techniques, relating to the compounding, packaging, and labeling of drugs.

(c) The pharmacist-in-charge of any pharmacy shall permit a pharmacy technician to perform tasks authorized by the pharmacy act only if the pharmacy technician has successfully completed, within 180 days of the effective date of this regulation or the effective date of the technician's employment in the pharmacy, whichever is later, a training course that meets the requirements of subsection (b) and was designed for the pharmacy in which the tasks are performed.

(d) The pharmacist-in-charge of any pharmacy in which one or more pharmacy technicians perform any tasks authorized by the pharmacy act shall also insure that the following requirements are met:

(1) There is an annual review of the pharmacy technician training course developed for the pharmacy.

(2) Adequate records are maintained documenting the training of each pharmacy technician as required by this regulation. These records shall be maintained at the pharmacy in a manner available for inspection by a board representative.

(3) The board is notified, within 30 days of the effective date of this regulation or the effective date of the employment of a pharmacy technician, of the following:

(i) The full name and current residence address of pharmacy technicians working in a pharmacy for which the pharmacist-in-charge has responsibility;

(ii) the date on which the pharmacy technician began the pharmacy technician training course or courses designed for the pharmacy or pharmacies in which the pharmacy technician is working; and

(iii) the name and address of the pharmacy or pharmacies in which the pharmacy technician is working.

(Authorized by K.S.A. 65-1630 and K.S.A. 1998 Supp. 65-1642; implementing K.S.A. 1998 Supp. 65-1642; effective July 23, 1999.)

68-5-16 Ratio of pharmacy technicians to pharmacists. (a) Except as otherwise provided in this regulation, the ratio of pharmacy technicians to pharmacists in the prescription area of any pharmacy shall not exceed two to one.

(b) The ratio of pharmacy technicians to pharmacists in the prescription area of any pharmacy may be three to one if at least two of the pharmacy technicians have a current certification issued by the pharmacy technician certification board or a current certification issued by any other pharmacy technician certification organization approved by the board. Any pharmacy technician certification organization may be approved by the board if the board determines that the organization has a standard for pharmacy technician certification and recertification not below that of the pharmacy technician certification board.

(Authorized by and implementing K.S.A. 2005 Supp. 65-1663, as amended by L. 2006, ch. 40, sec. 1; effective, T-68-8-22-05, Aug. 22, 2005; effective May 26, 2006; amended April 27, 2007.)

Article 6: Poisons, Additions and Deletions to Statutory List

68-6-1 (Authorized by K.S.A. 1977 Supp. 65-1638; effective Jan. 1, 1966; revoked May 1, 1978.)

68-6-2 (Authorized by K.S.A. 65-1638; effective Jan. 1, 1966; revoked May 1, 1980.)

Article 7: Miscellaneous Provisions

68-7-1 to 68-7-6 (Authorized by K.S.A. 1975 Supp. 65-1630; effective Jan. 1, 1968; revoked, E-76-31, Aug. 11, 1975; revoked May 1, 1976.)

68-7-7 (Authorized by K.S.A. 1977 Supp. 65-1630; effective, E-76-31, Aug. 11, 1975; effective May 1, 1976; revoked May 1, 1978.)

68-7-8 Records. Original written prescriptions shall be deemed recordation in writing by the pharmacist under the provisions of K.S.A. 65-1637 (b) (1975 Supp.). (Authorized by K.S.A. 1975 Supp. 65-1630; effective, E-76-31, Aug. 11, 1975; effective May 1, 1976.)

68-7-9 (Authorized by K.S.A. 1977 Supp. 74-1606; effective, E-76-31, Aug. 11, 1975; effective May 1, 1976; amended May 1, 1978; revoked May 1, 1987.)

68-7-10 Pharmacy based drug distribution systems in adult care homes; definitions; emergency medication kits. (a) Definitions.

(1) "Adult care home" has the same meaning as set forth in K.S.A. 39-923.

(2) "Unit dose system" means a drug distribution system which is pharmacy-based and which uses unit dose containers that enable distribution of packaged doses in a manner that preserves the identity of the drug until the time of administration.

(3) "Traditional system" means a drug distribution system in which the pharmacist receives a prescription order for an individual patient and fills the prescription in any manner other than packaging individual doses in unit dose containers.

(4) "Unit dose container" means a single or multiple unit container for articles intended for administration in single doses, directly from the container, by other than parenteral route.

(A) "Multiple unit container" means a container that permits withdrawal of successive portions of the contents without changing the strength, quality, or purity of the remaining portion.

(B) "Single unit container" means a container that is designed to hold a quantity of a drug intended for administration as a single dose promptly after the container is opened.

(b) All pharmacy-based drug distribution systems for adult care homes shall:

(1) Be consistent with the medication needs of the patient;

(2) conform to all federal and state laws and regulations pertaining to pharmacies; and

(3) conform to the following additional requirements:

(A) All prescriptions (unit dose or traditional) shall be dispensed from a pharmacy within a reasonable length of time after the medication is ordered.

(B) The supplying pharmacy shall be responsible for the safe delivery of drugs to a designated person or persons in the adult care home.

(C) The supplying pharmacy shall provide a method of identifying the date and quantity of medication dispensed.

(D) A patient medication profile record system shall be maintained for each adult care home patient serviced by the supplying pharmacy and shall contain the information necessary to allow the pharmacist to monitor each patient's drug therapy.

(E) All medication distribution system containers shall be labeled to permit the identification of the drug therapy.

(c) All unit dose drug distribution systems shall, in addition to the above requirements, conform to the following requirements:

(1) All medication shall be packaged in unit dose containers as far as practicable, and the packaging shall conform to the provisions of K.A.R. 68- 7-15 and 68-7-16.

(2) The pharmacist shall be responsible for filling and refilling prescriptions or practitioner's orders or both according to the directions of the practitioner by relying on the original prescription or practitioner's order or a direct copy thereof.

(3) The pharmacist shall comply with all requirements for prescription orders, including inventory and record keeping requirements, under:

(A) The Kansas uniform controlled substances act, K.S.A. 65-4101 et seq.;

(B) the Kansas pharmacy act, K.S.A. 65-1601 et seq.;

(C) the applicable regulations in K.A.R. 68-20-1 et seq. and K.A.R. 68-1- 1 et seq.; and

(D) all federal laws and regulations applicable to prescriptions or medication orders.

(4) Unit dose dispensing shall take place at the address of the pharmacy providing the unit dose system.

(5) Container requirements for unit-dose distribution systems may include trays, bins, carts and locked cabinets if the requirements of K.A.R. 68-7-14 are complied with. If these options are used, all patient medication trays or drawers shall be sufficiently labeled to identify the patient.

(6) Each unit dose distribution system shall provide a verification check at the point of patient administration in order to insure proper drug utilization.

(7) The delivery time-cycle or hours of exchange shall not be limited to a specific time, but shall depend upon the pharmacist's discretion, the needs of the adult care home, the stability of the drug, and the type of container used.

(8) The pharmacist or a pharmacy intern under the direct supervision of a pharmacist shall have sole responsibility for dispensing under the unit dose system.

(d) Emergency medication kits.

(1) Emergency medication kits shall contain only the drugs which are generally regarded by practitioners as essential to the prompt treatment of sudden and unforeseen changes in a patient's condition which present an imminent threat to the patient's life or well-being.

(2) Drugs to be contained within emergency medication kits shall be approved by the adult care home pharmaceutical services committee (or its equivalent) composed of at least a practitioner and a pharmacist.

(3) The emergency medication kit shall conform to the following requirements:

(A) The kit shall be supplied by a pharmacist who shall retain possession of the drug until it is administered to the patient upon the proper order of a practitioner.

(B) The kit shall be locked or sealed in a manner that obviously reveals when the kit has been opened or tampered with.

(C) The kit shall be securely locked in a sufficiently well-constructed cabinet or cart and access to the cabinet or cart shall be available only to the nurse or nurses as determined by the pharmaceutical services committee or its equivalent.

(D) The kit shall have an expiration date equivalent to the earliest expiration date of drugs within the kit, but in no event more than one year after all of the drugs were placed in the kit.

(E) All drugs contained within the emergency medication kit shall be returned to the pharmacy as soon as the kit is opened, along with the practitioner's drug order for medications administered.

(Authorized by and implementing K.S.A. 65-1648; effective May 1, 1978; amended May 1, 1983; amended Sept. 9, 1991.)

68-7-11. Medical care facility pharmacy. The scope of pharmaceutical services within a medical care facility pharmacy shall conform to the following requirements:
(a) The pharmacist-in-charge shall be responsible for developing programs and supervising all personnel in the distribution and control of drugs and all pharmaceutical services in the medical care facility.
(b) The pharmacist-in-charge shall develop a policy and procedure manual governing the storage, control, and distribution of drugs within the medical care facility. The pharmacist-in-charge shall submit the policy and procedure manual for approval to the pharmacy and therapeutics committee or an equivalent committee governing the security, control, and distribution of drugs within the facility.
(c) The pharmacist-in-charge shall be responsible for the maintenance of all emergency medication kits.
(d) The pharmacist-in-charge shall be responsible for developing procedures for the distribution and control of drugs within the medical care facility when a pharmacist is not on the premises. These procedures shall be consistent with the following requirements:
(1) Inpatient service. Drugs may be obtained upon a prescriber's medication order for administration to the inpatient by a designated registered professional nurse or nurses with approval and supervision of the pharmacist-in-charge. Adequate records of these withdrawals shall be maintained.
(2) Emergency outpatient service.
(A) An interim supply of prepackaged drugs shall be supplied to an outpatient only by a designated registered professional nurse or nurses pursuant to a prescriber's medication order when a pharmacist is not on the premises and a prescription cannot be filled. The interim supply shall be labeled with the following information:
(i) The name, address, and telephone number of the medical care facility;
(ii) the name of the prescriber. The label shall include the name of the practitioner and, if involved, the name of either the physician's assistant (PA) or the advanced registered nurse practitioner (ARNP);
(iii) the full name of the patient;
(iv) the identification number assigned to the interim supply of the drug or device by the medical care facility pharmacy;
(v) the date the interim supply was supplied;
(vi) adequate directions for use of the drug or device;
(vii) the beyond-use date of the drug or device issued;
(viii) the brand name or corresponding generic name of the drug or device;
(ix) the name of the manufacturer or distributor of the drug or device, or an easily identified abbreviation of the manufacturer's or distributor's name;
(x) the strength of the drug;
(xi) the contents in terms of weight, measure, or numerical count; and
(xii) necessary auxiliary labels and storage instruction, if needed.
(B) The interim supply shall be limited in quantity to an amount sufficient to supply the outpatient's needs until a prescription can be filled. Adequate records of the distribution of the interim supply shall be maintained and shall include the following information:
(i) The original or a copy of the prescriber's order, or if an oral order, a written record prepared by a designated registered professional nurse or nurses that reduces the oral order to writing. The written record shall be signed by the designated registered professional nurse or nurses and the prescriber; and

(ii) the name of the patient; the date supplied; the drug or device, strength, and quantity distributed; directions for use; the prescriber's name; and, if appropriate, the DEA number.

(3) The designated registered professional nurse or nurses may enter the medical care facility pharmacy and remove properly labeled pharmacy stock containers, commercially labeled packages, or properly labeled prepackaged units of drugs. The registered professional nurse shall not transfer a drug from one container to another for future use, but may transfer a single dose from a stock container for immediate administration to the ultimate user.

(e) The pharmacist-in-charge of the medical care facility pharmacy shall maintain documentation of at least quarterly checks of drug records and conditions of drug storage, in all locations within the facility, including nursing stations, emergency rooms, outpatient departments, and operating suites.

(f) The pharmacist-in-charge shall participate with the pharmacy and therapeutics committee or an equivalent committee in formulating broad professional policies regarding the evaluation, appraisal, selection, procurement, storage, distribution, use, and safety procedures for drugs within the medical care facility.

(g) The pharmacist-in-charge shall be responsible for establishing a drug recall procedure that can be effectively implemented.

(h)(1) The pharmacist-in-charge shall be responsible for developing written procedures for maintaining records of drug distribution, prepackaging, and bulk compounding. Prepackaged drugs shall include the following information:

(A) The brand name or corresponding generic name of the drug;

(B) the name of the manufacturer or distributor of the drug, or an easily identified abbreviation of the manufacturer's or distributor's name;

(C) the strength of the drug;

(D) the contents in terms of weight, measure, or numerical count;

(E) the lot number; and

(F) the beyond-use date.

(2) Prepackaged drugs shall be packaged in suitable containers and shall be subject to all other provisions of the Kansas state board of pharmacy regulations under the uniform controlled substances act of the state of Kansas and under the pharmacy act of the state of Kansas. Before releasing any drugs or devices from the pharmacy, the pharmacist shall verify the accuracy of all prepackaging and the compounding of topical and oral drugs.

(i) The pharmacist-in-charge shall ensure that the medical care facility maintains adequate drug information references commensurate with services offered and a current copy of the Kansas pharmacy act, the Kansas uniform controlled substances act, and current regulations under both acts.

(j) The pharmacist-in-charge shall be responsible for pharmacist supervision of all pharmacy technicians and for confining their activities to those functions permitted by the pharmacy practice act. Records shall be maintained describing the following:

(1) The training and related education for nondiscretionary tasks performed by pharmacy technicians; and

(2) written procedures designating the person or persons functioning as pharmacy technicians, describing the functions of the pharmacy technicians, and documenting the procedural steps taken by the pharmacist-in-charge to limit the functions of pharmacy technicians to nondiscretionary tasks.

(k) The pharmacist-in-charge shall be responsible for establishing policies and procedures for the mixing or preparation of parenteral admixtures. Whenever drugs are added to intravenous solutions, distinctive supplemental labels shall be affixed that indicate the name and amount of the drug added, the date and the time of addition, the beyond-use date, storage instructions, and the name or initials of the person who prepared the admixture. The pharmacist-in-charge shall comply with all requirements

of K.A.R. 68-13-1. Before the parenteral admixture is released from the pharmacy, the pharmacist shall verify the accuracy of all parenteral admixtures prepared by pharmacy technicians.

(l) The pharmacist shall interpret the prescriber's original order, or a direct copy of it, before the drug is distributed and shall verify that the medication order is filled in strict conformity with the direction of the prescriber. This requirement shall not preclude orders transmitted by the prescriber through electronic transmission. Variations in this procedure with ''after-the-fact'' review of the prescriber's original order shall be consistent with medical care facility procedures established by the pharmacist-in-charge. Each medication order shall be reviewed by a pharmacist within seven days of the date it was written.

(m) Pharmacy services to outpatients during pharmacy hours shall be in accordance with the board's regulations, K.S.A. 65-1625 et seq., and K.S.A. 65-4101 et seq., and amendments thereto, governing community pharmacy practice.

(n) The pharmacist-in-charge shall be responsible for the security of the pharmacy, including the drug distribution systems and personnel.

(1) When a pharmacist is on the premises but not in the pharmacy, a pharmacy technician may be in the pharmacy. A pharmacy technician shall not distribute any drug or device out of the pharmacy when a pharmacist is not physically in the pharmacy unless authorized by the pharmacist.

(2) When a pharmacist is not on the premises, no one shall be permitted in the pharmacy except the designated registered professional nurse or nurses.

(o) Each pharmacist-in-charge who will no longer be performing the functions of the pharmacist-in-charge position shall inventory all controlled substances in the pharmacy before leaving the pharmacist-in-charge position. A record of the inventory shall be maintained for at least five years.

(p) Within 72 hours after beginning to function as a pharmacist-in-charge, the pharmacist-in-charge shall inventory all controlled substances in the pharmacy. A record of the inventory shall be maintained for at least five years.

(q) Except with regard to drugs that have not been checked for accuracy by a pharmacist after having been repackaged, prepackaged, or compounded in a medical care facility pharmacy, a pharmacy technician in a medical care facility may check the work of another pharmacy technician in filled floor stock, a crash cart tray, a unit dose cart, or an automated dispensing machine if the checking pharmacy technician meets each of the following criteria:

(1) Has a current certification issued by the pharmacy technician certification board or a current certification issued by any other pharmacy technician certification organization approved by the board. Any pharmacy technician certification organization may be approved by the board if the board determines that the organization has a standard for pharmacy technician certification and recertification not below that of the pharmacy technician certification board;

(2) has either of the following experience levels:

(A) One year of experience working as a pharmacy technician plus at least six months experience working as a pharmacy technician in the medical care facility at which the checking will be performed; or

(B) one year of experience working as a pharmacy technician in the medical care facility at which the checking will be performed; and

(3) has successfully completed a written training program and related examination designed by the pharmacist-in-charge of the medical care facility pharmacy to demonstrate competency in accurately checking whether floor stock, a crash cart tray, and an automated dispensing machine have been properly filled.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 2008 Supp. 65-1626, K.S.A. 2008 Supp. 65-1642, and K.S.A. 65-1648; effective, E-77-39, July 22, 1976; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1988; amended May 1, 1989; amended Dec. 27, 1999; amended April 28, 2000; amended July 20, 2007; amended July 16, 2010.)

68-7-12 Responsibility of pharmacist-in-charge in other than a medical care facility pharmacy. Each pharmacist-in-charge for premises having a pharmacy registration, other than a medical care facility pharmacy, shall be responsible for the following functions.
(a) Each pharmacist-in-charge shall develop, supervise, and coordinate all pharmaceutical services carried on within the pharmacy to ensure compliance with the Kansas pharmacy act, the Kansas uniform controlled substances act, federal drug laws, and all applicable regulations.
(b) Each pharmacist-in-charge shall be personally available to the extent required to ensure comprehensive pharmaceutical services within the pharmacy and to develop a staff of additional licensed pharmacists and supportive personnel as necessary to serve the needs of the pharmacy. Each pharmacist-in-charge shall maintain records in the pharmacy describing the training and education regarding work functions performed by all pharmacy personnel. Each pharmacist-in-charge shall maintain in the pharmacy written procedures that address the following areas:
(1) Designate the person or persons functioning as pharmacy technicians and supportive personnel;
(2) describe the functions of all personnel; and
(3) document the procedural steps taken by the pharmacist-in-charge to limit the functions of all personnel to their respective pharmacy work functions.
(c) Each pharmacist-in-charge shall develop or approve written policies and procedures for the pharmacy that meet all of the following conditions:
(1) Adequate accountability and control of drugs in compliance with the Kansas pharmacy act, the Kansas uniform controlled substances act, federal drug laws, and all applicable regulations are provided for.
(2) Any incident that occurs as a result of an alleged or real error in filling or dispensing a prescription or medication order is brought to the attention of the pharmacist-in-charge and completely documented in accordance with the requirements of K.A.R. 68-7-12b.
(3) Adequate records of the pharmacy's dispensing, prepackaging, and bulk compounding actions are maintained, and all prepackaging of drugs is done in suitable containers, properly labeled in accordance with K.A.R. 68-7-16.

(d) Each pharmacist-in-charge shall develop written procedures for maintaining records of the pharmacy's dispensing, prepackaging, and bulk compounding actions and shall ensure that prepackaged medication is packaged in suitable containers and properly labeled.
(e) A pharmacist-in-charge who will no longer be performing the functions of the pharmacist-in-charge position shall inventory all controlled substances in the pharmacy before leaving the pharmacist-in-charge position. A record of the inventory shall be maintained for at least five years.
(f) Within 72 hours after beginning to function as a pharmacist-in-charge, the pharmacist-in-charge shall inventory all controlled substances in the pharmacy. A record of the inventory shall be maintained for at least five years.
(Authorized by K.S.A. 65-1630 and K.S.A. 2006 Supp. 65-1643; implementing K.S.A. 2006 Supp. 65-1626 and K.S.A. 2006 Supp. 65-1637; effective, E-77-39, July 22, 1976; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1989; amended Nov. 30, 1992; amended Feb. 27, 1998; amended Dec. 27, 1999; amended Feb. 7, 2003; amended July 20, 2007.)

68-7-12a Nonresident pharmacies. (a) Nonresident pharmacies shall meet the following requirements to be and remain registered in Kansas by the board.
(1) Each pharmacy shall be currently licensed or registered in good standing in the state in which it is located.
(2) Each pharmacist dispensing drugs into Kansas shall be licensed as a pharmacist in the state where the pharmacist practices.

(b) A pharmacist licensed in the state where the pharmacist practices shall be named in the application as the pharmacy's responsible pharmacist, who shall be responsible for receiving communications from the board.

(1) That pharmacist shall timely respond to any lawful request for information from the board or law enforcement authorities.

(2) That pharmacist shall be responsible for receiving and maintaining publications distributed by the board.

(3) If at any time the pharmacist so designated leaves the employment of the pharmacy, the owner or the owner's authorized representative of the pharmacy shall promptly notify the board and designate another pharmacist to perform this function.

(c) The owner or the owner's authorized representative of the nonresident pharmacy shall apply for registration and renewal on forms approved by the board. The information reasonably necessary to carry out the provisions of K.S.A. 65-1657 and amendments thereto, including the name, address, and position of each officer and director of a corporation or of the owners if the pharmacy is not a corporation, may be required by the board.

(d) An exemption for registration may be granted by the board under K.S.A. 65-1657 and amendments thereto, upon application by any nonresident pharmacy that confines its dispensing activity to isolated transactions. The following shall be considered to determine whether to grant an exemption:

(1) The number of prescriptions dispensed or reasonably expected to be dispensed into Kansas;

(2) the number of patients served or reasonably expected to be served in Kansas;

(3) any efforts to promote the pharmacy's services in Kansas;

(4) any contract between the pharmacy and either an employer or organization to provide pharmacy services to employees or other beneficiaries in Kansas;

(5) medical necessity;

(6) the effect on the health and welfare of persons in Kansas; and

(7) any other relevant matters.

(e) The pharmacy owner shall pay an annual registration fee as set forth in K.A.R. 68-11-2.

(f) The pharmacy records of drugs dispensed to Kansas addresses shall be maintained so that the records are readily retrievable upon request. These records shall be made available for inspection by the board or by Kansas law enforcement authorities upon request.

(g) The pharmacy shall maintain an incoming toll-free telephone number for use by Kansas customers to facilitate personal communication with a pharmacist with access to patient records.

(1) This service shall be available during normal business hours for a minimum of 40 hours and six days per week.

(2) This telephone number and any others available for use shall be printed on each container of drugs dispensed in Kansas.

(3) The toll-free number shall have a sufficient number of extensions to provide reasonable access to incoming callers.

(h) Generic drugs shall be dispensed into Kansas only pursuant to K.S.A. 65- 1637(a), and amendments thereto.

(i) The facilities and records of the pharmacy shall be subject to inspection by the board. Satisfactory inspection reports by the licensing entity using similar standards of the state where the pharmacy is located may be accepted in lieu of inspection by the board.

(j) Each owner or owner's authorized representative of the nonresident pharmacy doing business in Kansas by dispensing and either delivering or causing to be delivered prescription drugs to Kansas consumers shall designate a resident agent in Kansas for service of process and file this information with the secretary of state.

(Authorized by and implementing K.S.A. 2001 Supp. 65-1657; effective March 29, 1993; amended March 20, 1995; amended Feb. 7, 2003.)

68-7-12b Incident reports. (a) For purposes of this regulation, "reportable incident" and "incident" shall mean a preventable medication error involving a prescription drug and resulting in any of the following:

(1) The patient receiving the wrong drug;
(2) the patient receiving an incorrect drug strength
(3) the patient receiving an incorrect dosage form;
(4) the drug being received by the wrong patient;
(5) inadequate or incorrect packaging, labeling, or directions; or
(6) the dispensing of a drug to a patient in a situation that results in or has the potential to result in serious harm to the patient.

(b) For each pharmacy other than a medical care pharmacy, the pharmacist-in-charge shall ensure that procedures exist requiring each pharmacist who becomes aware of a reportable incident to report the incident to the pharmacist-in-charge as soon as practical.

(c) As soon as possible after discovery of the incident, the pharmacist shall prepare a report containing the following information:

(1) The name, address, age, and phone number of any complainant, if available;
(2) the name of each pharmacy employee and the license number of each licensee involved;
(3) the date of the incident and the date of the report;
(4) a pharmacist's description of the incident;
(5) the prescriber's name and whether or not the prescriber was contacted; and
(6) the signatures of all pharmacy employees involved in the incident.

For each pharmacy, the pharmacist-in-charge shall ensure that procedures exist requiring that the incident report be maintained in the pharmacy for at least five years in a manner so that the report can be provided to the board or its representative within three business days, upon request.

(d) The preparation of an incident report that meets the requirements of this regulation shall be the responsibility of each pharmacist involved in the incident and the pharmacist-in-charge. The maintenance of incident reports as required by this regulation shall be the responsibility of the pharmacist-in-charge.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 2007 Supp. 65-1626 and K.S.A. 2007 Supp. 65-1626d; effective Feb. 7, 2003; amended Oct. 24, 2008.)

68-7-13 Pharmacist in charge of more than one location. No pharmacist shall be a pharmacist in charge of more than one full-time pharmacy operation, which is defined as being one where the on-premises pharmacist services total 30 hours or more weekly. (Authorized by and implementing K.S.A. 65-1630; effective, E-77-39, July 22, 1976; effective Feb. 15, 1977; amended May 1, 1988.)

68-7-14 Prescription labels. (a) The label of each drug or device shall be typed or machine-printed and shall include the following information:

(1) The name, address, and telephone number of the pharmacy dispensing the prescription;
(2) the name of the prescriber;
(3) the full name of the patient;
(4) the identification number assigned to the prescription by the dispensing pharmacy;
(5) the date the prescription was filled or refilled;
(6) adequate directions for use of the drug or device;
(7) the beyond-use date of the drug or device dispensed;
(8) the brand name or corresponding generic name of the drug or device;
(9) the name of the manufacturer or distributor of the drug or device, or an easily identified abbreviation of the manufacturer's or distributor's name;

(10) the strength of the drug;
(11) the contents in terms of weight, measure, or numerical count; and
(12) necessary auxiliary labels and storage instructions, if needed.
(b) A pharmacy shall be permitted to label or relabel only those drugs or devices originally dispensed from the providing pharmacy.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 65-1626a; effective, E-77-39, July 22, 1976; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1980; amended May 1, 1988; amended June 6, 1994; amended March 20, 1995; amended April 28, 2000; amended Oct. 23, 2009.)

68-7-15 Prepackaging or repackaging of drugs. All prepackaging or repackaging of drugs, whether in a unit dose container or multiple dose container shall conform to the following:
(a) Packaging in advance of immediate need shall be done by a pharmacist or under his or her direct supervision.
(b) This packaging shall be limited to drugs to be dispensed from the premises.
(c) Proper storage conditions shall be maintained so as to preserve the stability of the drug as recommended by the manufacturer.
(d) A proper control system shall be established for lot numbers for recall purposes.
(e) If an area apart or separated from the prescription area is used for prepackaging or repackaging, such area must be enclosed and secured (locked) when a pharmacist is not in attendance in that area.
(Authorized by K.S.A. 1977 Supp. 65-1630; effective May 1, 1978.)

68-7-16 Labels for prepackaged or repackaged drugs. Labels for prepackaged and repackaged drugs shall contain the following:
(a) The generic name with manufacturer and distributor's name or the brand name.
(b) Strength and quantity.
(c) Lot number and date repackaged and the person responsible for packaging.
(d) The expiration date, if applicable.
(e) Auxiliary labels necessary.
(f) Manufacturer, lot numbers, date repackaged, and the person responsible may be deleted from the label if a suitable record system is maintained to indicate them.
(Authorized by K.S.A. 1977 Supp. 65-1630; effective May 1, 1978.)

68-7-17 (Authorized by K.S.A. 1977 Supp. 65-1630; effective Feb. 15, 1977; revoked May 1, 1978.)

68-7-18 Health departments and private not-for-profit family planning clinics. The distribution and control of drugs provided by health departments and private not-for-profit family planning clinics authorized under K.S.A. 65- 1648(d)(1), and amendments thereto, shall conform to the following requirements:
(a) The approved drugs that may be stored and distributed by health departments and not-for-profit family planning clinics shall be only noncontrolled drugs that are approved by the food and drug administration. In determining the formulary for each health department or not-for-profit family planning clinic, the pharmacist-in-charge shall consult with the medical supervisor and director of nursing for that facility. No state or federal controlled drugs shall be allowed.
(b)(1) The pharmacist-in-charge shall review the procedures outlined below for the distribution and control of all drugs within health department facilities and family planning clinics and shall be responsible for the following:
(A) Ensuring the development of programs for supervision of all personnel in the distribution and control of drugs;

(B) ensuring the development of a policy and procedure manual governing the storage, control, and distribution of drugs;

(C) maintaining documentation of at least quarterly checks of drug records, drug storage conditions, and drugs stored in all locations within the facility;

(D) establishing a drug recall procedure that can be effectively implemented; and

(E) ensuring the development of written procedures for maintaining records of distribution and prepackaging of drugs.

(2) Labels for prepackaged drugs shall contain the following:

(A) The brand name or corresponding generic name of the drug;

(B) the name of the manufacturer or distributor of the drug, or an easily identified abbreviation of the manufacturer's or distributor's name;

(C) the strength of the drug;

(D) the contents in terms of weight, measure, or numerical count;

(E) the lot number of the drug, if the lot number is not recorded on a suitable log; and

(F) the beyond-use date of the drug.

(3) Prepackaged drugs shall be packaged in suitable containers and shall be subject to all other provisions of the Kansas state board of pharmacy regulations under the uniform controlled substances act of the state of Kansas and under the pharmacy act of the state of Kansas.

(c) The procedures for the control and distribution of drugs within health department facilities and family planning clinics shall be consistent with the following requirements:

(1) Adequate records of the distribution of drugs by the designated registered professional nurse or nurses shall be maintained and shall include the physician's order or written protocol.

(A) If the physician's order was given orally, electronically, or by telephone, the designated registered professional nurse or nurses shall reduce that order to writing. The written copy of the order shall be signed by the designated registered professional nurse and maintained in a permanent patient file.

(B) The records shall include the following:

(i) The full name of the patient;

(ii) the date supplied;

(iii) the name of the drug, the quantity supplied, and strength of the drug distributed;

(iv) the directions for use;

(v) the prescriber's name. The record shall include the name of the practitioner and, if involved, the name of either the physician's assistant (PA) or the advanced registered nurse practitioner (ARNP);

(vi) the expiration date of the drug; and

(vii) the lot number of the drug.

(2) A supply of drugs shall be provided to a patient by a designated registered professional nurse or nurses pursuant to a prescriber's order. Only a designated registered professional nurse or nurses may access the pharmacy area and remove the supply of the drugs. The supply shall conform with the following labeling requirements:

(A) The name, address, and telephone number of the health department or family planning clinic from which the drug is supplied;

(B) the full name of the patient;

(C) adequate directions for use of the drug;

(D) the name of the prescriber. The label shall include the name of the practitioner and, if involved, the name of either the physician's assistant (PA) or the advanced registered nurse practitioner (ARNP);

(E) the date the supply was distributed;

(F) the identification number assigned to the supply of the drug distributed by the health department or family planning clinic;

(G) the brand name or corresponding generic name of the drug;

(H) necessary auxiliary labels and storage instructions, if needed; and

(I) the beyond-use date of the drug issued.

(3) Repackaged drugs shall be packaged in suitable containers and shall be subject to all other provisions of the Kansas state board of pharmacy rules and regulations under the pharmacy act of the state of Kansas.

(d) The appointment of any Kansas licensed pharmacist as pharmacist-in-charge of a health department or family planning clinic shall be subject to the provisions of K.A.R. 68-1-2a and 68-7-13.

(Authorized by and implementing K.S.A. 65-1648; effective, T-84-3, Feb. 10, 1983; effective May 1, 1984; amended July 23, 1999; amended April 28, 2000.)

68-7-19 Transfer of a refillable prescription between pharmacies. (a) As used in K.S.A. 65-1656, and amendments thereto, the requested or transferring pharmacy is that pharmacy which has on file the original refillable prescription that the patient wishes to transfer to a second pharmacy. The dispensing or requesting pharmacy is the pharmacy that is wanting the information transferred from the original refillable prescription so that the patient may obtain the medication at this second pharmacy or the pharmacy receiving the transferred prescription.

(b) Valid refillable prescriptions for prescription drugs not listed in schedule II of the uniform controlled substances act may be transferred either by direct communications between two licensed pharmacists from one pharmacy to another pharmacy or by a licensed pharmacist operating a suitable electronic device. Before any prescription is transferred, the prescription information at the transferring pharmacy shall meet all of the following criteria:

(1) The prescription information indicates authorization for refilling by the prescriber.

(2) The drug on the prescription information is not a schedule II controlled substance.

(3) The number of lawfully allowable refills directed by the prescriber has not been exceeded.

(4) The maximum allowable time limit from the original dating of the prescription has not been exceeded.

(c) When a prescription on record is transferred, the following record keeping shall be required:

(1)(A) If the transfer involves a noncontrolled substance, the pharmacist at the transferring pharmacy shall perform the following:

(i) Cancel the transferred prescription by writing the word "void" on its face; and

(ii) record on the face of the prescription the name and address of the pharmacy to which the prescription was transferred, the date of the transfer request, the full name of the pharmacist to which the prescription was transferred, and the full name of the pharmacist transferring the prescription.

(B) If the pharmacy from which the prescription is transferred utilizes a computerized prescription record-keeping system adequate to do so, the transferring pharmacist may record the information required by paragraphs (1)(A)(i) and (ii) in the computer record of the prescription instead of recording the information on the face of the prescription.

(C) Transferring pharmacies that have computerized record-keeping systems that permit requesting pharmacies to electronically transfer prescriptions and prescription information from the transferring pharmacy to the requesting pharmacy shall establish procedures to permit these transfers only in instances of valid and legal requests and to insure that the prescription information required by subsection (b) is available to the requesting pharmacy at the time of the electronic transfer.

(D) If the requesting pharmacy is transferring a prescription and prescription information from another pharmacy without communicating directly with a pharmacist at the transferring pharmacy, the pharmacist at the requesting pharmacy shall insure that there is a sufficient electronic record left at the

transferring pharmacy so that a pharmacist at the transferring pharmacy can comply with the record-keeping requirements of K.S.A. 65-1656, and amendments thereto, and these regulations.

(2)(A) If the transfer involves a C-III, IV, or V controlled substance, the pharmacist at the transferring pharmacy shall perform the following:

(i) Cancel the transferred prescription by writing the word "void" on its face; and

(ii) record on the back of the prescription the name, address, and DEA registration number of the pharmacy to which the prescription was transferred, the date of the transfer request, the full name of the pharmacist to which the prescription was transferred, and the full name of the pharmacist transferring the prescription.

(B) Transferring pharmacies that have computerized prescription record-keeping systems that permit requesting pharmacies to electronically transfer prescriptions and prescription information from the transferring pharmacy to the requesting pharmacy shall establish procedures to permit these transfers only in instances of valid and legal requests and to insure that the prescription information required by subsection (b) is available to the pharmacist at the requesting pharmacy at the time of the electronic transfer.

(C) If the requesting pharmacy is transferring a prescription and prescription information from another pharmacy without communicating directly with a pharmacist at the transferring pharmacy, the pharmacist at the requesting pharmacy shall insure that there is a sufficient electronic record left at the transferring pharmacy so that a pharmacist at the transferring pharmacy can comply with the record-keeping requirements of K.S.A. 65-1656, and amendments thereto, and these regulations.

(3) The prescription record at the pharmacy receiving the transferred prescription shall show the following, in addition to all other lawfully required information of an original prescription:

(A) The word "transfer" written on the face of the prescription record;

(B) the date of original issuance and the date of original filling, if different from the issuance date;

(C) the original number of refills authorized, the number of remaining authorized refills, and the date of last refill;

(D) the original prescription number;

(E) the name, address, and telephone number of the transferring pharmacy, and the name of the transferring pharmacist;

(F) the name, address, and telephone number of the prescriber; and

(G) if the transfer involves a C-III, IV, or V controlled substance, the DEA registration number of the prescriber and of the transferring pharmacy.

(4) If the transfer involves a noncontrolled substance and the pharmacy to which the prescription is transferred utilizes a computerized prescription record-keeping system adequate to do so, the receiving pharmacist may record the information required by paragraphs (3)(A) through (F) in the computer record of the prescription instead of otherwise recording the information.

(d) If two or more pharmacies use common electronic prescription files to maintain dispensing information and do not physically transfer prescriptions or information for dispensing purposes, all pharmacies licensed by the board that have access to these common files shall be responsible to insure that at all times the common files contain at least the following information readily available to any person accessing the file:

(1) Any authorization for refilling by the prescriber;

(2) an indication of whether or not the number of lawfully allowable refills authorized by the prescriber has been exceeded;

(3) an indication of whether or not the maximum allowable time limit from the original date of the prescription has been exceeded;

(4) any other information provided by the original prescription or prescription order; and

(5) the name and address of the pharmacy last dispensing the drug pursuant to the prescription.

(e) The dispensing pharmacy shall advise the patient and notify the transferring pharmacy that the original prescription shall be canceled in the transferring pharmacy.
(f) A Kansas pharmacist may transfer a valid, refillable prescription from or to another pharmacy in or outside the state of Kansas. Noncontrolled substance prescriptions may be transferred more than once, but C-III, IV, and V controlled substance prescriptions shall not be transferred more than one time.
(Authorized by and implementing K.S.A. 1998 Supp. 65-1656; effective March 29, 1993; amended July 23, 1999.)

68-7-20 Shared services.
(a)(1) "Order" means either of the following:
(A) A prescription order as defined in K.S.A. 65-1626 and amendments thereto; or
(B) a medication order as defined in K.A.R. 68-5-1.
(2) "Shared order filling" means the following:
(A) Preparing, packaging, compounding, or labeling an order, or any combination of these functions, by a person authorized by the pharmacy act to do so and located at a pharmacy on behalf of and at the request of another pharmacy; and
(B) returning the filled order to the requesting pharmacy for delivery to the patient or patient's agent or, at the request of the requesting pharmacy, directly delivering the filled order to the patient.
(3) "Shared order processing" means the following order processing functions that are performed by a person authorized by the pharmacy act and located at a pharmacy, on behalf of and at the request of another pharmacy:
(A) Interpreting and entering the order; and
(B) performing drug utilization reviews, claims adjudication, refill authorizations, or therapeutic interventions, or any combination of these functions.
(4) "Shared services" means shared order filling or shared order processing, or both.
(b) Each pharmacy participating in shared services shall be registered by the board as either a resident or a non-resident pharmacy.
(c) Pharmacies may provide or utilize shared services functions only if the pharmacies involved meet the following requirements:
(1) Share a common electronic file or appropriate technology to allow access to sufficient information necessary to fill, refill, or perform shared services in conformance with the pharmacy act and the board's regulations; and
(2) (A) Have the same owner; or
(B) have a written contract outlining the services provided and the shared responsibilities of each party in complying with the pharmacy act and the board's regulations.
(d) Pharmacies engaged in shared services shall meet the following requirements:
(1) Maintain records identifying, individually for each order processed, the name of each pharmacist, technician, pharmacy student, and intern who took part in the drug utilization review, refill authorization, or therapeutic intervention functions performed at that pharmacy;
(2) maintain records identifying, individually for each order filled or dispensed, the name of each pharmacist, technician, pharmacy student, and intern who took part in the filling, dispensing, and counseling functions performed at that pharmacy;
(3) report to the board as soon as practical the results of any disciplinary action taken by another state's pharmacy board involving shared services;
(4) maintain a mechanism for tracking the order during each step of the processing and filling procedures performed at the pharmacy;
(5) maintain a mechanism to identify on the prescription label all pharmacies involved in filling the order;

(6) provide for adequate security to protect the confidentiality and integrity of patient information; and

(7) be able to obtain for inspection any required record or information within 72 hours of any request by a board representative.

(e) Each pharmacy providing or utilizing shared services shall adopt and maintain a joint policies and procedures manual that meets both of the following criteria:

(1) The manual describes how compliance with the pharmacy act and the board's regulations will be accomplished while engaging in shared services.

(2) A copy of the manual is maintained in each pharmacy.

(f) Nothing in this regulation shall prohibit an individual pharmacist licensed in Kansas who is an employee of or under contract with the pharmacy from accessing the pharmacy's electronic database from inside or outside the pharmacy and performing the order processing functions permitted by the pharmacy act, if both of the following conditions are met:

(1) The pharmacy establishes controls to protect the privacy and security of confidential records.

(2) None of the database is duplicated, downloaded, or removed from the pharmacy's electronic database.

(Authorized by K.S.A. 65-1630 and 65-1656; implementing K.S.A. 65- 1626(cc), 65-1626a, 65-1637, 65-1642, and 65-1656; effective April 16, 2004.)

68-7-21 Institutional Drug Rooms. (a) All prescription-only drugs dispensed or administered from an institutional drug room shall be in prepackaged units, the original manufacturer's bulk packaging, or patient-specific pharmacy labeled packaging. All prepackaging shall meet the requirements of K.A.R. 68-7-15.

(b) Each pharmacist of practitioner, as that term is defined in K.S.A. 65-1637a and amendments thereto; who is responsible for supervising an institutional drug room shall perform the following:

(1) Develop or approve programs for the training and supervision of all personnel in the providing and control of drugs;

(2) develop or approve a written manual of policies and procedures governing the storage, control, and provision of drugs when a pharmacist or practitioner is not on duty;

(3) maintain documentation of at least quarterly reviews of drug records, drug storage conditions, and the drugs stored in all locations within the institutional drug room;

(4) develop or approve written procedures for documenting all reportable incidents, as defined in K.A. R. 68-7-12b, and documenting the steps taken to avoid a repeat of each reportable incident.

(c) The policies and procedures governing the storage, control, and provision of drugs in an institutional drug room when a pharmacist or practitioner is not on duty shall include the following requirements:

(1) A record of all drugs provided to each patient from the institutional drug room shall be maintained in the patient's file and shall include the practitioner's order or written protocol.

(2) If the practitioner's order was given orally, electronically, or by telephone, the order shall be recorded, either manually or electronically. The recorded copy of the order shall include the name of the person who created the recorded copy and shall be maintained as part of the permanent patient file.

(3) The records maintained in each patient's file shall include the following information:

(A) The full name of the patient;

(B) the date on which the drug was provided;

(C) the name of the drug, the quantity provided, and the strength of the drug provided;

(D) the directions for use of the drug; and

(E) the prescriber's name and, if the prescriber is a physician's assistant or advanced registered nurse practitioner, the name of that person's supervising practitioner.

(d) All drugs dispensed from an institutional drug room for use outside the institution shall be in a container or package that contains a label bearing the following information:

(1) The patient's name

(2) the identification number assigned to the drug provided;

(3) the brand name or corresponding generic name of the drug, the strength of the drug, and either the name of the manufacturer or an easily identified abbreviation of the manufacturer's name;

(4) any necessary auxiliary labels and storage instructions;

(5) the beyond-use date of the drug provided;

(6) the instructions for use; and

(7) the name of the institutional drug room.

(e) Each label for any prepackaged or repackaged drug shall meet the requirements of K.A.R. 68-7-16.

(Authorized by K.S.A. 65-1630 and K.S.A. 65-1637a; implementing K.S.A. 2008 Supp. 65-1626, K.S.A. 2008 Supp. 65-1626d, and K.S.A. 65-1637a; effective April 2010.)

Article 8: Advertising

68-8-1 Advertising. Licensees, registrants, and permit holders shall not use or allow to be used for their benefit any advertising that is false or misleading.
(Authorized by and implementing K.S.A. 65-1630; implementing K.S.A. 65- 1650; modified, L. 1978, ch. 466, May 1, 1978; amended May 1, 1985; amended May 1, 1988; amended April 18, 2003.)

Article 9: Automated Prescription Systems

68-9-1 Electronic data storage systems. All electronic data storage systems operating within this state shall comply with the following requirements:
(a) The pharmacist in charge of such a system shall perform the following:
(1) Adopt a written policy and procedures manual for control, use, and operation of the system;

(2) assure that only licensed pharmacists make decisions concerning judgmental functions as stated in K.A.R. 68-2-20;
(3) be responsible for all drug information within the system;
(4) assure that complete control over the dispensing of medication is vested in licensed pharmacists;
(5) have an auxiliary procedure that shall be used for documentation of refills of all prescription orders if the system becomes inoperable. This auxiliary procedure shall insure that the following criteria are met:
(A) Refills are authorized by the original prescription order;
(B) the maximum number of refills has not been exceeded; and
(C) a daily backup is performed for use in restoring required information in case of a system failure;
(6) maintain a written prescription on file that preserves all information contained in the original prescription. A machine-printed supplement that provides all information necessary to comply with the law may be filed with or attached to the written prescription, if the supplement does not obscure the required information on the original prescription;
(7) provide a method of numerically identifying each patient's written prescription;
(8) maintain the confidentiality of prescriptions and assure that the system has adequate security and systems safeguards to prevent unauthorized access, modification, or manipulation of patient medication profile data; and
(9) maintain a written or electronic prescription daily log. The daily log shall include the following information:
(A) The original prescription number;
(B) the date of the issuance of the original prescription order by the practitioner;
(C) the full name and address of the patient;
(D) the name and address of the practitioner;
(E) the practitioner's DEA registration number if required;
(F) the name, strength, dosage form, and quantity of the medication prescribed;
(G) the quantity dispensed, if different from the quantity prescribed; and
(H) the total number of refills authorized by the prescribing practitioner.
(b) Each electronic data storage system shall have a method for each of the following:
(1) Storing each active patient's medication profile record so that this record is immediately available upon request at the practice site. Sufficient historical patient medication profile data shall be stored and made available for the pharmacist to exercise appropriate clinical judgment when dispensing the prescription;

(2) documenting that an individual pharmacist has taken responsibility for the accuracy of the following:

(A) The information entered; and

(B) Each authorized refilling of the prescription;

(3) drug use control, which shall include the following:

(A) The ability to ascertain quantities;

(B) the exact refill data;

(C) the dates of previous refillings; and

(D) the number of refills remaining;

(4) identifying on a daily basis the pharmacist filling each prescription;

(5) handling partial fillings and refillings of prescriptions;

(6) handling compounded prescriptions;

(7) reproducing all information within the system, in written form and upon authorized request, within 72 hours; and

(8) providing a label containing the information required under K.A.R. 68-7- 14 and the date of the original filling of any scheduled drugs.

(Authorized by K.S.A. 65-1630 and K.S.A. 2001 Supp. 65-4102; implementing K.S.A. 2001 Supp. 65-1626(t), K.S.A. 2001 Supp. 65-1642, and K.S.A. 65-4121; effective May 1, 1980; amended May 1, 1989; amended April 3, 1990; amended Sept. 9, 1991; amended March 22, 2002.)

68-9-2 Automated drug delivery systems. (a) For purposes of this regulation, "automated drug delivery system" shall include any mechanical system that performs operations or activities other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of drugs, in situations in which the drug is not reviewed by a Kansas-licensed pharmacist after it leaves the mechanical system and before it is dispensed, distributed, or administered.

(b) A pharmacist-in-charge of any licensed pharmacy, licensed health care facility, or other location that is required to be supervised by a pharmacist-in-charge and that uses an automated drug delivery system shall be responsible to take the following steps before allowing the automated drug delivery system to be used:

(1) Ensure that the automated drug delivery system is in good working order and accurately dispenses the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards;

(2) ensure that the automated pharmacy system has a mechanism for securing and accounting for drugs removed from and subsequently returned to the system;

(3) ensure that the automated pharmacy system has a mechanism for securing and accounting for wasted or discarded drugs;

(4) implement a documented and ongoing quality assurance program that monitors total system performance and includes the requirement for accuracy in the drug and strength delivered;

(5) ensure that the automated drug delivery system is stocked accurately and according to established and written policies and procedures;

(6) ensure that the use of the automated drug delivery system maintains patient confidentiality;

(7) approve and implement an operational policy that limits the personnel responsible for the loading and unloading of the automated drug delivery system to a Kansas-licensed pharmacist or to any of the following, each of whom shall be under the pharmacist's direct supervision:

(A) A pharmacy student;

(B) a pharmacy intern; or

(C) a pharmacy technician;

(8) approve and implement security measures that comply with state and federal laws and regulations in order to prevent unauthorized individuals from accessing or obtaining drugs;

(9) preapprove all individuals who are authorized to remove any drug and maintain, at the location of the automated drug delivery system, a list of those approved individuals;

(10) ensure the accuracy of the automated drug delivery system's collection, control, and maintenance of all transaction information needed to track the movement of drugs into and out of the system for security, accuracy, and accountability; and

(11) provide the board with prior written notice of the installation or removal of the automated drug delivery system.

(c) A pharmacist-in-charge of any licensed pharmacy, licensed health care facility, or other location that is required to be supervised by a pharmacist-in-charge and that uses an automated drug delivery system shall be responsible to ensure all of the following:

(1) The drugs within the automated drug delivery system are inspected on-site by a Kansas-licensed pharmacist or by any of the following, each of whom shall be under the pharmacist's direct supervision:

(A) A pharmacy student;

(B) a pharmacy intern; or

(C) a pharmacy technician. These inspections shall be conducted at least monthly to ensure accuracy of contents.

(2) All drugs placed within the device are packaged in the manufacturer's sealed original packaging or in repackaged containers, in compliance with the requirements of K.A.R. 68-7-15 and K.A.R. 68-7-16. However, the dispensing container shall not be required to be labeled as specified in K.A.R. 68-7-14 if the dispensing container is utilized for a registered patient of the licensed health care facility and for immediate administration.

(3) At the time of loading any controlled substance, the count of that drug in the automated drug delivery system is correct, or any discrepancy is immediately reported to the pharmacist-in-charge, who shall be responsible for reconciliation of the discrepancy or proper reporting of the loss.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1626, as amended by L. 2002, ch. 25, sec. 2; effective July 6, 2001; amended Feb. 7, 2003.)

Article 10: Nuclear Pharmacies

68-10-1 to 68-10-3 Not in active use.

Article 11: Fees

68-11-1 Fees for examination and licensure as a pharmacist. The following fees shall be paid to the board by each applicant for examination and licensure as a pharmacist:

(a) Each applicant for examination shall pay a fee of $50.00 to the Kansas board of pharmacy.

(b) Each applicant for reciprocal licensure shall pay a fee of $80.00 to the Kansas board of pharmacy.

(c) An additional fee of $250.00 to evaluate the education and training shall be paid by each applicant for reciprocal licensure or examination who graduated from a school or college of pharmacy or department of a university not approved by the board.

(d) Each licensed pharmacist shall pay a renewal fee of $150.00.

(e) The penalty fee for a late renewal of a pharmacist license shall be $200.00.

(f) The fee for a new or renewed pharmacist license shall be prorated to the nearest whole month for any period of time consisting of fewer than two years.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 65-1645; effective May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended May 1, 1991; amended Nov. 30, 1992; amended June 6, 1994; amended July 31, 1998; amended Feb. 5, 1999; amended Feb. 7, 2003; amended Oct. 20, 2006.)

68-11-2 Fees for premises registrations and permits. (a) Pharmacy registration fees shall be as follows:

(1) Each new pharmacy registration shall be $140.00.

(2) Each renewal pharmacy registration shall be $125.00.

(b) Manufacturer registration fees shall be as follows:

(1) Each new manufacturer registration shall be $300.00.

(2) Each renewal manufacturer registration shall be $300.00.

(c) Wholesaler distributor registration fees shall be as follows:

(1) Each new wholesaler distributor registration shall be $300.00.

(2) Each renewal wholesaler distributor registration shall be $300.00.

(3) For each wholesaler who deals exclusively in non-prescription drugs, the registration fee shall be $50.00.

(d) For each institutional drug room or veterinary medical teaching hospital pharmacy, registration fees shall be as follows:

(1) Each new registration shall be $25.00.

(2) Each renewal registration shall be $20.00.

(e) Other permit fees shall be as follows:

(1) Each retail dealer permit shall be $12.00.

(2) Each auction permit shall be $35.00.

(3) Each sample distribution permit shall be $30.00.

(f) For each place of business that sells durable medical equipment, the registration fee shall be $300.00.

(Authorized by and implementing K.S.A. 2007 Supp. 65-1645; effective May 1, 1983; amended May 1, 1988; amended June 6, 1994; amended Oct. 24, 2008.)

Article 12: Resale of Medication

68-12-1 Not in active use.

EDITOR'S NOTE: Proposed regulation 68-12-1, rejected by legislature, see L. 1983, ch. 356.

68-12-2 Resale of dispensed prescription drugs. Except for prescription drugs in unit-dose systems that contain only one medication and in which the drug has not reached the patient and is still intact, prescription drugs that have been dispensed to the final consumer shall not be resold, redispensed, or distributed by a licensed pharmacist.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 65-1634; effective May 1, 1988; amended Nov. 30, 1992; amended, T-68-11-19-92, Nov. 30, 1992; amended March 29, 1993; amended Feb. 7, 2003.)

Article 13: Parenteral Products

68-13-1 Preparation, compounding, and dispensing of parenteral products for other than immediate use. (a) Each pharmacist engaged in the preparation and compounding of sterile parenteral products shall have available the following resources:

(1) A laminar airflow hood or other suitable aseptic environment that is annually certified to ensure aseptic conditions within the working area of the pharmacy;

(2) an aseptic work area that is designed to avoid outside traffic and outside airflow and that is ventilated so that the traffic and outside airflow do not interfere with aseptic conditions. The aseptic work area shall not be used for bulk storage of supplies or other materials;

(3) a sink located nearby that is suitable for cleaning purposes;

(4) a current copy of a reference text in intravenous incompatibilities and stabilities, or access to such a reference text in electronic format;

(5) a current policy and procedure manual that includes the following subjects:

(A) Sanitation;

(B) storage;

(C) dispensing;

(D) labeling;

(E) destruction and returns;

(F) recordkeeping;

(G) recall procedures;

(H) responsibilities and duties of supportive personnel; and

(I) aseptic compounding techniques.

(b) All sterile parenteral products for other than immediate use shall be prepared under aseptic conditions and shall be stored and shipped in a manner that ensures parenteral product stability.

(1) Preparation of insulin mixtures shall be made in an aseptic environment where available.

(2) Cancer chemotherapeutic agents shall be prepared in a vertical airflow aseptic environment where available. These agents shall not be prepared in a horizontal airflow hood.

(c) Before dispensing sterile parenteral products for use, the pharmacist-in- charge shall verify that the following programs or services are contemporaneously available or have been provided:

(1) 24-hour emergency services;

(2) monitoring of clinical laboratory data as needed;

(3) documentation and reporting of potential drug interactions and side effects to the prescribing practitioner;

(4) maintenance of patient histories and therapy plans; and

(5) education and training of the patient or primary caregiver.

(d) Each pharmacist engaged in the dispensing of parenteral products shall conform to all labeling requirements under state and federal law. In addition, parenteral product labels shall bear the following information:

(1) The name and quantity of each drug and additive;

(2) the expiration date;

(3) the prescribed flow rate; and

(4) the storage instructions, if applicable.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 2001 Supp. 65-1642; effective May 1, 1988; amended Feb. 7, 2003.)

Article 14: Wholesale Distributors

68-14-1 Wholesale distributors. "Wholesale distributor" means any person, partnership, corporation, or business firm licensed or registered in this state and engaging in the wholesale distribution of prescription-only drugs.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1643; effective June 15, 1992; amended March 20, 1995; amended July 30, 1999.)

68-14-2 Definitions.
(a) "Blood" means whole blood collected from a single donor and processed either for transfusion or for further manufacturing.
(b) "Blood component" means that part of blood separated by physical or mechanical means.
(c) "Common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise.
(d) "Drug sample" means a unit of a prescription-only drug that is not intended to be sold, is intended to promote the sale of the drug, and is distributed on a gratuitous basis.
(e) "Emergency medical reasons" include transfers of prescription-only drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, except that the gross dollar value of these transfers shall not exceed five percent of the total prescription-only drug sales revenue of either the transferor or transferee pharmacy during any period of 12 consecutive months.
(f) "Intracompany sales" means any transaction or transfer between any division, subsidiary, parent, affiliated, or related company under the common ownership and control of a corporate entity.
(g) "Primary owner" means any person owning or controlling more than 50 percent of the wholesaler's business.
(h) "Wholesale distribution" means distribution of prescription-only drugs to persons other than a consumer or patient, but this term shall not include any of the following:
(1) Intracompany sales;
(2) the purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of these organizations;
(3) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the U.S. internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;
(4) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control;
(5) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons;
(6) the sale, purchase, or trade of a drug; an offer to sell, purchase, or trade a drug; or the dispensing of a drug pursuant to a prescription;
(7) the distribution of drug samples by manufacturers' representatives or distributors' representatives; or
(8) the sale, purchase, or trade of blood and blood components intended for transfusion.
(i) "Wholesale distributor" means anyone doing business in this state and engaging in wholesale distribution of prescription-only drugs, including the following:
(1) Manufacturers;
(2) repackers;
(3) own-label distributors;
(4) private-label distributors;
(5) jobbers;
(6) brokers;

(7) warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses;
(8) independent wholesale drug traders; and
(9) retail pharmacies that conduct wholesale distributions.
(Authorized by and implementing K.S.A. 65-1630; effective June 15, 1992; amended July 23, 1999.)

68-14-3 Wholesale distributor registration requirement. Every wholesale distributor doing business in this state who engages in wholesale distributions of prescription-only drugs shall be registered by the board, in accordance with the laws of the pharmacy act and regulations, before engaging in wholesale distributions of prescription-only drugs.
(Authorized by and implementing K.S.A. 1998 Supp. 65-1655 and 65-1643; effective June 15, 1992; amended July 23, 1999.)

68-14-4 Minimum required information for registration. (a) Each wholesale distributor shall provide the board with the following minimum information as part of the registration requirements described in K.S.A. 65-1645, and amendments thereto, and as part of any renewal of any registration:
(1) The name, full business address, and telephone number of the registrant;
(2) each trade or business name used by the registrant;
(3) the address, telephone number, and name of the contact person for each facility used by the registrant for the storage, handling, and distribution of prescription-only drugs;
(4) the type of ownership or operation, including partnership, corporation, or sole proprietorship; and
(5) the name of each owner, operator, or both, of the registrant, including the following:
(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 name, and the name of the state of incorporation; and
(D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity.
(b) A single registration may be issued by the board for any business entity operating more than one facility within this state, or for a parent entity with divisions, subsidiaries, affiliate companies, or some combination of these within this state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.
(c) Each registrant shall submit revised information requested by subsection (a) within 30 days after any change in that information.
(Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1645 and 65-1655; effective June 15, 1992; amended July 23, 1999.)

68-14-5 Personnel. As a condition for receiving and retaining a wholesale distributor registration, the registrant shall require each person employed in any prescription-only drug wholesale distribution activity to have education, training, and experience, or any combination of these, sufficient for that person to perform the assigned functions in a manner providing assurance that the drug product quality, safety, and security will at all times be maintained as required by law.
(Authorized by and implementing K.S.A. 1998 Supp. 65-1655; effective June 15, 1992; amended July 23, 1999.)

68-14-6 Violations and penalties. Any license or registration granted under this article may be suspended or revoked by the board for willful and serious violation of these regulations.
(Authorized by and implementing K.S.A. 1991 Supp. 65-1655; effective June 15, 1992.)

68-14-7 Minimum requirements for the storage and handling of prescription-only drugs and for the establishment and maintenance of prescription-only drug distribution records. Each registrant shall meet the following minimum requirements for the storage and handling of prescription-only drugs, and for the establishment and maintenance of prescription-only drug distribution records by wholesale distributors and their officers, agents, representatives, and employees.

(a) Facilities. Each facility at which prescription-only drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall meet the following requirements:

(1) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(2) have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(3) have a quarantine area for storage of prescription-only drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(4) be maintained in a clean and orderly condition; and

(5) be free from infestation by insects, rodents, birds, or vermin of any kind.

(b) Security.

(1) Each facility used for wholesale drug distribution shall be secure from unauthorized entry.

(A) Access from outside the premises shall be kept to a minimum and be well controlled.

(B) The outside perimeter of the premises shall be well lighted.

(C) Entry into areas where prescription-only drugs are held shall be limited to authorized personnel.

(2) Each facility shall be equipped with an alarm system to detect entry after hours.

(3) Each facility shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(c) Storage. All prescription-only drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of these drugs, or with requirements in the 1995 edition of the United States pharmacopeia/national formulary (USP/NF), which is adopted by reference.

(1) If no storage requirements are established for a prescription-only drug, the drug may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(2) Appropriate manual, electromechanical, or electronic temperature and humidity-recording equipment, devices, logs, or a combination of these methods shall be utilized to document proper storage of prescription-only drugs.

(3) The record-keeping requirements in subsection (f) of this regulation shall be followed for all stored drugs.

(d) Examination of materials.

(1) Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated prescription-only drugs or prescription-only drugs that are otherwise unfit for distribution. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(2) Each outgoing shipment shall be carefully inspected for identity of the prescription-only drug products and to ensure that there is no delivery of prescription-only drugs that have been damaged in storage or held under improper conditions.

(3) The record-keeping requirements in subsection (f) of this regulation shall be followed for all incoming and outgoing prescription-only drugs.

(e) Returned, damaged, and outdated prescription-only drugs.

(1) Prescription-only drugs that are outdated, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other prescription-only drugs until they are destroyed or returned to their supplier.

(2) Any prescription-only drugs whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such, and shall be quarantined and physically separated from other prescription-only drugs until they are either destroyed or returned to the supplier.

(3) If the conditions under which a prescription-only drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug shall be destroyed or returned to the supplier, unless examination, testing, or other investigations prove that the drug meets appropriate standards of safety, identity, strength, quality, and purity. In determining whether or not the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the wholesale distributor shall consider, among other factors, the conditions under which the drug has been held, stored, or shipped before or during its return and the condition of the drug and its container, carton, or labeling, as a result of storage or shipping.

(4) The record-keeping requirements in subsection (f) of this regulation shall be followed for all outdated, damaged, deteriorated, misbranded, or adulterated prescription-only drugs.

(f) Record keeping.

(1) Each wholesale distributor shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription-only drugs. These records shall include the following information:

(A) The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;

(B) the identity and quantity of the drugs received and either distributed or disposed of; and

(C) the dates of receipt and either distribution or other disposition of the drugs.

(2) Inventories and records shall be made available for inspection and photocopying by authorized federal, state, or local law enforcement agency officials for five years following disposition of the drugs.

(3) Records described in this regulation that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two working days of a request by an authorized official of a federal, state, or local law enforcement agency.

(g) Written policies and procedures. Each wholesale distributor shall establish, maintain, and adhere to written policies and procedures concerning the receipt, security, storage, inventory, and distribution of prescription-only drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, each wholesale distributor shall establish, maintain, and adhere to the following written policies and procedures:

(1) a procedure by which the oldest approved stock of a prescription-only drug product is distributed first. The procedure may permit deviation from this requirement, if the deviation is temporary and appropriate;

(2) a procedure to be followed for handling recalls and withdrawals of prescription-only drugs. This procedure shall be adequate to deal with recalls and withdrawals due to any of the following:

(A) Any action initiated at the request of the food and drug administration or other federal, state, or local law enforcement or other government agency, including the board;

(B) any voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

(C) any action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design;

(3) a procedure to ensure that wholesale distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency; and

(4) a procedure to ensure that any outdated prescription-only drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription-only drugs. This documentation shall be maintained for five years after disposition of the outdated drugs.

(h) Responsible persons. Each wholesale distributor shall establish and maintain lists of officers, directors, managers, and other persons in charge of wholesale prescription-only drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(i) Compliance with federal, state, and local law. Each wholesale distributor that deals in controlled substances shall register with the drug enforcement administration.

Each wholesale distributor shall permit the board's authorized personnel and authorized federal, state, and local law enforcement officials to enter and inspect the distributor's premises and delivery vehicles, and to audit the records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law. These officials shall be required to show appropriate identification before being permitted access to wholesale distributors' premises and delivery vehicles.

(j) Salvaging and reprocessing. Each wholesale distributor shall be subject to the provisions of any applicable federal, state, or local laws or regulations that relate to prescription-only drug product salvaging or reprocessing.

(Authorized by K.S.A. 65-1630 and implementing K.S.A. 65-1634; effective June 15, 1992; amended July 23, 1999.)

68-14-8 Wholesale distributors transaction. (a) Notwithstanding any other provision of these regulations under article 14, a wholesale distributor, duly registered with the board, may sell or deliver to a layperson responsible for the control of an animal, a prescription-only drug to be administered to the animal only if a licensed veterinarian practitioner has issued, before the sale or delivery, a lawful written prescription or order for the prescription-only drug in the course of an existing, valid veterinarian-client-patient relationship as defined in K.S.A. 47-816 and amendments thereto. As used in these regulations under article 14, "wholesale distribution" shall include this transaction.

(1) Except as otherwise provided in this regulation, at the time the prescription-only drug leaves the registered location of the wholesale distributor, the wholesale distributor shall possess, at the registered location, a copy of the written prescription or order for the drug.

(2) Except as otherwise provided in this regulation, at the time the prescription-only drug is delivered to the layperson, the person making the delivery shall possess a copy of the written prescription or order for the drug.

(3) The wholesale distributor shall retain, for a period of five years, a copy of the written prescription or order in a manner that makes it readily available for review by a board representative.

(b) In lieu of receiving a written prescription or order from a licensed veterinarian practitioner before a prescription-only drug leaves the registered location, the wholesale distributor may accept a verbal order from a licensed veterinarian practitioner if all of the following conditions are met:

(1) The licensed veterinarian practitioner has created a written prescription or order, but advised the wholesale distributor that, under the circumstances, it is not reasonably possible for the licensed veterinarian practitioner to provide the written prescription or order to the wholesale distributor before the prescription-only drug leaves the registered location.

(2) The licensed veterinarian practitioner provides to the wholesale distributor all of the information required by K.A.R. 70-7-1(n) to be included in a written order for a prescription of legend drugs.

(3) The verbal order is received in a communication directly with the licensed veterinarian practitioner.

(4) The wholesale distributor makes, at the time the verbal order is received, a written confirmation of the information provided by the licensed veterinarian practitioner and records the following information:

(A) The name of the licensed veterinarian practitioner;

(B) the date and time the verbal order was received; and

(C) the name of the person making the written confirmation.

(5) At the time of receiving the verbal order, the wholesale distributor requests that the licensed veterinarian practitioner send a written prescription for the prescription-only drugs so that it is received by the wholesale distributor within 72 hours of receipt of the verbal order and, if it is not received, advises the Kansas board of veterinary examiners of this in writing.

(6) At the time the prescription-only drug leaves the registered location of the wholesale distributor, the wholesale distributor possesses, at the registered location, the original written confirmation.

(7) At the time the prescription-only drug is delivered to the layperson responsible for the control of the animal, the person making the delivery possesses a copy of the written confirmation.

(8) The original written confirmation is maintained by the wholesale distributor for five years in a manner that makes it readily available for review by a board representative.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 1999 Supp. 65-1635(d); effective July 23, 1999; amended Nov. 27, 2000.)

Article 15: Nonprescription Wholesale Distributors

68-15-1 Nonprescription wholesale distributors. "Nonprescription wholesale distributor" shall mean any person, partnership, corporation, or business firm registered in this state and engaging in the distribution of drugs that are not prescription-only drugs to persons or entities other than a consumer or patient. (Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1643(c); effective July 23, 1999.)

68-15-2 Nonprescription wholesale distributor registration required. A nonprescription wholesale distributor may engage in the distribution of nonprescription drugs to persons or entities, other than a consumer or patient in Kansas, if both of the following conditions are met:

(a) The drugs are prepackaged, fully prepared by the manufacturer or distributor for use by a consumer, and appropriately labeled.

(b) The distributor has first obtained a registration to do so from the board.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1643(c) and K.S.A. 65-1634; effective Sept. 24, 1999.)

68-15-4 Minimum requirements for storage. All drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with any requirements in the labeling or packaging of the drugs, or with any requirements in the United States pharmacopeia: the national formulary (USP/NF), as in effect on March 15, 1999 and published January 1, 1995. (Authorized by K.S.A. 65-1630; implementing K.S.A. 1998 Supp. 65-1643(c) and K.S.A. 65-1634; effective Sept. 24, 1999.)

Article 16: Cancer Drug Repository Program

68-16-1 Definitions. As used in these regulations for the cancer drug repository program, the following terms shall have the meanings specified:
(a) "Board" means the Kansas state board of pharmacy.
(b) "Cancer drug" has the meaning specified in K.S.A. 65-1664 and amendments thereto. For the purposes of this article, "drug" shall mean "cancer drug."
(c) "Cancer drug repository" means a hospital, nonprofit clinic, physician's office, or pharmacy that has notified the board of its election to participate in the cancer drug repository program.
(d) "Cancer drug repository donor form" means the cancer drug repository form provided by the board.
(e) "Cancer drug repository receipt form" means the cancer drug repository receipt form provided by the board.
(f) "Dispense" has the meaning specified in K.S.A. 65-1626(h) and amendments thereto.
(g) "Dispensing physician" has the meaning specified in K.A.R. 100-21-1.
(h) "Distribute" has the meaning specified in K.S.A. 65-1626(j) and amendments thereto.
(i) "Distributor" has the meaning specified in K.S.A. 65-1626(k) and amendments thereto.
(j) "Hospital" has the meaning specified in K.S.A. 65-425 and amendments thereto.
(k) "Manufacture" has the meaning specified in K.S.A. 65-1626(q) and amendments thereto.
(l) "Nonprofit clinic" has the meaning specified in K.S.A. 65-1664(a)(3) and amendments thereto.
(m) "Original sealed," when used to describe a cancer drug container, means that the container has been originally sealed by the manufacturer or a pharmacy.
(n) "Pharmacist" has the meaning specified in K.S.A. 65-1626(s) and amendments thereto.
(o) "Pharmacy" has the meaning specified in K.S.A. 65-1626(u) and amendments thereto.
(p) "Practitioner" means a person licensed to practice medicine or surgery by the Kansas state board of healing arts.
(q) "Prescription medication" has the meaning specified in K.S.A. 65- 1626(aa) and amendments thereto.
(r) "Side effects of cancer" means the symptoms of cancer.
(s) "Single-unit-dose packaging" means a single-unit container for a drug intended for administration as a single dose, direct from the container.
(t) "Tamper-evident unit-dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-2 Requirements for participation by physicians, pharmacies, hospitals and nonprofit clinics. Each physician, pharmacy, hospital, and nonprofit clinic that elects to participate in the cancer drug repository program shall provide written notification of the following to the board:
(a) The name, street address, and telephone number of the participating physician, pharmacy, hospital, or nonprofit clinic;
(b) the name and telephone number of a contact person employed by the physician, pharmacy, hospital, or nonprofit clinic; and
(c) a statement specifying whether the physician, pharmacy, hospital, or nonprofit clinic will be dispensing donated cancer drugs.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-3 Donation of cancer drugs. (a) Only a cancer drug that meets the following conditions may be accepted:
(1) The drug has not been compounded.
(2) The drug has not been previously dispensed from a cancer drug repository.

(3) The drug's packaging includes the drug's lot number and expiration date. If the drug is repackaged, the expiration date shall not be past the beyond-use date. Single-unit-dose drugs may be accepted if the single-unit-dose packaging is unopened.
(b) Any cancer drug may be accepted only if the donor simultaneously provides the cancer drug repository with a completed cancer drug repository donor form signed by the person making the donation.
(c) A cancer drug repository shall not accept the donation of any controlled substance or any drug that can be dispensed only to a patient registered with the drug manufacturer.
(d) Each cancer drug repository shall receive donated drugs only at the premises of that cancer drug repository and only by an individual authorized by the repository to receive donated cancer drugs. A drop box shall not be used to deliver or accept donations.
(e) Each cancer drug donated under the cancer drug repository program shall be stored in a secure storage area under environmental conditions appropriate for the drugs being stored. All donated drugs shall be stored separately from and not commingled with drugs that are not donated.
(Authorized by and implementing K.S.A. 2007 Supp. 65-1667; effective Dec. 1, 2006; amended April 10, 2009.)

68-16-4 Dispensing requirements. (a) Before dispensing any donated cancer drug, each pharmacist or dispensing physician shall inspect the cancer drug to determine that the original unit-dose packaging is sealed and tamper-evident and to check for adulteration, misbranding, and the expiration date. A cancer drug shall not be dispensed if any of the following conditions is met:
(1) The original unit-dose packaging is not sealed and tamper-evident.
(2) The drug is adulterated or misbranded.
(3) The drug's expiration date has passed.
(b) Before any donated cancer drug is dispensed, it shall be labeled to identify it as a medication dispensed from a cancer drug repository.
(c) Each cancer drug shall be dispensed only to a cancer patient.
(d) When any cancer drug is dispensed, the recipient shall be orally notified that the drug might have been previously dispensed.
(e) Before a cancer drug may be dispensed to a recipient, the recipient shall sign a cancer drug repository receipt form, which shall include an acknowledgment that the recipient was orally notified that the drug might have been previously dispensed.
(f) A donated cancer drug may be removed from a unit-dose package and dispensed in a vial if the pharmacist or dispensing physician determines that doing so is in the best interest of the patient. Only a pharmacist, pharmacy technician, pharmacy student, or dispensing physician may remove a cancer drug from a unit- dose package and repackage the drug.
(g) Any donated cancer drug may be dispensed no more than one time after being donated.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-5 Handling fees. Any cancer drug repository may charge the recipient a handling fee of no more than 300 percent of the medicaid dispensing fee or $15.00, whichever is less, for each cancer drug dispensed. (Authorized by and implementing K.S.A. 2005 Supp. 65-1665 and K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-6 Distribution of donated cancer drugs. (a) Any cancer drug repository may distribute drugs donated under the cancer drug repository program to another cancer drug repository if requested by that cancer drug repository.
(b) When a cancer drug repository distributes a drug to another participating cancer drug repository, the distributing repository shall complete a cancer drug repository donor form. The form completed by

the distributing repository and a copy of the cancer drug repository donor form that was completed by the original donor shall be provided to the receiving cancer drug repository at the time of distribution.
(c) Each distributing repository shall maintain, for at least five years, a copy of the forms provided to the receiving drug repository at the time of distribution.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-7 Sale of donated drugs. Donated drugs shall not be sold. The sale of donated drugs may result in the following:
(a) The loss of the ability to participate in the cancer drug repository program; and
(b) any other penalties that may be imposed pursuant to the Kansas pharmacy act.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-8 Recordkeeping requirements.
(a) All cancer drug repository donor forms and cancer drug repository receipt forms shall be maintained for at least five years. The original donor form shall remain with the drug until it is dispensed to a patient.
(b) Each cancer drug repository that destroys any donated cancer drug shall create a written record of the destruction that contains the following information and shall maintain the record for at least five years:
(1) The date on which the cancer drug was destroyed;
(2) the name, strength, and quantity of the cancer drug destroyed;
(3) the name of the person or entity that destroyed the cancer drug; and
(4) the name of the person or entity from which the cancer drug was received.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

68-16-9 Forms. (a) Each cancer drug repository receipt form shall contain at least the following:
(1) The name and quantity of each drug received;
(2) a statement that the individual receiving the drug is aware of the criminal and civil immunity provisions contained in K.S.A. 65-1666 and amendments thereto; and
(3) the dated signature of the individual receiving the drug.
(b) Each cancer drug repository donor form shall contain at least the following:
(1) A space in which the donor shall describe the donor's relationship to the person to whom the drug was originally dispensed and the manner in which the drug came into the donor's possession; and
(2) the dated signature of the donor.
(Authorized by and implementing K.S.A. 2005 Supp. 65-1667; effective Dec. 1, 2006.)

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Article 18.—UTILIZATION OF UNUSED MEDICATIONS

68-18-1. Transferring unused medications. (a)Each administrator or operator of an adult care home, pharmacist-in-charge of a mail service pharmacy, and administrator of a medical care facility who wants to become a donating entity, as defined in L. 2008, ch. 9, sec. 2 and amendments thereto, shall submit to the board written notification of intent to participate in the unused medications program. The notification shall be submitted on a form approved by the board.

(b) Before the transfer of each unused medication to a qualifying center or clinic, each mail service pharmacy and medical care facility that has become a donating entity as specified in subsection (a) shall perform the following:

(1) Determine the quality and suitability of each unused medication by a pharmacist's verification that the unused medication meets the following requirements:

(A) Can be identified;

(B) is in the manufacturer's sealed container, a pharmacy unit-dose package, or a hermetically sealed tamper evident package from the pharmacy;

(C) has not passed its beyond-use date;

(D) is not a controlled substance;

(E) has not been adulterated; and

(F) is not a medication that can be dispensed only to a patient or resident registered with the drug manufacturer;

(2) remove the name of the patient or resident and all of the patient's or resident's personal identifiers in order to protect confidentiality;

(3) consult with the qualifying center or clinic to determine whether the qualifying center or clinic is willing to accept each unused medication; and

(4) ensure that the qualifying center or clinic has a consulting pharmacist and is registered with the board to accept unused medications.

(c) Before the transfer of each unused medication to a qualifying center or clinic, each adult care home that has become a donating entity as specified in subsection (a) shall meet the requirements specified in paragraphs (b)(2), (3), and (4).

(d) When a donating entity transfers an unused medication to a qualifying center or clinic, the donating entity shall meet the following requirements:

(1) Complete a manifest on a form approved by the board; and

(2) include a copy of the manifest with the unused medications.

(e) Each donating entity shall maintain a copy of the manifest that the donating entity provided to the qualifying center or clinic for at least five years. The donating entity shall also maintain a copy of the manifest that was signed and returned by the qualifying center or clinic for at least five years.

(f) A donating entity shall not transfer an unused medication that can be dispensed only to a patient or resident registered with the drug manufacturer.

(Authorized by and implementing L. 2008, ch. 9, §7; effective Jan. 2, 2009.)

68-18-2. Accepting unused medications. (a) Each qualifying center or clinic that elects to participate in the unused medications program shall submit to the board written notification of intent to participate on a form approved by the board.

(b) Each qualifying center or clinic shall maintain all unused medications in a storage unit with controlled access.

(c) After the acceptance of each unused medication from an adult care home that has become a donating entity as specified in K.A.R. 68-18-1(a), each qualifying center or clinic shall perform the following:

(1) Determine the quality and suitability of each unused medication by verification of a pharmacist that the unused medication meets the following requirements, in addition to the requirements of L. 2008, ch. 9, sec. 4 and amendments thereto:

(A) Can be identified; and

(B) is not a medication that can be dispensed only to a patient or resident registered with the drug manufacturer;

(2) ensure that the name of the patient or resident and all of the patient's or resident's personal identifiers have been removed in order to protect confidentiality;

(3) check each unused medication against the manifest to resolve any discrepancies with the donating entity; and

(4) complete the manifest and return a copy of the manifest to the donating entity.

(d) After the acceptance of each unused medication from a mail service pharmacy or a medical care facility that has become a donating entity as specified in K.A.R. 68-18-1(a), each qualifying center or clinic shall perform the following:

(1) Determine the quality and suitability of each unused medication by the verification of a pharmacist or practitioner that the unused medication meets the following requirements, in addition to the requirements of L. 2008, ch. 9, sec. 4 and amendments thereto:

(A) Can be identified; and

(B) is not a medication that can be dispensed only to a patient or resident registered with the drug manufacturer; and

(2) meet all of the requirements specified in paragraphs (c)(2), (3), and (4). (e) Each qualifying center or clinic shall maintain a copy of the manifest that was provided by the donating entity for at

least five years. The qualifying center or clinic shall also maintain a copy of the manifest signed and returned to the donating agency for at least five years.
(f) A qualifying center or clinic shall not accept or dispense an unused medication that can be dispensed only to a patient or resident registered with the drug manufacturer.
(Authorized by and implementing L. 2008, ch. 9, §7; effective Jan. 2, 2009.)

68-18-3. Recall of unused medications. (a) If an unused medication is recalled and the qualifying center or clinic does not have the lot number on the label to differentiate between the recalled medications and the nonrecalled medications, all of the unused medications shall be destroyed.
(b) If a donating entity has transferred an unused medication to a qualifying center or clinic, the medication is subsequently recalled, and the donating entity has been notified of the recall, the donating entity shall be responsible for notifying the qualifying center or clinic of the recall.
(c) Each qualifying center or clinic in possession of any unused medication that is expired, adulterated, or recalled shall make a manifest for and destroy that medication.
(d) Following the destruction of any unused medications,
the manifest shall be signed by the consulting pharmacist and a witness to verify the destruction. Each drug destruction manifest shall be maintained for at least five
years.
(Authorized by and implementing L. 2008, ch. 9, §7; effective Jan. 2, 2009.)

Article 19-Continuous Quality Assurance Programs

68-19-1. Minimum program requirements. Each pharmacy's continuous quality improvement program shall meet the following minimum requirements:
(a) Meet at least once each quarter of each calendar year;
(b) have the pharmacy's pharmacist in charge in attendance at each meeting; and
(c) perform the following during each meeting:
(1) Review all incident reports generated for each reportable event associated with that pharmacy since the last quarterly meeting;
(2) for each incident report reviewed, establish the steps taken or to be taken to prevent a recurrence of the incident; and
(3) create a report of the meeting, including at least the following information:
(A) A list of persons in attendance;
(B) a list of the incident reports reviewed; and
(C) a description of the steps taken or to be taken to prevent recurrence of each incident reviewed.
(Authorized by and implementing L. 2008, ch. 104, §16; effective April 10, 2009.)

Article 22. — ELECTRONIC SUPERVISION OF MEDICAL CARE FACILITY'S PHARMACY PERSONNEL

68-22-1. Definitions. (a) ''Medical care facility'' shall have the meaning provided in K.S.A. 65-1626(w), and amendments thereto.
(b) ''Pharmacy student'' shall have the meaning provided in K.S.A. 65-1626(ee), and amendments thereto, and shall include a pharmacy intern registered with the board.
(c) ''Pharmacy technician'' shall have the meaning provided in K.S.A. 65-1626(ff), and amendments thereto.
(d) ''Real-time,'' when used to describe the transmission of information through data, video, and audio links, shall mean that the transmission is sufficiently rapid that the information is available simultaneously to the electronically supervising pharmacist and the pharmacy student or pharmacy technician being electronically supervised in the medical care facility's pharmacy.
(e) ''Electronic supervision'' shall mean the oversight provided by a pharmacist licensed in Kansas and supervising, by means of real-time communication equipment that meets the operating requirements listed in K.A.R. 68-22-5, a registered pharmacy student or pharmacy technician who is working in a Kansas medical care facility's pharmacy. (Authorized by K.S.A. 65-1630; implementing K.S.A. 2009 Supp. 65-1626, K.S.A. 2009 Supp. 65-1642, K.S.A. 65-1648, and K.S.A. 2009 Supp. 65-1663; effective Nov. 18, 2011.)

68-22-2. Application for approval to utilize electronic supervision. The pharmacist in charge of any medical care facility's pharmacy located in Kansas and registered by the board who wants to seek approval for electronic supervision of a pharmacy student or pharmacy technician in that medical care facility pharmacy shall submit an application to the board. Each application shall be submitted on a form provided by the board and shall include the following:

(a) Identifying information concerning the applying medical care facility's pharmacy;
(b) the type and operational capabilities of the computer, video, and communication systems to be used for the electronic supervision; and
(c) a copy of the electronic supervision procedures manual and training manual approved by the pharmacist in charge of the medical care facility's pharmacy. (Authorized by K.S.A. 65-1630; implementing K.S.A. 2009 Supp. 65-1626, K.S.A. 2009 Supp. 65-1642, K.S.A. 65-1648, and K.S.A. 2009 Supp. 65-1663; effective Nov. 18, 2011.)

68-22-3. Prior approval and training required. (a) The pharmacist in charge of a medical care facility's pharmacy shall not permit a pharmacy student or pharmacy technician to be in the pharmacy working under electronic supervision unless the pharmacy has a current approval for electronic supervision from the board.
(b) The pharmacist in charge of a medical care facility's pharmacy shall not permit a pharmacy student or pharmacy technician to be in the pharmacy working under electronic supervision before completing the pharmacy's electronic supervision training course. (Authorized by K.S.A. 65-1630; implementing K.S.A. 2009 Supp. 65-1626, K.S.A. 2009 Supp. 65-1642, K.S.A. 65-1648, and K.S.A. 2009 Supp. 65-1663; effective Nov. 18, 2011.)

68-22-4. Electronic supervision. (a) Only a pharmacist licensed by the board may electronically supervise a pharmacy student or pharmacy technician working in a medical care facility's pharmacy.
(b) A pharmacist licensed by the board may be electronically connected to multiple medical care facility pharmacies at one time for the purpose of electronically supervising.
(c) A pharmacist licensed by the board may electronically supervise no more than one pharmacy technician working in any medical care facility's pharmacy at one time.
(d) No more than one pharmacy student or pharmacy technician that is being electronically supervised may work in a medical care facility's pharmacy at one time.
(e) Electronic supervision conducted in conformance with these regulations shall constitute direct supervision. (Authorized by K.S.A. 65-1630; implementing K.S.A. 2009 Supp. 65-1626, K.S.A. 2009 Supp. 65-1642, K.S.A. 65-1648, and K.S.A. 2009 Supp. 65-1663; effective Nov. 18, 2011.)

68-22-5. Minimum operating requirements. (a) A pharmacy student or pharmacy technician may enter the pharmacy without a pharmacist present for purposes of turning on the data, video, or audio links and determining if a pharmacist is available for electronic supervision.
(b) Electronic supervision shall not be permitted if an interruption occurs in any of the data, video, or audio links. Whenever an interruption in any of the data, video, or audio links occurs, no medication order shall be filled or dispensed using electronic supervision.
(c) Data entry may be performed by the electronically supervising pharmacist or the pharmacy student or pharmacy technician being electronically supervised. Each entry performed by an electronically supervised pharmacy student or pharmacy technician shall be verified by the electronically supervising pharmacist before the drug leaves the pharmacy.
(d) All medication orders processed by a pharmacy student or a pharmacy technician being electronically supervised shall be capable of being displayed on a computer terminal at both the location of the electronically supervising pharmacist and the medical care facility's pharmacy. The quality of the image viewed by the pharmacist shall be sufficient for the pharmacist to be able to determine the accuracy of the work of the pharmacy student or pharmacy technician.
(e) All patient demographic information shall be viewable in real time at both the location of the electronically supervising pharmacist and the medical care facility's pharmacy.
(f) Before a drug leaves the medical care facility's pharmacy, all of the following requirements shall be met:

(1) The electronically supervising pharmacist shall utilize the data, audio, and video links and review the patient profile, the original scanned medication order, and the drug to be dispensed to ensure accuracy.
(2) The supervising pharmacist, pharmacy student, or pharmacy technician shall cause an electronic or paper image of the medication order and the drug, as seen by the electronically supervising pharmacist, to be captured and retained in the electronic or paper records of the medical care facility's pharmacy for the same time period as that required for the written medication order.
(3) The supervising pharmacist, pharmacy student, or pharmacy technician shall cause a paper or electronic record that includes the patient's name, the medication order number, the name of the pharmacy student or pharmacy technician, and the name of the electronically supervising pharmacist to be made.
(4) The pharmacist in charge of the medical care facility's pharmacy shall ensure that controls exist to protect the privacy and security of confidential records.
(5) The supervising pharmacist, pharmacy student, or pharmacy technician shall cause a permanent digital record of all duties electronically supervised and all data transmissions associated with the electronic supervision to be made. Each record shall be maintained for at least five years. (Authorized by K.S.A. 65-1630; implementing K.S.A. 2009 Supp. 65-1626, K.S.A. 2009 Supp. 65-1642, K.S.A. 65-1648, and K.S.A. 2009 Supp. 65-1663; effective Nov. 18, 2011.)

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III. Controlled Substances Act-Law

Article 41.- Controlled Substances
Uniform Controlled Substances Act

65-4101. Definitions. As used in this act:
(a) "Administer" means the direct application of a controlled substance, 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; or
(2) the patient or research subject at the direction and in the presence of the practitioner.
(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.
(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) "Board" means the state board of pharmacy.
(e) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.
(f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.
(g) (1) ‘‘Controlled substance analog’’ means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107,and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) ‘‘Controlled substance analog’’ does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(i) ‘‘Cultivate’’ means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) ‘‘DEA’’ mean 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 a controlled substance, whether or not there is an agency relationship.

(l) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(m) "Dispenser" means a practitioner or pharmacist who dispenses.

(n) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(o) "Distributor" means a person who distributes.

(p) "Drug" means:

(1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

(q) "Immediate precursor" means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) ‘‘Electronic prescription’’ means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) ‘‘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.
(t) ‘‘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.
(u) ‘‘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.
(v) ‘‘Electronically prepared prescription’’ means a prescription that is generated using an electronic prescription application.
(w) ‘‘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.
(x) ‘‘Intermediary’’ means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.
(y) ‘‘Isomer’’ means all enantiomers and diastereomers.
(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(aa) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.
(bb) ‘‘Medical care facility’’ shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.
(cc) ‘‘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 under 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.

(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102 and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) "Opium poppy" means the plant of the species *Papaver somniferum l.* except its seeds.

(gg) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) ‘‘Pharmacist’’ means any natural person licensed under K.S.A. 65-1625 et seq., to practice pharmacy.

(ii) ‘‘Pharmacist intern’’ means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person’s internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) ‘‘Pharmacy prescription application’’ means software that is used to process prescription information, is installed on a pharmacy’s computers and servers, and is controlled by the pharmacy.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "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 controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) ‘‘Prescriber’’ means a practitioner or a mid-level practitioner.

(nn) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) ‘‘Readily retrievable’’ means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping 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.

(pp) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

History: L. 1972, ch. 234, § 1; L. 1974, ch. 258, § 1; L. 1975, ch. 332, § 1; L. 1980, ch. 195, § 1; L. 1985, ch. 214, § 2; L. 1989, ch. 192, § 4; L. 1990, ch. 100, § 7; L. 1994, ch. 160, § 1; L. 1999, ch. 170,

§ 3; L. 2000, ch. 162, § 21; L. 2001, ch. 31, § 3; L. 2001, ch. 171, § 2; L. 2002, ch. 155, § 2; L. 2003, ch. 124, § 9; L. 2011, ch. 114 § 57; L. 2012, ch 24, § 1; July 1; L. 2012, ch. 107, § 7, May 17.

65-4101a. History: L. 1972, ch. 234, § 1; L. 1974, ch. 258, § 1; L. 1975, ch. 332, § 1; L. 1980, ch. 195, § 1; L. 1985, ch. 214, § 2; L. 1989, ch. 192, § 4; L. 1990, ch. 100, § 7; L. 1994, ch. 160, § 1; L. 1999, ch. 115, § 3; Repealed, L. 2000, ch. 162, § 27; Feb. 1, 2001.

65-4102. Board of pharmacy to administer act; authority to control; report to speaker of house and president of senate on substances proposed for scheduling, rescheduling or deletion; scheduling of the controlled substance analog. (a) The board shall administer this act and may adopt rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state. All rules and regulations of the board shall be adopted in conformance with article 4 of chapter 77 of the Kansas Statutes Annotated and the procedures prescribed by this act.

(b) Annually, the board shall submit to the speaker of the house of representatives and the president of the senate a report on substances proposed by the board for scheduling, rescheduling or deletion by the legislature with respect to any one of the schedules as set forth in this act, and reasons for the proposal shall be submitted by the board therewith. In making a determination regarding the proposal to schedule, reschedule or delete a substance, the board shall consider the following:

(1) The actual or relative potential for abuse;
(2) the scientific evidence of its pharmacological effect, if known;
(3) the state of current scientific knowledge regarding the substance;
(4) the history and current pattern of abuse;
(5) the scope, duration and significance of abuse;
(6) the risk to the public health;
(7) the potential of the substance to produce psychological or physiological dependence liability; and
(8) whether the substance is an immediate precursor of a substance already controlled under this article.

(c) The board shall not include any nonnarcotic substance within a schedule if such substance may be lawfully sold over the counter without a prescription under the federal food, drug and cosmetic act.

(d) Authority to control under this section does not extend to distilled spirits, wine, malt beverages or tobacco.

(e) Upon receipt of notice under K.S.A. 2009 Supp. 21-36a15, and amendments thereto, the board shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsections (b)(4), (5) and (6), and may also consider clandestine importation, manufacture or distribution, and if available, information concerning the other factors set forth in subsection (b). A rule may not be adopted under this subsection until the board initiates a rulemaking proceeding under subsection (a) with respect to the substance. A rule adopted under this subsection lapses upon the conclusion of the rulemaking proceeding initiated under subsection (a) with respect to the substance.
History: L. 1972, ch. 234, § 2; L. 1974, ch. 258, § 2; L. 1982, ch. 269, § 1; L. 1994, ch. 160, § 2; L. 2009, ch. 32, § 54; July 1.

65-4103. Nomenclature. The controlled substances listed or to be listed in the schedules in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113 are included by whatever official, common, usual, chemical, or trade name designated.
History: L. 1972, ch. 234, § 3; July 1.

65-4104.
History: L. 1972, ch. 234, § 4; Repealed, L. 1982, ch. 269, § 9; July 1.

65-4105. Substances included in schedule I. (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.
(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:
(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl] -N-phenylacetamide.....9815
(2) Acetylmethadol.....9601
(3) Allylprodine.....9602
(4) Alphacetylmethadol.....9603
(*except* levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)
(5) Alphameprodine.....9604
(6) Alphamethadol.....9605
(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).....9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl] -N-phenylpropanamide).....9832
(9) Benzethidine…….....9606
(10) Betacetylmethadol.....9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl] -N-phenylpropanamide..... 9830
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl) -3-methyl-4-piperidinyl] -N-phenylpropanamide.....9831
(13) Betameprodine.....9608
(14) Betamethadol.....9609

(15) Betaprodine.....9611
(16) Clonitazene.....9612
(17) Dextromoramide.....9613
(18) Diampromide.....9615
(19) Diethylthiambutene.....9616
(20) Difenoxin..... 9168
(21) Dimenoxadol.....9617
(22) Dimepheptanol.....9618
(23) Dimethylthiambutene…….....9619
(24) Dioxaphetyl butyrate.....9621
(25) Dipipanone.....9622
(26) Ethylmethylthiambutene.....9623
(27) Etonitazene.....9624
(28) Etoxeridine.....9625
(29) Furethidine.....9626
(30) Hydroxypethidine.....9627
(31) Ketobemidone.....9628
(32) Levomoramide.....9629
(33) Levophenacylmorphan.....9631
(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide).....9813
(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]- N-phenylpropanamide).....9833
(36) Morpheridine.....9632
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine).....9661
(38) Noracymethadol.....9633
(39) Norlevorphanol.....9634
(40) Normethadone.....9635
(41) Norpipanone.....9636
(42) Para-fluorofentanyl (N- (4-fluorophenyl)-N-[1-(2-phenethyl) -4-piperidinyl] propanamide.....9812
(43) PEPAP (1-(-2-phenethyl)-4-phenyl -4-acetoxypiperidine).....9663
(44) Phenadoxone.....9637
(45) Phenampromide.....9638
(46) Phenomorphan.....9647
(47) Phenoperidine.....9641
(48) Piritramide.....9642
(49) Proheptazine.....9643
(50) Properidine.....9644
(51) Propiram…….....9649
(52) Racemoramide.....9645
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4- piperidinyl]-propanamide..... 9835
(54) Tilidine.....9750
(55) Trimeperidine.....9646

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.....9319

(2) Acetyldihydrocodeine.....9051
(3) Benzylmorphine.....9052
(4) Codeine methylbromide.....9070
(5) Codeine-N-Oxide.....9053
(6) Cyprenorphine.....9054
(7) Desomorphine.....9055
(8) Dihydromorphine.....9145
(9) Drotebanol.....9335
(10) Etorphine (*except* hydrochloride salt).....9056
(11) Heroin.....9200
(12) Hydromorphinol.....9301
(13) Methyldesorphine.....9302
(14) Methyldihydromorphine.....9304
(15) Morphine methylbromide.....9305
(16) Morphine methylsulfonate.....9306
(17) Morphine-N-Oxide.....9307
(18) Myrophine.....9308
(19) Nicocodeine.....9309
(20) Nicomorphine.....9312
(21) Normorphine.....9313
(22) Pholcodine.....9314
(23) Thebacon.....9315

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2,5-dimethoxy-amphetamine.....7391

Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine.....7396

Some trade or other names: 2,5-dimethoxy-alpha-methyl-phenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine.....7411

Some trade or other names: 4-methoxy-alpha-methylphene- thylamine; paramethoxyamphetamine; PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.....7401

(5) 4-methyl-2,5-dimethoxy-amphetamine.....7395

Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP".

(6) 3,4-methylenedioxy amphetamine.....7400

(7) 3,4-methylenedioxymethamphetamine (MDMA).....7405

(8) 3,4-methylenedioxy-N-ethylamphetamine (*also known as* N-ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, and MDEA).....7404

(9) N-hydroxy-3,4-methylenedioxyamphetamine (*also known as* N-hydroxy-alpha-methyl-3,4(methylenedioxy) phenethylamine, and N-hydroxy MDA).....7402

(10) 3,4,5-trimethoxy amphetamine.....7390

(11) Bufotenine.....7433

Some trade or other names: 3-(Beta-Dimethyl- aminoethyl)-5-hydroxyindole; 3-(2-dimethyl-aminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.

(12) Diethyltryptamine.....7434
Some trade or other names: N,N-Diethyltryptamine; DET.
(13) Dimethyltryptamine.....7435
Some trade or other names: DMT.
(14) Ibogaine.....7260
Some trade or other names: 7-Ethyl-6,6 Beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano - 5H-pyrido[1',2':1,2] azepino [5,4-b]indole; Tabernanthe iboga.
(15) Lysergic acid diethylamide.....7315
(16) Marihuana.....7360
(17) Mescaline.....7381
(18) Parahexyl.....7374
Some trade or other names: 3-Hexyl-l-hydroxy-7,8,9,10-tetrahydro-6,6,9- trimethyl-6H-dibenzo[b,d]pyran; Synhexyl.
(19) Peyote.....7415
Meaning all parts of the plant presently classified botanically as *Lophophora williamsii Lemaire*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
(20) N-ethyl-3-piperidyl benzilate.....7482
(21) N-methyl-3-piperidyl benzilate.....7484
(22) Psilocybin.....7437
(23) Psilocyn.....7438
(24) Ethylamine analog of phencyclidine.....7455
Some trade or other names: N-ethyl-1-phenyl- cyclo-hexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE.
(25) Pyrrolidine analog of phencyclidine.....7458
Some trade or other names: 1-(1-phenylcyclo- hexyl)-pyrrolidine; PCPy; PHP.
(26) Thiophene analog of phencyclidine.....7470
Some trade or other names: 1-[1-(2-thienyl)- cyclohexyl]-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP.
(27) 1-[1-(2-thienyl)-cyclohexyl] pyrrolidine..... 7473
Some other names: TCPy
(28) 2,5-dimethoxy-4-ethylamphetamine.....7399
Some trade or other names: DOET (30) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts. (31) Datura stramonium, commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as datura stramonium, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
(29) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
(30) Datura stramonium, commonly known as gypsum weed or jimson weed; all parts of the plant presently classified botanically as datura stramonium, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts.
(31) N-benzylpiperazine…….....7493
Some trade or other names: BZP

(32) 1-(3-[trifluoromethylphenyl]) piperazine
Some trade or other names: TFMPP
(33) 4-Bromo-2,5-dimethoxyphenetylamine……7392
(34) 2,5-dimethoxy-4-(n)-propylthiopenenthylamine (2C-7), its optical isomers, salts and salts of optical isomers……..7348
(35) Alpha-methyltryptamine (othername: AMT)……7432
(36) 5-methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salt and salts of isomers……..7439
----------(e)
Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
(1) Mecloqualone.....2572
(2) Methaqualone.....2565
(3) Gamma hydroxybutyric acid
(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
(1) Fenethylline.....1503
(2) N-ethylamphetamine.....1475
(3) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2 oxazolamine).....1590
(4) N,N-dimethylamphetamine (*also known as* N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).....1480
(5) Cathinone (*some other names*: 2-amino-1-phenol-1-propanone, alpha-amino propiophenone, 2-amino propiophenone and norphedrone)…… …….....1235
(6) Substituted cathinones
Any compound, except buproprion or compounds listed under a different schedule, Structurally derived from 2aminopropan1one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
(A) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
(B) By substitution at the 3-position with an acyclic alkyl substituent;
(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
(D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

(g) Any material, compound, mixture or preparation which contains any quantity of the following substances:
(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.....9818
(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.....9834
(3) Aminorex (some other names: Aminoxaphen 2-amino-5-phenyl-2-oxazoline or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers and salts of optical isomers).....1585
(4) Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers.....7249
Some other names: etryptamine, alpha-methyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

(h) Any of the following cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation;

(1) Tetrahydrocannabinols . . . . . .…….. .7370

Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol,
and their optical isomers Delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Naphthoylindoles

Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(3) Naphthylmethylindoles

Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(4) Naphthoylpyrroles

Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(5) Naphthylmethylindenes

Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(6) Phenylacetylindoles

Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

(7) Cyclohexylphenols

Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution
at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent.

(8) Benzoylindoles

Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

(9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4- benzoxazin-6-yl]-1-napthalenylmethanone.

Some trade or other names: WIN 55,212-2.
(10) 9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10atetrahydrobenzo[c]chromen-1-ol.
Some trade or other names: HU-210, HU-211.
History: L. 1972, ch. 234, § 5; L. 1982, ch. 269, § 2; L. 1985, ch. 220, § 1; L. 1986, ch. 241, § 1; L. 1987, ch. 244, § 1; L. 1989, ch. 200, § 1; L. 1991, ch. 199, § 1; L. 1992, ch. 174, § 1; L. 1993, ch. 70, § 1; L. 1994, ch. 54, § 1; L. 2001, ch. 171, § 3; L. 2008, ch. 124, § 1; L. 2010, ch. 7, § 1; March 18; L. 2011, ch. 83, § 3, May 26.

65-4105a.
History: L. 1994, ch. 160, § 5; Repealed, L. 2009, ch 32, § 64; July 1.

65-4106.
History: L. 1972, ch. 234, § 6; Repealed, L. 1982, ch. 269, § 9; July 1.

65-4107. Substances included in schedule II. (a) The controlled substances listed in this section are included in schedule II and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.
(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:
(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone and their respective salts, but including the following:
(A) Raw opium.....9600
(B) Opium extracts.....9610
(C) Opium fluid…….....9620
(D) Powdered opium.....9639
(E) Granulated opium.....9640
(F) Tincture of opium.....9630
(G) Codeine.....9050
(H) Ethylmorphine.....9190
(I) Etorphine hydrochloride.....9059
(J) Hydrocodone.....9193
(K) Hydromorphone.....9150
(L) Metopon.....9260
(M) Morphine…….....9300
(N) Oxycodone.....9143
(O) Oxymorphone.....9652
(P) Thebaine.....9333
(Q) Dihydroetorphine……9334
(R) Oripavine……9330
(2) Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine (9041) or ecgonine (9180).

(5) Cocaine, its salts, isomers and salts of isomers……..9041

(6) Ecgonine, its salts, isomers and salts of isomers……9180

(7) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy)……9670

(c) Any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation dextrorphan and levopropoxyphene excepted:

(1) Alfentanil.....9737

(2) Alphaprodine.....9010

(3) Anileridine.....9020

(4) Bezitramide.....9800

(5) Bulk dextropropoxyphene (nondosage forms).....9273

(6) Carfentanil.....9743

(7) Dihydrocodeine.....9120

(8) Diphenoxylate.....9170

(9) Fentanyl.....9801

(10) Isomethadone.....9226

(11) Levomethorphan.....9210

(12) Levorphanol.....9220

(13) Metazocine.....9240

(14) Methadone.....9250

(15) Methadone-intermediate,4-cyano-2-dimethyl amino-4,4-diphenyl butane.....9254

(16) Moramide-intermediate, 2-methyl-3- morpholino-1, 1-diphenylpropane-carboxylic acid.....9802

(17) Pethidine (meperidine).....9230

(18) Pethidine-intermediate-A, 4-cyano-1-methyl- 4-phenylpiperidine.....9232

(19) Pethidine-intermediate-B, ethyl-4-phenyl- piperidine-4-carboxylate.....9233

(20) Pethidine-intermediate-C, 1-methyl-4-phenyl- piperidine-4-carboxylic acid.....9234

(21) Phenazocine.....9715

(22) Piminodine.....9730

(23) Racemethorphan.....9732

(24) Racemorphan.....9733

(25) Sufentanil.....9740

(26) Levo-alphacetyl methadol.....9648

Some other names: levo-alpha-acetyl methadol, levomethadyl acetate or LAAM.

(27) Remifentanil……9739

(28) Tapentadol……...9780

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers.....1100

(2) Phenmetrazine and its salts.....1631

(3) Methamphetamine, including its salts, isomers and salts of isomers.....1105

(4) Methylphenidate.....1724
(5) Lisdexamfetamine, its salts, isomers and salts of its isomers……1205

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.....2125
(2) Glutethimide.....2550
(3) Secobarbital.....2315
(4) Pentobarbital.....2270
(5) Phencyclidine.....7471

(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:
(A) Phenylacetone.....8501
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):
(A) 1-phenylcyclohexylamine.....7460
(B) 1-piperidinocyclohexanecarbonitrile (PCC).....8603

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Nabilone.....7379
[*Another name for nabilone*: ()-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a- hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d] pyran-9-one]

History: L. 1972, ch. 234, § 7; L. 1974, ch. 258, § 3; L. 1978, ch. 257, § 1; L. 1980, ch. 195, § 2; L. 1982, ch. 269, § 3; L. 1985, ch. 220, § 2; L. 1986, ch. 241, § 2; L. 1987, ch. 244, § 2; L. 1989, ch. 200, § 2; L. 1991, ch. 199, § 2; L. 1992, ch. 174, § 2; L. 1994, ch. 54, § 2; L. 2000, ch. 108, § 2; Apr. 27; L.2011, ch. 83 § 4, May 26.

65-4108.
History: L. 1972, ch. 234, § 8; Repealed, L. 1982, ch. 269, § 9; July 1.

65-4109. Substances included in schedule III. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(A) Amobarbital.....2126

(B) Secobarbital.....2316

(C) Pentobarbital.....2271

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(A) Amobarbital..... 2126

(B) Secobarbital..... 2316

(C) Pentobarbital..... 2271

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.....2100

(4) Chlorhexadol.....2510

(5) Lysergic acid.....7300

(6) Lysergic acid amide.....7310

(7) Methyprylon.....2575

(8) Sulfondiethylmethane.....2600

(9) Sulfonethylmethane.....2605

(10) Sulfonmethane.....2610

(11) Tiletamine and zolazepam or any salt thereof.....7295

Some trade or other names for a tiletamine-zolazepam combination product: Telazol

Some trade or other names for tiletamine: 2- (ethylamino)-2-(2-thienyl)-cyclohexanone

Some trade or other names for zolazepam: 4- (2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo- [3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon

(12) Ketamine, its salts, isomers, and salts of isomers.....7285

Some other names for ketamine: (plus-minus) -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone

(13) Gamma hydroxybutyric acid, any salt, hydroxybutyric compound, derivative or preparation of gamma hydroxybutyric acid contained in a drug product for which an application has been approved under section 505 of the federal food, drug and cosmetic act.

(14) Embutramide……2020

(c) Nalorphine.....9400

(d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.....9803

(2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9804

(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....9805

(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone) or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9806

(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9807

(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9808

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9809

(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9810

(9) any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below:

(A) Buprenorphine…….9064

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25,

1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances.....1405

(2) Benzphetamine.....1228
(3) Chlorphentermine.....1645
(4) Chlortermine.....1647
(5) Phendimetrazine.....1615

(f) Anabolic steroids.....4000

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(1) boldenone
(2) chlorotestosterone (4-chlortestosterone)
(3) clostebol
(4) dehydrochlormethyltestosterone
(5) dihydrotestosterone (4-dihydrotestosterone)
(6) drostanolone
(7) ethylestrenol
(8) fluoxymesterone
(9) formebulone (formebolone)
(10) mesterolone
(11) methandienone
(12) methandranone
(13) methandriol
(14) methandrostenolone
(15) methenolone
(16) methyltestosterone
(17) mibolerone
(18) nandrolone
(19) norethandrolone
(20) oxandrolone
(21) oxymesterone
(22) oxymetholone
(23) stanolone
(24) stanozolol
(25) testolactone
(26) testosterone
(27) trenbolone
(28) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(A) Except as provided in (B), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States' secretary of health and human services for such administration.

(B) If any person prescribes, dispenses or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this subsection (f).

(g) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substance, its salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product.....7369

Some *other names for dronabinol*: (6aR-trans)-6a,7,8,10a-tetrahydro -6-6-9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-0l, or (-)-delta-9- (trans)-tetrahydrocannabinol.

(h) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

History: L. 1972, ch. 234, § 9; L. 1974, ch. 258, § 4; L. 1978, ch. 257, § 2; L. 1982, ch. 269, § 4; L. 1985, ch. 220, § 3; L. 1989, ch. 200, § 3; L. 1991, ch. 199, § 3; L. 1992, ch. 174, § 3; L. 2000, ch. 108, § 3; L. 2001, ch. 171, § 4; L.2011, ch. 83, § 5, May 26.

65-4110.

History: L. 1972, ch. 234, § 10; Repealed, L. 1982, ch. 269, § 9; July 1.

65-4111. Substances included in schedule IV.

(a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam.....2882
(2) Barbital.....2145
(3) Bromazepam.....2748
(4) Camazepam.....2749
(5) Carisoprodol..... 8192
(6) Chloral betaine.....2460
(7) Chloral hydrate.....2465
(8) Chlordiazepoxide.....2744
(9) Clobazam.....2751
(10) Clonazepam.....2737
(11) Clorazepate.....2768
(12) Clotiazepam.....2752
(13) Cloxazolam.....2753
(14) Delorazepam.....2754
(15) Diazepam.....2765
(16) Dichloralphenazone..... 2467
(17) Estazolam.....2756
(18) Ethchlorvynol.....2540
(19) Ethinamate.....2545
(20) Ethyl loflazepate.....2758
(21) Fludiazepam.....2759
(22) Flunitrazepam.....2763
(23) Flurazepam.....2767
(24) Fospropofol……2138
(25) Halazepam.....2762
(26) Haloxazolam.....2771

(27) Ketazolam.....2772
(28) Loprazolam.....2773
(29) Lorazepam.....2885
(30) Lormetazepam.....2774
(31) Mebutamate.....2800
(32) Medazepam.....2836
(33) Meprobamate.....2820
(34) Methohexital.....2264
(35) Methylphenobarbital (mephobarbital).....2250
(36) Midazolam.....2884
(37) Nimetazepam.....2837
(38) Nitrazepam.....2834
(39) Nordiazepam.....2838
(40) Oxazepam.....2835
(41) Oxazolam.....2839
(42) Paraldehyde…….....2585
(43) Petrichloral.....2591
(44) Phenobarbital.....2285
(45) Pinazepam.....2883
(46) Prazepam.....2764
(47) Quazepam.....2881
(48) Temazepam.....2925
(49) Tetrazepam.....2886
(50) Triazolam.....2887
(51) Zolpidem.....2783
(52) Zaleplon.....2781
(53) Zopiclone……2784

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine).....1230
(2) Diethylpropion.....1610
(3) Fencamfamin.....1760
(4) Fenproporex.....1575
(5) Mazindol.....1605
(6) Mefenorex.....1580
(7) Pemoline (including organometallic complexes and chelates thereof).....1530
(8) Phentermine.....1640

The provisions of this subsection (d)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(9) Pipradrol.....1750
(10) SPA((-)-1-dimethylamino-1,2-diphenylethane).....1635
(11) Sibutramine.....1675
(12) Modafinil……..…….....1680

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

(1) Pentazocine.....9709
(2)Butorphanol (including its optical isomers).....9720

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.....9167
(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3- methyl-2-propionoxybutane).....9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

History: L. 1972, ch. 234, § 11; L. 1974, ch. 258, § 5; L. 1978, ch. 257, § 3; L. 1979, ch. 204, § 1; L. 1982, ch. 269, § 5; L. 1985, ch. 220, § 4; L. 1986, ch. 241, § 3; L. 1989, ch. 200, § 4; L. 1990, ch. 231, § 1; L. 1991, ch. 199, § 4; L. 1993, ch. 70, § 2; L. 1996, ch. 257, § 2; L. 1998, ch. 190, § 1; L. 2000, ch. 108, § 4;. L. 2001, ch. 171, § 5; July 1; L. 2011, ch. 83 § 6; L. 2012, ch 107, § 9; July 1.

65-4111a.

History: L. 1972, ch. 234, § 11; L. 1974, ch. 258, § 5; L. 1978, ch. 257, § 3; L. 1979, ch. 204, § 1; L. 1982, ch. 269, § 5; L. 1985, ch. 220, § 4; L. 1986, ch. 241, § 3; L. 1989, ch. 200, § 4; L. 1990, ch. 231, § 1; L. 1991, ch. 199, § 4; L. 1993, ch. 70, § 2; L. 1996, ch. 257, § 2; L. 1998, ch. 175, § 1; Repealed, L. 2000, ch. 108, § 7; Apr. 27.

65-4112.

History: L. 1972, ch. 234, § 12; Repealed, L. 1982, ch. 269, § 9; July 1

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65-4113. Substances included in schedule V.

(a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

(b) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose).....8161

(2) Pyrovalerone.....1485

(d) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.

(e) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.
(f) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:
(1) Ezogabine N-[2-amino-4(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester….2779
(2) Lacosamide (R)-2acetoamido-N-benzyl-3-methoxy-propionamide……...2746
(3) Pregabalin (S)-3-(aminomethyl)-5-methylhexanoic acid……2782
History: L. 1972, ch. 234, § 13; L. 1982, ch. 269, § 6; L. 1984, ch. 243, § 1; L. 1985, ch. 220, § 5; L. 1991, ch. 199, § 5; L. 1992, ch. 174, § 4; L. 1995, ch. 218, § 3; L. 2005, ch. 153, § 2; L. 2007, ch. 169, § 12; L. 2011, ch. 83, § 7; L. 2012, ch 91, § 48; July 1.

65-4114.
History: L. 1972, ch. 234, § 14; L. 1974, ch. 258, § 6; Repealed, L. 1982, ch. 269, § 9; July 1.

65-4115. Fees. The board may charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state.
History: L. 1972, ch. 234, § 15; L. 1974, ch. 258, § 7; July 1.

65-4116. Registration requirements, exceptions; termination of registration.
(a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state shall obtain annually a registration issued by the board in accordance with the uniform controlled substances act and with rules and regulations adopted by the board.
(b) Persons registered by the board under this act to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this act.
(c) The following persons need not register and may lawfully possess controlled substances under this act, as specified in this subsection:
(1) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if the agent or employee is acting in the usual course of such agent or employee's business or employment;
(2) a common carrier or warehouseman or an employee thereof whose possession of any controlled substance is in the usual course of business or employment;
(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or a mid-level practitioner or in lawful possession of a schedule V substance;
(4) persons licensed and registered by the board under the provisions of the acts contained in article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, to manufacture, dispense or distribute drugs are considered to be in compliance with the registration provision of the uniform controlled substances act without additional proceedings before the board or the payment of additional fees, except that manufacturers and distributors shall complete and file the application form required under the uniform controlled substances act;

(5) any person licensed by the state board of healing arts under the Kansas healing arts act;
(6) any person licensed by the state board of veterinary examiners;
(7) any person licensed by the Kansas dental board;
(8) a mid-level practitioner; and
(9) any person who is a member of the Native American Church, with respect to use or possession of peyote, whose use or possession of peyote is in, or for use in, bona fide religious ceremonies of the Native American Church, but nothing in this paragraph shall authorize the use or possession of peyote in any place used for the confinement or housing of persons arrested, charged or convicted of criminal offenses or in the state security hospital.

(d) The board may waive by rules and regulations the requirement for registration of certain manufacturers, distributors or dispensers if the board finds it consistent with the public health and safety, except that licensure of any person by the state board of healing arts to practice any branch of the healing arts, Kansas dental board or the state board of veterinary examiners shall constitute compliance with the registration requirements of the uniform controlled substances act by such person for such person's place of professional practice. Evidence of abuse as determined by the board relating to a person licensed by the state board of healing arts shall be submitted to the state board of healing arts and the attorney general within 60 days. The state board of healing arts shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of healing arts to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a person licensed by the state board of veterinary examiners shall be submitted to the state board of veterinary examiners and the attorney general within 60 days. The state board of veterinary examiners shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of veterinary examiners to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a dentist licensed by the Kansas dental board shall be submitted to the Kansas dental board and the attorney general within 60 days. The Kansas dental board shall, within 60 days, make findings of fact and take such action against such dentist as it deems necessary. All findings of fact and any action taken shall be reported by the Kansas dental board to the board of pharmacy and the attorney general.

(e) A separate annual registration is required at each place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules and regulations.

(g) (1) The registration of any person or location shall terminate when such person or authorized representative of a location dies, ceases legal existence, discontinues business or professional practice or changes the location as shown on the certificate of registration. Any registrant who ceases legal existence, discontinues business or professional practice, or changes location as shown on the certificate of registration, shall notify the board promptly of such fact and forthwith deliver the certificate of registration directly to the secretary or executive secretary of the board. In the event of a change in name or mailing address the person or authorized representative of the location shall notify the board promptly in advance of the effective date of this change by filing the change of name or mailing address with the board. This change shall be noted on the original application on file with the board.

(2) No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the board may specifically designate and then only pursuant to the written consent of the board.

History: L. 1972, ch. 234, § 16; L. 1973, ch. 258, § 1; L. 1974, ch. 259, § 1; L. 1981, ch. 253, § 1; L. 1987, ch. 244, § 3; L. 1999, ch. 87, § 4; L. 1999, ch. 149, § 9; L. 2003, ch. 124, § 10; Jul 1.

65-4117. Registration.
(a) The board shall register an applicant to manufacture, dispense or distribute controlled substances included in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sections, unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:
(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels;
(2) compliance with applicable state and local law;
(3) any conviction of the applicant under any federal and state laws relating to any controlled substance;
(4) past experience in the manufacture, dispensing or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;
(5) furnishing by the applicant of false or fraudulent material in any application filed under this act;
(6) suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense controlled substances as authorized by federal law; and
(7) any other factors relevant to and consistent with the public health and safety.
(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.
(c) Practitioners shall be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to prescribe or to conduct research under the laws of this state.
(d) Pharmacists shall be registered to dispense schedule I designated prescription substances and controlled substances in schedules II through V if none of the grounds for revocation, suspension or refusal to renew a registration exist at the time of application.
(e) The board need not require separate registration under this act for practitioners or pharmacists engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this act in another capacity. Practitioners or pharmacists registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the board evidence of that federal registration.
(f) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act.
History: L. 1972, ch. 234, § 17; L. 1986, ch. 242, § 1; May 1.

65-4118. Revocation and suspension of registration. (a) A registration under K.S.A. 65-4117 to manufacture, distribute or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:
(1) Has furnished false or fraudulent material information in any application filed under this act;
(2) has been convicted of a felony under any state or federal law relating to any controlled substance;
(3) has violated any rule or regulation of the board controlling the manufacture, distribution or dispensing of the controlled substances contained in the schedules promulgated in the rules and regulations of the board; or
(4) has had his federal registration suspended or revoked to manufacture, distribute or dispense controlled substances.
(b) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.
(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition shall be made of substances under seal until the time for taking an appeal

has elapsed or until all appeals have been concluded unless a court upon application therefor orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances shall be forfeited to the state.
(d) The board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.
History: L. 1972, ch. 234; § 18; L. 1974, ch. 258, § 8; July 1.

65-4119. Denial, suspension, revocation or refusal to renew registration; order to show cause. (a) Before denying, suspending or revoking a registration or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended or why the renewal should not be refused. In the case of a denial or renewal of registration the show cause order shall be served not later than 15 days before the expiration of the registration. Proceedings on a show cause order shall be conducted in accordance with the provisions of the Kansas administrative procedure act without regard to any criminal prosecution or other proceeding.
(b) In accordance with the provisions of K.S.A. 77-536 and amendments thereto, the board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under K.S.A. 65-4118 and amendments thereto, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.
History: L. 1972, ch. 234, § 19; L. 1988, ch. 356, § 213; July 1, 1989.

65-4120. Judicial review of board's actions. Any action of the board pursuant to the uniform controlled substances act is subject to review in accordance with the Kansas judicial review act.
History: L. 1972, ch. 234, § 20; L. 1986, ch. 318, § 109; L. 2010, ch. 17, § 158. July 1.

65-4121. Registrants to keep records and inventories. Persons registered to manufacture, distribute or dispense controlled substances under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules and regulations the board issues.
History: L. 1972, ch. 234, § 21; July 1.

65-4122. Order forms for distribution of substances in schedules I and II. Controlled substances in schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.
History: L. 1972, ch. 234, § 22; July 1.

65-4123. Dispensing; schedule I designated prescription substance; prescriptions, limitations on refilling. (a) Except as otherwise provided in K.S.A. 65-4117 and amendments thereto or in this subsection (a), no schedule I controlled substance may be dispensed. The board by rules and regulations may designate in accordance with the provisions of this subsection (a) a schedule I controlled substance as a schedule I designated prescription substance.

(b) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written or electronic prescription of a prescriber. In emergency situations, as defined by rules and regulations of the board, schedule II drugs

may be dispensed upon oral prescription of a prescriber reduced promptly to writing or transmitted electronically and filed by the pharmacy. No prescription for a schedule II substance may be refilled.
(c) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III, IV, or V which is a prescription drug shall not be dispensed without either a paper prescription manually signed by a prescriber, a facsimile of a manually signed paper prescription transmitted by the prescriber or the prescriber's agent to the pharmacy, an electronic prescription that has been digitally signed by a prescriber with a digital certificate, or an oral prescription made by an individual prescriber and promptly reduced to writing. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times.
(d) A controlled substance shall not be distributed or dispensed except by a valid prescription order as defined in K.S.A 65-1626, and amendments thereto. Electronic prescriptions shall be retained electronically for five years from the date of their creation or receipt. The records must be readily retrievable from all other records and easily rendered into a format a person can read. Paper, oral, and facsimile prescriptions shall be maintained as a hard copy for five years at the registered location.
History: L. 1972, ch. 234, § 23; L. 1972, ch. 235, § 1; L. 1982, ch. 269, § 7; L. 1986, ch. 242, § 2; L. 1999, ch. 115, § 15; L. 2012, ch 107, § 10; July 1.

65-4123a. Distribution of free controlled drug samples prohibited (Exact caption not yet provided). A controlled substance listed in schedules II through V, excluding schedule V nonnarcotic depressants that have an effect on the central nervous system, shall not be distributed on a gratuitous basis by a manufacturer or distributor to a practitioner, mid-level practitioner, pharmacist or any other person.
History: L. 2012, ch. 107, § 11, May 17.

65-4124 to 65-4126.
History: L. 1972, ch. 234, §§ 24 to 26; Repealed, L. 1973, ch. 259, § 5; July 1.

65-4127.
History: L. 1972, ch. 234, § 27; L. 1972, ch. 235, § 2; Repealed, L. 1973, ch. 259, § 5; July 1.

65-4127a.
History: L. 1973, ch. 259, § 1; L. 1988, ch. 257, § 1; L. 1990, ch. 101, § 1; L. 1991, ch. 85, § 2; L. 1992, ch. 92, § 1; L. 1993, ch. 291, § 234; L. 1994, ch. 160, § 3; Repealed, L. 1994, ch. 338, § 14; Repealed, L. 1994, ch. 291, § 93; July 1.

65-4127b.
History: L. 1973, ch. 259, § 2; L. 1974, ch. 258, § 9; L. 1980, ch. 100, § 3; L. 1982, ch. 269, § 8; L. 1986, ch. 241, § 4; L. 1986, ch. 243, § 1; L. 1987, ch. 244, § 4; L. 1987, ch. 245, § 1; L. 1988, ch. 257, § 2; L. 1989, ch. 200, § 5; L. 1990, ch. 101, § 2; L. 1991, ch. 85, § 3; L. 1991, ch. 89, § 6; L. 1992, ch. 92, § 2; L. 1993, ch. 291, § 235; L. 1994, ch. 160, § 4; Repealed, L. 1994, ch. 338, § 14; Repealed, L. 1994, ch. 291, § 93; July 1.

65-4127c. General penalties; criminal penalties not applicable to violations of regulations. Any person violating any of the provisions of the uniform controlled substances act shall be guilty of a class A nonperson misdemeanor. The criminal penalties prescribed for violations of the uniform controlled substances act shall not be applicable to violations of the rules and regulations adopted by the board pursuant thereto.
History: L. 1973, ch. 259, § 3; L. 1974, ch. 258, § 10; L. 1994, ch. 291, § 78; L. 1994, ch. 338, § 12; L. 2009, ch. 32, § 55; July 1.

65-4127d.
History: L. 1973, ch. 259, § 4; Repealed L. 2009, ch. 32, § 64; July 1.

65-4127e. Sentencing under 65-4127a and 65-4127b; substances and quantities; crimes committed prior to July 1, 1993. (a) For purposes of sentencing pursuant to this act, substances and quantities shall be as follows:

SUBSTANCE.....gm
Alpha-Methylfentanyl.....1
Amphetamine.....25
Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.....50
Cannabis Resin or Hashish.....25
Cocaine.....25
D-Lysergic Acid.....2 pure or
Diethylamide/Lysergide/LSD.....200 dosage units
Dextropropoxyphene/Propoxyphene.....100
Diazepam.....50
Diethyltryptamine/DET.....50
Dimethyltryptamine/DMT.....50
Fentanyl.....2
Hashish Oil.....10
Heroin.....5
Hydrocodone/Dihydrocodeinone.....50
Hydromorphone/Dihydromorphinone.....25
Marijuana/Cannabis.....1500
Marijuana/Cannabis Plant.....50 plants
Meperidine/Pethidine.....100

Mescaline.....10
Methamphetamine…….....25
Methaqualone.....50
Morphine.....25
Mushrooms containing Psilocin and/or Psilocybin.....100
Opium.....100
Oxycodone.....25
Pentazocine.....50
Peyote.....100
Phencyclidine/PCP…….....5
Phentermine.....50
Phenylacetone PP.....25
Psilocin.....2
Psilocybin.....2
Tetrahydrocannabinol.....5
3-Methylfentanyl.....1
3,4-Methylene-dioxyamphetamine/MDA.....10
3,4-Methylene-dioxymethamphetamine/MDMA.....10

(b) Any reference to a particular controlled substance in this section includes all salts, isomers and all salts of isomers. Any reference to cocaine includes ecgonine and coca leaves, except extracts of coca leaves from which cocaine and ecgonine have been removed.
(c) The scale amounts for all controlled substances in this section refer to the total weight of the controlled substance. If any mixture of a compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be considered in measuring the quantity. If a mixture or compound contains a detectable amount of more than one controlled substance, the most serious controlled substance shall determine the categorization of the entire quantity.
(d) The provisions of this section shall not be applicable to crimes committed on or after July 1, 1993.
History: L. 1988, ch. 257, § 3; L. 1992, ch. 239, § 283; July 1, 1993.

65-4127f.
History: L. 1973, ch. 259, § 1; L. 1988, ch. 257, § 1; L. 1990, ch. 100, § 8; Repealed, L. 1991, ch. 85, § 5; May 2.

65-4127g.
History: L. 1973, ch. 259, § 2; L. 1974, ch. 258, § 9; L. 1980, ch. 100, § 3; L. 1982, ch. 269, § 8; L. 1986, ch. 241, § 4; L. 1986, ch. 243, § 1; L. 1987, ch. 244, § 4; L. 1987, ch. 245, § 1; L. 1988, ch. 257, § 2; L. 1989, ch. 200, § 5; L. 1990, ch. 100, § 9; L. 1991, ch. 85, § 5; Repealed, L. 1991, ch. 199, § 7; April 25.

65-4128. Penalties in addition to remedies under other laws. Any penalty imposed for violation of this act is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.
History: L. 1972, ch. 234, § 28; July 1.

65-4129.
History: L. 1972, ch. 234, § 29; Repealed, L. 1992, ch. 298, § 97; July 1, 1993.

65-4130. Enforcement. It is hereby made the duty of the state board of pharmacy and its duly authorized officers, agents, inspectors and representatives, and all law enforcement officers within the state, all county attorneys, the attorney general and the secretary of health and environment to enforce all provisions of this act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic, hypnotic, somnifacient or stimulating drugs.
History: L. 1972, ch. 234, § 30; L. 1975, ch. 462, § 105; July 1.

65-4131. Inspection. The board and its duly authorized agents and employees may inspect controlled premises and practitioners' offices during business hours and in a lawful manner upon presenting appropriate credentials for the purpose of examining:
(a) Any books, inventories, records or other documents required to be kept by a registrant under the provisions of this act or regulations issued pursuant thereto;
(b) all pertinent equipment, finished and unfinished material, containers and labeling found therein and, all other things therein, including but not limited to processes, controls and facilities; and
(c) inventory any stock of any controlled substance therein and obtain samples thereof upon payment therefor.
History: L. 1972, ch. 234, § 31; July 1.

65-4132. Injunctions. The district courts of the state shall have jurisdiction in proceedings in accordance with the rules of civil procedure to enjoin violations of this act.
History: L. 1972, ch. 234, § 32; July 1.

65-4133. Search warrant procedure. A search warrant relating to offenses involving controlled substances shall be issued in accordance with the provisions of the Kansas code of criminal procedure.
History: L. 1972, ch. 234, § 33; July 1.

65-4134. Identity of patient or research subject of practitioner confidential. A practitioner engaged in medical practice or research or a mid-level practitioner acting in the usual course of such mid-level practitioner's practice is not required or compelled to furnish the name or identity of a patient or research subject to the board, nor may such practitioner or mid-level practitioner be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner or mid-level practitioner is obligated to keep confidential.
History: L. 1972, ch. 234, § 34; L. 1999, ch. 115, § 16; Apr. 1, 2000.

65-4135.
History: L. 1972, ch. 234, § 35; L. 1984, ch. 237, § 3; L. 1986, ch. 243, § 2; L. 1987, ch. 114, § 2; L. 1988, ch. 258, § 1; L. 1990, ch. 232, § 1; L. 1993, ch. 141, § 1; Repealed, L. 1994, ch. 339, § 28; July 1.

65-4136.
History: L. 1972, ch. 234, § 36; L. 1988, ch. 258, § 2; Repealed, L. 1994, ch. 339, § 28; July 1.

65-4137. Pending proceedings. (a) Prosecution for any violation of law similar to one set out in K.S.A. 65-4124 to 65-4126, inclusive, occurring prior to the effective date of this act is not affected or abated by this act. A violation of law is committed prior to the effective date of this act if any of the essential elements of the violation occurred before that date. Prosecutions for prior violations of law shall be governed, prosecuted and punished under the laws existing at the time such violations of law were committed;

(b) civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this act shall not be affected by this act;
(c) the board shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled substance prior to the effective date of this act and who are registered or licensed by the state; and
(d) this act applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.
History: L. 1972, ch. 234, § 37; L. 1972, ch. 235, § 3; July 1.

65-4138. Medical care facility exemption. Nothing in this act shall be construed to prohibit a medical care facility licensed by the secretary of health and environment from keeping controlled items in a drug room of the medical care facility or supplying such controlled items in a drug room of the medical care facility or supplying such controlled items to its patients as provided under the provisions of K.S.A. 65-1648 and amendments thereto.
History: L. 1972, ch. 234, § 38; L. 1975, ch. 462, § 106; L. 1985, ch. 214, § 3; April 18.

65-4139. Citation of act. Article 41 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall be known and may be cited as the uniform controlled substances act.
History: L. 1972, ch. 234, § 39; L. 2009, ch. 32, § 56; July 1.

65-4140. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
History: L. 1972, ch. 234, § 40; July 1.

65-4141.
History: L. 1989, ch. 179, § 1; L. 1992, ch. 298, § 76; L. 1993, ch. 291, § 236; L. 1994, ch. 338, § 13; Repealed L. 2009; ch. 32, § 64; July 1.

65-4142.
History: L. 1992, ch. 298, § 84; L. 1993, ch. 291, § 251; L. 1996, ch. 257, § 1; Repealed L. 2009, ch. 32, § 64; July 1.

65-4143 to 65-4149. Reserved.

65-4150.
History: L. 1981, ch. 140, § 1; L. 2006, ch. 194, § 33; L. 2007, ch. 169, § 6; Repealed L. 2009, ch. 32, § 64; July 1.

65-4151.
History: L. 1981, ch. 140, § 2; L. 2006, ch. 211, § 9; L. 2007, ch. 169, § 7; Repealed L. 2009, ch. 32, § 64; July 1.

65-4152.
History: L. 1981, ch. 140, § 3; L. 1996, ch. 257, § 3; L. 1999, ch. 170, § 4; L. 2002, ch. 155, § 3; L. 2005, ch. 153, § 5; L. 2007, ch. 169, § 8; Repealed L. 2009, ch. 32, § 64; July 1.

65-4153.

History: L. 1981, ch. 140, § 4; L. 1987, ch. 246, § 2; L. 1993, ch. 291, § 237; L. 1996, ch. 257, § 4; L. 2007, ch. 169, § 9; Repealed L. 2009, ch. 32, § 64; July 1.

65-4154.
History: L. 1981, ch. 140, § 5; Repealed, L. 1992, ch. 298, § 97; July 1, 1993.

65-4155.
History: L. 1981, ch. 140, § 6; L. 1993, ch. 291, § 238; Repealed L. 2009, ch. 32, § 64; July 1.

65-4156.
History: L. 1981, ch. 140, § 7; L. 1988, ch. 258, § 3; Repealed, L. 1994, ch. 339, § 28; July 1.

65-4157. Severability of provisions of act. If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.
History: L. 1981, ch. 140, § 8; July 1.

65-4158.
History: L. 1990, ch. 100, § 11; Repealed L. 2009, ch. 32, § 64; July 1.

65-4159.
History: L. 1990, ch. 100, § 10; L. 1993, ch. 291, § 239; L. 1994, ch. 291, § 79; L. 1994, ch. 338, § 6; L. 1999, ch. 170, § 23; L. 2005, ch. 153, § 6; Repealed L. 2009, ch. 32, § 64; July 1.

65-4159a.
History: L. 2004, ch. 125, § 3; Repealed L. 2009, ch. 32, § 64; July 1.

65-4160.
History: L. 1994, ch. 291, § 85; L. 1994, ch. 338, § 1; L. 2003, ch. 135, § 7; Repealed L. 2009, ch. 32, § 64; July 1.

65-4161.
History: L. 1994, ch. 291, § 86; L. 1994, ch. 338, § 2; L. 2004, ch. 125, § 1; Repealed L. 2009, ch. 32, § 64; July 1.

65-4162.
History: L. 1994, ch. 291, § 87; L. 1994, ch. 338, § 3; L. 1995, ch. 218, § 2; L. 2000, ch. 108, § 5; Repealed L. 2009, ch. 32, § 64; July 1.

65-4163.
History: L. 1994, ch. 291, § 88; L. 1994, ch. 338, § 4; L. 2000, ch. 108, § 6; L. 2004, ch. 125, § 2; Repealed L. 2009, ch. 32, § 64; July 1.

65-4164.
History: L. 2002, ch. 166, § 1; Repealed L. 2009, ch. 32, § 64; July 1.

65-4166.
History: L. 2005, ch. 153, § 7; Repealed L. 2009, ch. 32, § 64; July 1.

65-4167. Trafficking in counterfeit drugs. (a) Trafficking in counterfeit drugs is intentionally manufacturing, distributing, dispensing, selling or delivering for consumption purposes, or holding or offering for sale, any counterfeit drug.
(b) Trafficking in counterfeit drugs which have a retail value of less than $500 is a class A nonperson misdemeanor, trafficking in counterfeit drugs which have a retail value of at least $500 but less than $25,000 is a severity level 9, nonperson felony and trafficking in counterfeit drugs which have a retail value of $25,000 or more is a severity level 7, nonperson felony.
(c) A pharmacy which is inadvertently in possession of counterfeit drugs may return those drugs to the supplier who provided the drugs to the pharmacy.
History: L. 2006, ch. 177, § 1; July 1.

65-4168.
History: L. 2007, ch. 91, § 1; Repealed L. 2009, ch. 32, § 64; July 1.

65-4168a.
History: L. 2007, ch. 169, § 10; Repealed L. 2009, ch. 32, § 64; July 1.

65-4169. Severability clause. The provisions of this act are declared to be severable and if any provision, word, phrase or clause of the act or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this act.
History: L. 2007, ch. 169, § 14; May 17.

65-4170. Reserved.

65-4171.
History: L. 1988, ch. 258, § 4; L. 1990, ch. 232, § 2; Repealed, L. 1994, ch. 339, § 28; July 1.

65-4172.
History: L. 1988, ch. 258, § 5; Repealed, L. 1994, ch. 339, § 28; July 1.

65-4173.
History: L. 1988, ch. 258, § 6; L. 1990, ch. 232, § 3; L. 1991, ch. 201, § 1; L. 1991, ch. 89, § 7; Repealed, L. 1994, ch. 339, § 28; July 1.

65-4174, 65-4175.
History: L. 1988, ch. 258, §§ 7, 8; Repealed, L. 1994, ch. 339, § 28; July 1.

Article 70.—Chemical Control

65-7001. Citation of act. K.S.A. 65-7001 through 65-7015 and amendments thereto shall be known and may be cited as the sheriff Matt Samuels chemical control act.
History: L. 1999, ch. 170, § 7; L. 2005, ch. 153, § 8; Apr. 21.

65-7002. Purpose of act. The purpose of the Kansas chemical control act is to prevent the illegal diversion of precursor chemicals by creating a system which will provide information regarding the distribution of regulated chemicals while protecting legitimate uses.
History: L. 1999, ch. 170, § 8; July 1.

65-7003. Definitions. As used in K.S.A. 65-7001 through 65-7015 and amendments thereto:
(a) "Act" means the Kansas chemical control act;
(b) "administer" means the application of a regulated chemical whether by injection, inhalation, ingestion or any other means, directly into the body of a patient or research subject, such administration to be conducted by:
(1) A practitioner, or in the practitioner's presence, by such practitioner's authorized agent; or
(2) the patient or research subject at the direction and in the presence of the practitioner;
(c) "agent or representative" means a person who is authorized to receive, possess, manufacture or distribute or in any other manner control or has access to a regulated chemical on behalf of another person;
(d) "bureau" means the Kansas bureau of investigation;
(e) "department" means the Kansas department of health and environment;
(f) "director" means the director of the Kansas bureau of investigation;
(g) "dispense" means to deliver a regulated chemical to an ultimate user, patient or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the regulated chemical for that delivery;
(h) "distribute" means to deliver other than by administering or dispensing a regulated chemical;

(i) "manufacture" means to produce, prepare, propagate, compound, convert or process a regulated chemical directly or indirectly, by extraction from substances of natural origin, chemical synthesis or a combination of extraction and chemical synthesis, and includes packaging or repackaging of the substance or labeling or relabeling of its container. The term excludes the preparation, compounding, packaging, repackaging, labeling or relabeling of a regulated chemical:

(1) By a practitioner as an incident to the practitioner's administering or dispensing of a regulated chemical in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to research, teaching or chemical analysis and not for sale;

(j) "person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity;

(k) "practitioner" means a person licensed to practice medicine and surgery, pharmacist, dentist, podiatrist, veterinarian, optometrist licensed under the optometry laws as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance;

(l) "regulated chemical" means a chemical that is used directly or indirectly to manufacture a controlled substance or other regulated chemical, or is used as a controlled substance analog, in violation of the state controlled substances act or this act. The fact that a chemical may be used for a purpose other than the manufacturing of a controlled substance or regulated chemical does not exempt it from the provisions of this act. Regulated chemical includes:

(1) Acetic anhydride (CAS No. 108-24-7);

(2) benzaldehyde (CAS No. 100-52-7);

(3) benzyl chloride (CAS No. 100-44-7);

(4) benzyl cyanide (CAS No. 140-29-4);

(5) diethylamine and its salts (CAS No. 109-89-7);

(6) ephedrine, its salts, optical isomers and salts of optical isomers (CAS No. 299-42-3), except products containing ephedra or ma huang, which do not contain any chemically synthesized ephedrine alkaloids, and are lawfully marketed as dietary supplements under federal law;

(7) hydriodic acid (CAS No. 10034-85-2);

(8) iodine (CAS No. 7553-56-2);

(9) lithium (CAS No. 7439-93-2);

(10) methylamine and its salts (CAS No. 74-89-5);

(11) nitroethane (CAS No. 79-24-3);

(12) chloroephedrine, its salts, optical isomers, and salts of optical isomers (CAS No. 30572-91-9);

(13) phenylacetic acid, its esters and salts (CAS No. 103-82-2);

(14) phenylpropanolamine, its salts, optical isomers, and salts of optical isomers (CAS No. 14838-15-4);

(15) piperidine and its salts (CAS No. 110-89-4);

(16) pseudoephedrine, its salts, optical isomers, and salts of optical isomers (CAS No. 90-82-4);

(17) red phosphorous (CAS No. 7723-14-0);

(18) sodium (CAS No. 7440-23-5); and

(19) thionylchloride (CAS No. 7719-09-7);

(20) gamma butyrolactone (GBL), including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone; CAS No. 96-48-0; and

(21) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol; CAS No. 110-63-4;
(m) "regulated chemical distributor" means any person subject to the provisions of the Kansas chemical control act who manufactures or distributes a regulated chemical;
(n) "regulated chemical retailer" means any person who sells regulated chemicals directly to the public;
(o) "regulated chemical transaction" means the manufacture of a regulated chemical or the distribution, sale, exchange or other transfer of a regulated chemical within or into the state or from this state into another state; and
(p) "secretary" means the secretary of health and environment.
History: L. 1999, ch. 170, § 9; L. 2000, ch. 69, § 1; L. 2001, ch. 171, § 6; July 1.

65-7004. Application of act. The provisions of this act shall not apply to: (a) A distribution of a regulated chemical to or by a common carrier for carriage in the lawful and usual course of the business of the common carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman;
(b) the lawful administering or dispensing of a regulated chemical by a licensed practitioner in the course of professional practice or research;
(c) the purchase, distribution or possession of a regulated chemical by a local, state or federal law enforcement agency while in the discharge of official duties unless the Kansas bureau of investigation properly notifies the local law enforcement agency relying on the exclusion that its investigatory activities are contrary to the public interest; or
(d) products containing ephedra or ma huang, which do not contain any chemically synthesized ephedrine alkaloids, and are lawfully marketed as dietary supplements under federal law.
History: L. 1999, ch. 170, § 10; L. 2003, ch. 124, § 11; July 1.

65-7005. Secretary; powers and duties; director; powers and duties. (a) The secretary is authorized and directed to:
(1) Adopt such rules and regulations, standards and procedures as may be necessary to carry out the purposes and provisions of this act;
(2) expend and authorize the expenditure of moneys from the chemical control act fund;
(3) report to the legislature on further assistance needed to administer the chemical control program;
(4) administer the chemical control program pursuant to provisions of this act;
(5) cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the duties under this act;
(6) issue such orders necessary to implement the provisions of this act, and enforce the same by all appropriate administrative and judicial proceedings;

(7) collect and disseminate information and conduct educational and training programs relating to the chemical control program;

(8) accept, receive and administer grants or other funds or gifts from public and private entities, including the federal government, for the purpose of carrying out the provisions of this act;

(9) enter into contracts and agreements with the director of the Kansas bureau of investigation, other government agencies or private entities as necessary to carry out the provisions of this act; and

(10) examine and copy records and other information.

(b) The secretary may request the attorney general to bring an action in district court to seize property contaminated with chemicals for purposes of disposal or to enforce any other provision of this act.

(c) The director is authorized to:

(1) Provide investigative assistance to the department of health and environment when requested by the secretary or the secretary's duly authorized agent;

(2) conduct civil actions necessary to seize chemicals or chemical-contaminated materials from alleged illegal drug manufacturing sites or to gain access to illegal drug manufacturing sites;

(3) serve as the single point of contact for screening alleged illegal drug manufacturing sites to determine if clean up or evaluation by a local health officer or the secretary is necessary;

(4) serve as the contact agency for conducting any clean up action necessary at an alleged illegal drug manufacturing site where the removal of floors, walls, furniture or soil is not required and where the contamination of groundwater has not occurred; and

(5) enter into any agreements with the secretary necessary to carry out the provisions of this act.

History: L. 1999, ch. 170, § 11; July 1.

65-7006.

History: L. 1999, ch. 170, § 12; L. 2002, ch. 155, § 4; L. 2005, ch. 153, § 3; L. 2006, ch. 194, § 34; L. 2007, ch. 169, § 13; Repealed, L. 2009, ch. 32, § 64; July 1.

65-7007. Regulated chemical distributor and retailer; submissions to bureau. (a) Each regulated chemical distributor and retailer shall submit to the bureau:

(1) Any regulated transaction involving an extraordinary quantity of a regulated chemical, an uncommon method of payment or delivery, or any other circumstance that may indicate that the regulated chemical will be used in violation of this act.

(2) Any proposed regulated transaction with a person whose description or other identifying characteristic the bureau has previously furnished to the regulated chemical distributor or retailer.

(3) Any unusual or excessive loss or disappearance of a regulated chemical under the control of the regulated chemical distributor or retailer. The regulated person responsible for reporting a loss in-transit is the distributor.

(b) Each report submitted pursuant to subsection (a), whenever possible shall be made orally to the bureau at the earliest practicable opportunity after the regulated chemical distributor or retailer becomes aware of the circumstances involved and as much in advance of the conclusion of the transaction as possible. Written reports of these transactions shall subsequently be filed within 15 days after the regulated chemical distributor or retailer becomes aware of the circumstances of the event. A transaction may not be completed with a person whose description or identifying characteristics have previously been furnished to the regulated distributor by the bureau unless the transaction is approved by the bureau.

(c) This section shall not apply to any of the following:

(1) Any pharmacist, pharmacy or other authorized person who sells or furnishes a substance listed in subsection (1) of K.S.A. 65-7003 and amendments thereto upon the prescription or order of a practitioner as defined under subsection (x) of K.S.A. 65-1626 and amendments thereto;

(2) any practitioner as defined under subsection (x) of K.S.A. 65-1626 and amendments thereto who administers, dispenses or furnishes a substance listed in subsection (1) of K.S.A. 65-7003 and amendments thereto to such patients within the scope of a practitioner's professional practice. Such administration or dispensing shall be in the patient record;

(3) an [any] sale, transfer, furnishing or receipt of any drug which contains any substance listed in subsection (1) of K.S.A. 65-7003 and amendments thereto and which is lawfully sold, transferred or furnished over-the-counter without a prescription pursuant to the federal food, drug and cosmetic act or regulations adopted thereunder; and

(4) a regulated chemical retailer who only sells or distributes regulated chemicals that are nonprescription, over-the-counter medicines with less than three grams of base ingredient in the package in the following manner:

(A) Blister packs of not more than two dosage units per blister;

(B) liquid cold or cough medicines;

(C) liquid cold or cough gel capsules; and

(D) nasal drops or sprays.

History: L. 1999, ch. 170, § 13; July 1.

65-7008. Information program for retailers. The bureau shall develop and maintain a program to inform retailers about the methamphetamine problem in Kansas and devise procedures and forms for retailers to use in reporting to the bureau suspicious purchases, thefts or other transactions involving any products under the retailer's control which contain a regulated chemical under the provisions of this act including, but not limited to, nonprescription, over-the-counter medicines described in subsection (c)(4) of K.S.A. 65-7007 and amendments thereto. Reporting by retailers as required by this section shall be voluntary. Retailers reporting information to the bureau in good faith pursuant to this section shall be immune from civil liability.

History: L. 1999, ch. 170, § 14; July 1.

65-7009. Orders subject to Kansas administrative procedure act; final action subject to act for judicial review and civil enforcement of agency actions. (a) Any order of the secretary issued pursuant to this act is subject to the provisions of the Kansas administrative procedure act.

(b) Any final action of the secretary pursuant to this section is subject to review in accordance with the Kansas judicial review act.

History: L. 1999, ch. 170, § 15; L. 2010, ch. 17; § 169; July 1.

65-7010. Civil penalties. (a) The secretary of the department of health and environment or the director of the division of environment, if designated by the secretary, upon a finding that a person has violated any provision of this act may impose a penalty not to exceed $25,000 which shall constitute an actual and substantial economic deterrent to the violation for which it is assessed and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section except after notice of violation and opportunity for hearing upon the written order of the secretary or the director of the division of environment, if designated by the secretary, to the person who committed the violation. The order shall state the violation, the penalty to be imposed and the right to appeal to the secretary for a hearing thereon. Any person may appeal an order by making a written request to the secretary for a hearing

within 15 days of service of such order. Proceedings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.
(c) Any sum assessed under this section shall be deposited in the chemical control fund.
(d) Any final action of the secretary pursuant to this section is subject to review in accordance with the Kansas judicial review act.
History: L. 1999, ch. 170, § 16; L. 2010, ch. 17, § 170. July 1.

65-7011. Liability; cleanup. (a) A person who violates any provisions of this act, shall, in addition to any other penalty provided by law, be liable for detection and investigation costs, the costs of the actual cleanup or attempted cleanup and for damages for injury to, or both, or destruction of any natural resources caused by chemicals at the site.
(b) A civil action under this section may be commenced in the name of the state by the attorney general in the county in which the violation is alleged to have occurred.
(c) Any sum assessed under this section shall be deposited in the chemical control fund.
History: L. 1999, ch. 170, § 17; July 1.

65-7012. Chemical control fund; revenues; expenditures. (a) There is established a fund in the treasury entitled the chemical control fund.
(b) Revenues from the following sources shall be deposited in the state treasury and credited to the fund:
(1) Moneys received by the secretary in the form of grants, gifts, bequests, reimbursements, or appropriations from any source intended to be used for the purposes of the fund;
(2) interest attributable to the investment of moneys in the fund; and
(3) moneys collected under K.S.A. 65-7010 and 65-7011 and amendments thereto.
(c) Moneys in the chemical control fund can only be expended directly or through contracts for the costs of:
(1) Administration and enforcement of the provisions of this act;
(2) contracting for services needed to supplement the department's staff in alleged illegal drug manufacturing site clean ups;
(3) consultation needed concerning alleged illegal drug manufacturing site clean ups;
(4) activities to address immediate or emergency threats to human health or the environment related to alleged illegal drug manufacturing sites; and
(5) development of educational materials and programs for informing the regulated community and the public about illegal drug manufacturing issues.
(d) On or before the 10th of each month following the month in which moneys are deposited into the chemical control fund, and thereafter on or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the chemical control fund interest earnings based upon:
(1) The average daily balance of moneys in the chemical control fund for the preceding month; and
(2) the net earnings rate of the pooled money investment portfolio for the preceding month.
(e) All expenditures from the 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 secretary for the purposes set forth in this section.
(f) Moneys from the fund shall not supplant any other local, state or federal funds unless the secretary finds that it is in the best interests of the state to supplant such other funds and to make expenditures from the fund in a more timely manner to investigate or clean up chemicals, chemical-contaminated materials, soil or groundwater resulting from an alleged illegal drug manufacturing site or an arrest made pursuant to the Kansas chemical control act, to conduct any other clean up action necessary at an

alleged illegal drug manufacturing site, or to abate any imminent and substantial danger to public health or safety or to the environment related to a release from an illegal drug manufacturing site.
History: L. 1999, ch. 170, § 18; L. 2001, ch. 156, § 1; July 1.

65-7013. Secretary; investigation and cleanup; liability; inspections. (a) The secretary is authorized to:

(1) Develop a contract with a hazardous waste response contractor for joint use by the Kansas department of health and environment and the Kansas bureau of investigation to conduct investigation and cleanup of chemicals, chemical-contaminated materials, soil, or groundwater resulting from an illegal drug manufacturing site or from an arrest made pursuant to the provisions of this act;

(2) authorize any person to carry out any clean up action in accordance with the directions or requirements of the secretary, if the secretary determines that the person will commence and complete the clean up properly and in a timely manner;

(3) undertake directly or by contract any cleanup action necessary at an alleged illegal drug manufacturing site including the cleanup, storage and disposal of chemicals and chemical contaminated materials located at an alleged illegal drug manufacturing site;

(4) to abate any imminent and substantial danger to the public health, safety or the environment related to a release from an illegal drug manufacturing site;

(5) direct or authorize a person responsible for creating an illegal drug manufacturing site as defined in subsection (b) to conduct a cleanup or perform any related actions;

(6) recover moneys expended by the state responding to alleged illegal drug manufacturing sites from persons responsible for creating such sites;

(7) examine and copy records and other information;

(8) enter into any agreements with the director necessary to carry out the provisions of this act; and

(9) request the attorney general to bring an action in any district court to seize property contaminated with chemicals for purposes of clean up, disposal or to enforce any other provision of this act.

(b) The following persons shall be considered responsible for creating an alleged illegal drug manufacturing site and shall be jointly and severally liable for those cleanup costs incurred by the state and for damages for injury to or destruction of any natural resources caused by chemicals at the site:

(1) Any person operating an alleged illegal drug manufacturing site;

(2) any owner or operator of an alleged illegal drug manufacturing site who obtained actual knowledge of the alleged illegal drug manufacturing site or damages caused by the site who failed to contact appropriate federal, state or local law enforcement authorities regarding the presence of the site; and

(3) any person who, by any acts or omissions, caused or contributed to the alleged illegal drug manufacturing site, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

(c) Except as otherwise provided in subsection (d), the following persons shall not be considered responsible for creating an alleged illegal drug manufacturing site and shall not be liable for those cleanup costs incurred by the state:

(1) Any owner or operator who became the owner or operator after the creation of the alleged illegal drug manufacturing site who did not know and reasonably should not have known of the damages when the person first became the owner or operator;

(2) a unit of state or local government that acquired ownership or control of a site by virtue of tax delinquency, abandonment, exercise of eminent domain authority, forfeiture, purchase or condemnation;

(3) any person who is not otherwise responsible under subsection (b) who acquired a site by inheritance or bequest;

(4) a local government as a result of actions taken in response to an emergency created by the chemicals at or generated by or from an alleged illegal drug manufacturing site owned by another person; and

(5) manufacturers, distributors, and retailers who are registered with the state board of pharmacy and acted or failed to act without knowledge of the existence of an illegal drug manufacturing site or without the intent to furnish supplies to an illegal drug manufacturing site.

(d) Notwithstanding the exclusions provided in subsection (c) of this section, such persons shall be liable for cleanup costs incurred by the state to the extent that the person's acts or omissions constituted gross negligence or intentional misconduct.

(e) If any person who is liable under subsection (b) of this section fails without sufficient cause to conduct a cleanup action as required by an order of the secretary, the person shall be liable for the state's cleanup costs.

(f) A local health officer, upon notification by the department or the bureau of the existence of an alleged illegal drug manufacturing site, is authorized to cause an inspection of the property to be conducted to determine the extent of contamination. In those cases where the local health officer does not have the resources or expertise to conduct such an inspection, the secretary is authorized to conduct the inspection.

(g) If the local health officer or the secretary determines that the property where the alleged illegal drug manufacturing site exists is unfit for use due to the extent of contamination, the local health officer or the secretary is empowered to post an order prohibiting use of all or portions of the property. The posting shall be in a conspicuous place on the property.

(h) In those cases where a person responsible for creating an alleged illegal drug manufacturing site fails to conduct a cleanup of the site within 60 days of discovery of the site by federal, state or local law enforcement officials, the secretary is authorized to record, in accordance with Kansas law, a notice with the county register of deeds where the property is located that the land has been used to manufacture illegal drugs and that the property contains chemical contamination that may be harmful to the public health, safety or the environment. A notice of release shall be filed upon a showing to the department that the property is no longer harmful to the public health, safety and the environment.

(i) Notwithstanding any other provision of law, the State of Kansas, the department of health and environment and the Kansas bureau of investigation and their officers, employees and agents shall not be liable to a person possessing or owning chemicals located at an alleged illegal drug manufacturing site for any claims or actions arising from the identification, cleanup, storage or disposal of such chemicals by the department.

(j) Upon request of the law enforcement agency in charge after determination of the existence of an alleged illegal drug manufacturing site, any authorized officer, employee or agent of the department or any person under contract with the department may enter onto the premises of any alleged illegal drug manufacturing site, at reasonable times to review information, inspect, examine or gather data, conduct investigations, take remedial or other action where the secretary determines that such action is necessary to protect the public health or the environment.

History: L. 1999, ch. 170, § 19; July 1.

65-7014. Seizure and forfeiture. (a) All regulated chemicals which have been or are intended to be manufactured, provided, sold, furnished, transferred, delivered, or possessed in violation of this act shall be deemed contraband, and may be seized and summarily forfeited to the state.

(b) A violation of this act shall constitute conduct giving rise to forfeiture pursuant to the Kansas standard asset forfeiture act K.S.A. 60-4101 et seq. and amendments thereto. When property is forfeited pursuant to a violation of the Kansas chemical control act, the department shall sell all property not destroyed pursuant to subsection (a)(2) of K.S.A. 60-4117 and amendments thereto at public sale to the highest bidder for cash without appraisal. The proceeds of any sale shall be credited

to the cleanup account which is hereby created in the chemical control fund. Moneys in such account can only be expended directly or through contracts for the costs of drug manufacturing site clean ups.
History: L. 1999, ch. 170, § 20; July 1.

65-7015. Severability clause. If any provisions of this act or its application to any person or circumstances are held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
History: L. 1999, ch. 170, § 21; July 1.

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IV: Controlled Substances Act-Regulations

Article 20: Controlled Substances

68-20-1 Definitions. The following terms in this regulation shall have the meanings specified:
(a) "Act" means the uniform controlled substances act of Kansas, K.S.A. 65- 4101, et seq., and amendments thereto;
(b) "Basic class" means, as to controlled substances listed in schedules I and II:
(1) each of the opiates, including its isomers, esters, ethers, and salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation listed in K.S.A. 65-4105(b) and amendments thereto;
(2) each of the opium derivatives, including its salts and isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation listed in K.S.A. 65- 4105(c) and amendments thereto;
(3) each of the hallucinogenic substances, including its salts and isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation listed in K.S.A. 65-4105(d) and amendments thereto;
(4) each of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
(A) opium, including raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium, deodorized opium and tincture of opium;
(B) apomorphine;
(C) codeine;
(D) ethylmorphine;

(E) hydrocodone;
(F) hydromorphone;
(G) metopon;
(H) morphine;
(I) oxycodone;
(J) oxymorphone;
(K) thebaine;
(L) mixed alkaloid of opium listed in K.S.A. 65-4107(b)(1) and amendments thereto;
(M) cocaine; and
(N) ecgonine;

(5) each of the opiates, including its isomers, esters, ethers, and salts, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation listed in K.S.A. 65-4107(c) and amendments thereto;

(6) methamphetamine, including its salts, isomers, and salts of isomers, when contained in any injectable liquid;

(7) amphetamine, its salts, optical isomers and salts of its optical isomers;

(8) phenmetrazine and its salts; and

(9) methylphenidate.

(c) "Controlled premises" means:

(1) places where original or copies of records or documents required under the act are kept or required to be kept; and

(2) places where persons who are registered under the act or who are exempted from registration under the act may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances. Such places shall include factories, warehouses, establishments and conveyances.

(d) "Secretary" means the executive secretary of the state board of pharmacy of the state of Kansas.

(e) "Prescription" means an order for medication which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user. An order for a single dose of a drug for immediate administration to a bed patient in a medical care facility shall not be construed to be a prescription.

(f) "Register" and "registration" mean only registration required and permitted under the controlled substances act. K.S.A. 65-4117.

(g) "Registrant" means any person who is registered pursuant to the act K.S.A. 65-4117.

(h) "Bureau" and "BNDD" mean the bureau of narcotics and dangerous drugs.

(i) "Preceptor" means a licensed pharmacist who has been approved, by the board, for the supervision of students who are securing the pharmaceutical experience required by law as a condition precedent to taking the examination for licensure as a pharmacist.

(j) Any term not defined in this regulation shall have the meaning as set forth in the act. To the extent definitions are not in conflict with any provision of the act, terms shall also have the meanings set forth in the pharmacy act of the state and Kansas and amendments thereto.

(k) This regulation shall be effective on May 1, 1989.

(Authorized by K.S.A. 65-4102; implementing K.S.A. 65-4101; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1985; amended May 1, 1989.)

68-20-2 to 68-20-4 Revoked.

(Authorized by K.S.A. 65-4102; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; revoked May 1, 1983.)

68-20-5 Revoked.

(Authorized by K.S.A. 1977 Supp. 65-4115; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; revoked May 1, 1983.)

68-20-6 Revoked.
(Authorized by K.S.A. 1977 Supp. 65-4115; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended, E-77-42, Sept. 9, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

68-20-7 Revoked.
(Authorized by K.S.A. 65-4102; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; revoked May 1, 1983.)

68-20-8 Revoked.
(Authorized by K.S.A. 1976 Supp. 65-4102; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; revoked, E-77-42, Sept. 9, 1976; revoked Feb. 15, 1977.)

68-20-8a Revoked.
(Authorized by K.S.A. 1977 Supp. 65-4115; effective May 1, 1978; revoked May 1, 1983.)

68-20-8b and 68-20-8c Revoked.
(Authorized by K.S.A. 1976 Supp. 65-4115; effective, E-77-42, Sept. 9, 1976; effective Feb. 15, 1977; rejected, L. 1977, ch. 320, May 13, 1977.)

68-20-9 Fees for registration and reregistration. (a) Fee amounts.

(1) For each registration or reregistration of a manufacturer for each additional location in this state where controlled substances are manufactured, the registrant shall pay a fee of $50.00.

(2) For each registration or reregistration of each additional location from which controlled substances are distributed, the registrant shall pay a fee of $50.00.

(3) For each registration or reregistration of each location within this state where research or instructional activities are conducted with controlled substances listed in schedules I through V, the registrant shall pay a fee of $50.00.

(4) For each registration or reregistration to conduct chemical analysis with controlled substances listed in schedules I through V, as set out in K.S.A. 65-4105, K.S.A. 65-4107, K.S.A. 65-4109, K.S.A. 65-4111, K.S.A. 65- 4113 and amendments thereto, within this state, the registrant shall pay a fee of $50.00.

(b) Time and method of payment; refund.

(1) Registration and reregistration fees shall be paid at the time the application for registration or reregistration is submitted for filing.

(2) Payment shall be made in the form of a personal, certified, cashier's check or a money order payable to the state board of pharmacy.

(3) Payments made in the form of stamps, foreign currency or third party endorsement checks shall not be accepted.

(4) If the application is not accepted for filing or is denied, all payments made under paragraphs (1) through (4) of subsection (a) shall be refunded to the applicant.

(c) Exemptions from fees in paragraphs (1) through (4) of subsection (a).

(1) Any official or agency of the U.S. army, navy, marine corps, air force, coast guard, veteran's administration, or public health service authorized to procure or purchase controlled substances for official use shall be exempted by the board from the fees set forth in subsection (a), paragraphs (1) through (4).

(2) Any official, employee, or other civil service or agency of the United States, or any state, or any political subdivision or agency thereof, authorized to dispense or administer such substances, to conduct research, instructional activities, or chemical analysis with such substances, or any combination thereof, in the course of the official duties of employment, may be exempted by the board from the fees in subsection (a), paragraphs (1) through (4).

(d) In order to claim exemption from payment of a registration or reregistration fee, the registrant shall have completed the certification on the appropriate application forms. The registrant's superior shall certify the status and address of the registrant and shall certify to the authority of the registrant to acquire, possess, or handle controlled substances.

(e) Exemption from the payment of a registration or reregistration fee shall not relieve the registrant of any other requirements or duties prescribed by law.

(Authorized by and implementing K.S.A. 65-4116; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1983; amended May 1, 1986; amended June 6, 1994.)

68-20-10 Requirements of registration. (a) Persons required to register. Every person who manufactures, distributes, or dispenses any controlled substances within this state, or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance in this state shall obtain annually a registration unless exempted by law or pursuant to subsections (d) through (g) of this regulation. Only persons actually engaged in these activities in this state shall be required to obtain a registration.

(b) Separate registration for independent activities.

(1) The following six groups of activities shall be deemed to be independent of each other:

(A) Manufacturing controlled substances;

(B) distributing controlled substances;

(C) dispensing, conducting research, other than research described in paragraph (b)(1)(D), with, and conducting instructional activities with, controlled substances listed in schedules II through V;

(D) conducting research with narcotic drugs listed in schedules II through V for the purpose of continuing the dependence on these drugs of a narcotic drug-dependent person in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program pursuant to a notice of claimed investigational exemption for a new drug approved by the food and drug administration;

(E) conducting research and instructional activities with controlled substances listed in schedule I; and

(F) conducting chemical analysis with controlled substances listed in any schedule.

(2) Every person who engages in more than one group of independent activities shall obtain a separate registration for each group of activities, except as provided in this subsection (b). Any person, when registered to engage in the group of activities described in each paragraph in this subsection, shall be authorized to engage in the coincident activities described in that paragraph without obtaining a registration to engage in such coincident activities if, unless specifically exempted, the person complies with all requirements and duties prescribed by law for the following persons registered to engage in the coincident activities:

(A) A person registered to manufacture any controlled substance or basic class of controlled substance shall be authorized to distribute that substance or class, but no other substance or class that the person is not registered to manufacture.

(B) A person registered to manufacture any controlled substance listed in schedules II through V shall be authorized to conduct chemical analysis and preclinical research, including quality control analysis, with narcotic and nonnarcotic controlled substances listed in those schedules in which the person is authorized to manufacture.

(C) A person registered to conduct research with a basic class of controlled substances listed in schedule I shall be authorized to manufacture this class if and to the extent that the manufacture is set forth in the research protocol filed with the application for registration and to distribute this class to other persons registered to conduct research with this class or to conduct chemical analysis.

(D) A person registered to conduct chemical analysis with controlled substances shall be authorized to perform the following:

(i) Manufacture and import these substances for analytical or instructional purposes;

(ii) distribute these substances to other persons registered to conduct chemical analysis or instructional activities, to persons registered or authorized to conduct research with these substances, and to persons exempted from registration pursuant to subsection (c);

(iii) export these substances to persons in other countries performing chemical analysis or enforcing laws relating to controlled substances or drugs in those countries; and

(iv) conduct instructional activities with controlled substances.

(E) A person registered or authorized to conduct research, other than the research described in paragraph (b)(2)(C), with controlled substances listed in schedules II through V shall be authorized to perform the following:

(i) Conduct chemical analysis with controlled substances listed in those schedules in which the person is authorized to conduct research to manufacture is set forth in a statement filed with the application for registration;

(ii) distribute these substances to other persons registered or authorized to conduct chemical analysis, instructional activities, or research with these substances and to persons exempted from registration pursuant to subsection (c); and

(iii) conduct instructional activities with controlled substances.

(F) A person registered to dispense under the pharmacy act, or to conduct research, other than research described in paragraph (b)(2)(D), with controlled substances listed in schedules II through V shall be authorized to dispense and to conduct research and to conduct instructional research with those substances.

(3) A single registration to engage in any group of independent activities may include one or more controlled substances listed in the schedules authorized in that group of independent activities. A person registered to conduct research with controlled substances listed in schedule I may conduct research with any substance listed in schedule I for which the person has filed and had approved a research protocol.

(c) Separate registrations for separate locations.

(1) A separate registration shall be required for each principal place of business or professional practice at one general physical location where controlled substances are manufactured, distributed, or dispensed by a person.

(2) The following locations shall be deemed not to be places where controlled substances are manufactured, distributed, or dispensed:

(A) A warehouse where controlled substances are stored by or on behalf of a registered person, unless these substances are distributed directly from the warehouse to registered locations other than the registered location from which the substances were delivered or to persons not required to register by virtue of the pharmacy act, K.S.A. 65-4116 and amendments thereto;

(B) an office used by agents of a registrant where sales of controlled substances are solicited, made, or supervised but which neither contains these substances, other than substances for display purposes only, nor serves as a distribution point for filling sales orders; and

(C) an office used by a practitioner or mid-level practitioner who is registered at another location where controlled substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner or mid-level practitioner at this office, and where no supplies of controlled substances are maintained.

(d) Exemption of agents and employees; affiliated practitioners.

(1) Practitioners, mid-level practitioners, pharmacists, and other persons required to register under this act shall not be exempt from registration because of their status as an agent or employee of a person who is already registered to engage in any group of independent activities. The requirements of registration, however, shall be waived for any agent or employee of a person who is registered to engage in any group of independent activities, if the agent or employee is acting in the usual course of his business or employment.

(2) A practitioner who is an intern, resident, or foreign physician or medical graduate may dispense and prescribe controlled substances under the registration of the hospital or other institution that is registered and by whom the person is employed if all of the following conditions are met:

(A) The practitioner is authorized or permitted to do so by the laws of the state of Kansas.

(B) The dispensing or prescribing is done in the usual course of the practitioner's professional practice.

(C) The hospital or other institution by whom the person is employed has determined that the practitioner is permitted to dispense or prescribe drugs by the state of Kansas.

(D) The practitioner is acting only within the scope of employment in the hospital or institution.

(E) The hospital or other institution authorizes the intern, resident, or foreign physician or medical graduate to dispense or prescribe under the hospital registration and designates a specific internal registration code number for each intern, resident, or foreign physician or medical graduate so authorized. The code number shall consist of numbers, letters, or a combination of both and shall be a suffix to the institution's drug enforcement administration registration number, preceded by a hyphen.

(F) A current list of internal codes and the corresponding practitioners is kept by the hospital or other institution, and an updated copy is on file with the state board of pharmacy of the state of Kansas for the purposes of verifying the authority of the prescribing practitioner.

(e) Exemption of certain military and other personnel.

(1) The requirement of registration shall be waived for any official of the U.S. army, navy, marine corps, air force, coast guard, or public health service who is authorized to prescribe, dispense, or administer, but not to procure or purchase, controlled substances in the course of official duties. These officials shall follow the procedures set forth in K.A.R. 68-20-18, 68- 20-19, 68-20-20, and 68-20-21, but shall state the branch of service or agency and the service identification number of the issuing official in lieu of the registration number required on prescription forms. The service identification number for a public health service employee is the person's social security identification number.

(2) If any official exempted by this subsection also engages as a private individual in any activity or group of activities for which registration is required, the official shall obtain a registration for these private activities.

(f) Exemption of law enforcement officials.

(1) The requirement of registration shall be waived for the following persons in the circumstances described in this subsection:

(A) Any officer or employee of the bureau, any officer of the U.S. bureau of customs, any officer or employee of the United States food and drug administration, and any other federal officer who is lawfully engaged in the enforcement of any federal law relating to controlled substances, drugs, or customs, and is duly authorized to possess controlled substances in the course of official duties; and

(B) any officer or employee of the state of Kansas, or any political subdivision or agency thereof, who is engaged in the enforcement of Kansas law or local law relating to controlled substances and is duly authorized to possess controlled substances in the course of official duties.

(2) Any official exempted by this subsection may, when acting in the course of official duties, possess any controlled substance and distribute any such substance to any other official who is also exempted by this subsection and acting in the course of official duties.

(3) Any official exempted by this subsection may procure any controlled substance in the course of an inspection, in accordance with the controlled substances act, K.S.A. 65-4131(c) and amendments thereto, or in the course of any criminal investigation involving the person from whom the substance was procured.

(4) In order to enable law enforcement agency laboratories to obtain and transfer controlled substances for use as standards in chemical analysis, these laboratories shall obtain annually a registration to conduct chemical analysis. These laboratories shall be exempted from payment of a fee for registration. Laboratory personnel, when acting in the scope of their official duties, shall be deemed to be officials exempted by this subsection and within the activities described in the controlled substances act, K.S.A. 65-4115 and amendments thereto. For purposes of this subsection, laboratory activities shall not include field or other preliminary chemical tests by officials exempted by this subsection.

(g) Exemption of civil defense officials.

(1) The requirement of registration shall be waived for any official of a civil defense or disaster relief organization who, in the course of official duties, is authorized to perform either of the following:

(A) Maintain, and distribute for maintenance, controlled substances held for emergency use; or

(B) procure controlled substances for the purposes of maintaining supplies for emergency use, if all procurement is from the U.S. general services administration and in accordance with the rules of the U.S. office of emergency preparedness.

(2) The requirement of registration shall be waived for any official of a civil defense or disaster relief organization during a state of emergency or disaster within the official's jurisdiction proclaimed by the president or by a concurrent resolution of the congress, which official, in the course of official duties during this emergency or disaster, is authorized to perform either of the following:

(A) Dispense controlled substances; or

(B) procure or distribute controlled substances, if all procurement is on a special "civil defense emergency order form," as described in this subsection.

(3) Civil defense emergency order forms shall be furnished by the U.S. office of emergency preparedness and shall contain the name of the civil defense or disaster relief organization. These forms may be used and shall be valid only during a state of emergency disaster proclaimed by the president or by a concurrent resolution of the congress for the area in which the organization using the forms has civil defense or disaster relief jurisdiction, who shall state the position and the nature and legal designation of the emergency or disaster. These forms may be filled by any person registered under the controlled substances act. The organization shall, upon the execution of a civil defense emergency order form, be deemed to be registered under the controlled substances act for purposes of record keeping pursuant to K.A.R. 68-20-16.

(Authorized by K.S.A. 65-4116, as amended by L. 1999, Ch. 149, Sec. 9; implementing K.S.A. 65-4116, as amended by L. 1999, Ch. 149, Sec. 9, 65-4131; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended Dec. 27, 1999.)

68-20-10a Electronic transmission of a controlled substance prescription. (a) Each prescription drug order transmitted electronically shall be issued for a legitimate medical purpose by a prescriber acting within the course of legitimate professional practice.

(b) Each prescription drug order communicated by way of electronic transmission shall fulfill all the requirements of K.A.R. 68-2-22.
(c) If communicated by electronic transmission, the prescription drug order shall be maintained in hard copy for the time required by existing federal and state laws and regulations.
(d) A prescription drug order, including that for any controlled substance listed in schedules III, IV, and V, and in certain situations, that for any controlled substance listed in schedule II, may be communicated by electronic transmission.
(e) The electronic transmission of a prescription drug order for any schedule II controlled substance shall meet these requirements:

(1) A prescription drug order for any schedule II controlled substance may be communicated by the prescriber or that prescriber's designated agent by way of electronic transmission, if the original, written, signed prescription drug order is presented to the pharmacist for review before the actual dispensing of the controlled substance, except as noted in this subsection.

(2) A prescription drug order for any schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be communicated by the prescriber or that prescriber's designated agent to the pharmacy by way of electronic transmission. The hard copy of this electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and the hard copy shall be maintained as such.

(3) A prescription drug order for any schedule II controlled substance for a resident of a nursing facility, a nursing facility for mental health, or an assisted living facility may be communicated by the prescriber or that prescriber's designated agent by way of electronic transmission. The hard copy of this electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and the hard copy shall be maintained as such.

(4) A prescription drug order for any schedule II controlled substance for a patient released by a registered institution to a home hospice setting that continues to provide daily skilled nursing care to the home hospice setting may be transmitted by the prescriber or that prescriber's designated agent by way of electronic transmission to the dispensing pharmacy. The hard copy of this electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and the hard copy shall be maintained as such.

(5) In the case of an emergency situation, a prescription drug order for any schedule II controlled substance may be communicated by the prescriber by way of electronic transmission, if the following requirements are met:

(A) The quantity prescribed and dispensed shall be limited to the amount adequate to treat the patient during the emergency period. Dispensing beyond the emergency period shall be pursuant to a written prescription drug order signed by the prescriber.

(B) After the pharmacist views the prescription drug order, this order shall be immediately reduced to a hard copy and shall contain all information required by federal and state laws and regulations.

(C) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order communicated by way of electronic transmission, consistent with existing federal and state laws and regulations.

(D) (i) Within seven days after authorizing an emergency prescription drug order, the prescriber shall cause a written prescription drug order for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to all other federal and state laws and regulations, the prescription drug order shall have written on its face "authorization for emergency dispensing" and the date of the transmitted prescription drug order.

(ii) The written prescription drug order shall be delivered to the pharmacist in person within seven days of authorization, or if delivered by mail, the order shall be postmarked within the seven-day period.

(iii) Upon receipt, the dispensing pharmacist shall attach this written prescription drug order to the hard copy of the electronically transmitted prescription drug order. The pharmacist shall notify the nearest office of the U.S. drug enforcement administration (DEA) if the prescriber fails to deliver a written prescription drug order.

(f) Each electronic prescription drug order created and transmitted in conformance with 21 CFR part 1311 shall be considered an original, written signed prescription drug order even if the order is transmitted electronically.

(Authorized by and implementing K.S.A. 65-1630, K.S.A. 2009 Supp. 65- 1642, K.S.A. 2009 Supp.. 65-4102, and K.S.A. 65-4123; effective Feb. 5, 1999; amended April 2010; amended May 20, 2011.)

68-20-11 Applications for registration. (a) The expiration date of all registrations shall be the last day of June in each year.

(b) Each application for the following types of registration shall include the controlled substances code number for each basic class or substance to be covered by the registration:

(1) Registration to handle any basic class of controlled substances listed in schedule I, except registration to conduct chemical analysis with such classes;

(2) registration to manufacture a basic class of controlled substances listed in schedules II through V; and

(3) registration to conduct research with any narcotic controlled substance in schedules II through V.

(c) Each application, attachment, or other document filed as part of an application, shall be signed by:

(1) the applicant, if an individual;

(2) the authorized representative, if the registration is for a location;

(3) a partner of the applicant, if a partnership; or

(4) by an officer of the applicant, if a corporation, corporate division, association, trust or other entity.

(d) Any applicant may authorize one or more individuals to sign applications for the applicant or location by filing, with the executive secretary of the board, a power of attorney for each such individual. The power of attorney shall contain the signature of the individual who shall be authorized to sign applications pursuant to that power of attorney. The power of attorney shall be valid until revoked by the applicant.

(e) Any person required to obtain more than one registration may submit all applications in one package. Each application shall be completed and should not refer to any accompanying application for required information.

(f) Applications submitted for filing shall be dated upon receipt. Completed applications shall be accepted for filing. If completed with only minor defects, the board may accept the application for filing and send a request to the applicant for additional information. A defective application shall be returned to the applicant within 10 days following its receipt with a statement of the reason for refusal to accept the application for filing. A defective application may be corrected and resubmitted for filing at any time.

(g) Additional information. The board may require any applicant or the applicant's authorized representative to submit such documents or written statements of fact relevant to the application as it deems necessary to determine whether the application should be granted. The failure of the applicant or authorized representative to provide the documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver of an opportunity to present the documents or facts for consideration by the board in granting or denying the application.
(h) Amendments to and withdrawal of applications.

(1) Any application may be amended or withdrawn without permission of the board at any time before the date on which the applicant or the applicant's authorized representative receives an order to show cause pursuant to K.S.A. 65-4119. Any application may be amended or withdrawn with permission of the board at any time good cause is shown by the applicant or the applicant's authorized representative, or when the amendment or withdrawal is in the public interest.

(2) After an application has been accepted for filing, a request by the applicant or the applicant's authorized representative for return of the application or failure of the applicant or authorized representative to respond to official correspondence regarding the application, when sent by registered or certified mail, return receipt requested, shall be deemed to be a withdrawal of the application.
(Authorized by and implementing K.S.A. 65-4116 as amended by L. 1987, Ch. 244, Sec. 3; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1985; amended May 1, 1988.)

68-20-12 Revoked.
(Authorized by K.S.A. 65-4116, 65-4117, 65-4118, 65-4119; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; revoked May 1, 1987.)

68-20-13 Hearings generally. In any case where the board shall hold a hearing on any registration or application therefor, the procedures for such hearing shall be conducted in accordance with the procedural provisions of the act and paragraph 68-20-13 of these regulations. Any hearing under this part shall be independent of and not in lieu of, criminal proceedings or other proceedings under the act or any other law of this state.
(a) Purpose of hearing-The board shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial, revocation, or suspension of any registration. Extensive argument should not be offered into evidence but rather presented in opening or closing statements of counsel or in memoranda or proposed findings of fact and conclusions of law.
(b) Waiver or modification of rules-The board or its presiding officer (with respect to matters pending before him), may modify or waive any rule or regulation in paragraph 68-20-13 of these regulations by notice in advance of the hearing, if the board determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the records of the hearing.
(c) Hearing; waiver.

(1) Any person entitled to a hearing may file with the board a waiver of an opportunity for a hearing or to participate in a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(2) If any person entitled to a hearing or to participate in a hearing waives his opportunity to participate in the hearing, the board may proceed without the presence of such person.
(d) Burden of proof.

(1) At any hearing for the denial of a registration, the board shall have the burden of proving that the requirements of such registration pursuant to the act (K.S.A. 65-4117, K.S.A. 65-4118) are not satisfied.

(2) At any hearing for the revocation or suspension of a registration, the board shall have the burden of proving that the requirements for such revocation or suspension in accordance with the provisions of the act (K.S.A. 65-4119).

(e) Time and place of hearing-The hearing will commence at the place and time designated in the order to show cause (unless expedited pursuant to paragraph 68-20-12D of these regulations) but thereafter, it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

(f) Final order-As soon as practicable after the presiding officer has certified the record to the board, the board shall issue its order on the granting, denial, revocation or suspension of the registration. In the event that any application for registration is denied, or any registration is revoked or suspended, the order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. The board shall serve one copy of its order upon each party in the hearing by registered, return receipt requested mail.

(Authorized by K.S.A. 65-4117, 65-4118, 65-4119; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973.)

68-20-14 Modification, transfer and termination of registration. (a) Modification in registration-Any registrant may apply to modify his registration to authorize the handling of additional controlled substances by submitting a letter of request to the state board of pharmacy. The letter shall contain the registrant's name, address, registration number and the substance and/or schedules to be added to his registration and shall be signed by the same person who signed the most recent application for registration or reregistration. If the registrant is seeking to handle additional controlled substances listed in schedule I for the purpose of research or instructional activities, he shall attach one copy of the federally approved research protocol describing each research project involving the additional substances, or two copies of a statement describing the nature, extent and duration of such instructional activities, as appropriate. One-half of the original fees shall be required to be paid for said modification. The request for modification shall be handled in the same manner as an application for registration.

(b) Termination of registration-The registration of any person or location shall terminate if and when such person or authorized representative of a location dies, ceases legal existence, discontinues business or professional practice or changes the location as shown on the certificate of registration. Any registrant who ceases legal existence, discontinues business or professional practice, or changes location as shown on the certificate of registration, shall notify the board promptly of such fact and forthwith deliver the certificate of registration directly to the secretary or executive secretary of the board. In the event of a change in name or mailing address the person or authorized representative of the location shall notify the board promptly in advance of the effective date of this change by filing the change of name or mailing address with the board. This change shall be noted on the original application on file with the board.

(c) Transfer of registration-No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the board may specifically designate and then only pursuant to its written consent.

(Authorized by K.S.A. 65-4115; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973.)

68-20-15 Revoked.

(Authorized by K.S.A. 1976 Supp. 65-4115; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended, E-77-42, Sept. 9, 1976; amended Feb. 15, 1977; revoked May 1, 1983.)

68-20-15a Security requirements. (a) General security requirements. Each applicant and registrant shall provide effective controls and procedures to guard against theft and diversion of controlled substances in conformance with the security requirements of federal law, including the requirements of 21 CFR 1301.71 as in effect on April 1, 1999, which are hereby adopted by reference.
(b) Physical security controls for nonpractitioners shall comply with the requirements of 21 CFR 1301.72 and 1301.73 as in effect on April 1, 1999, which are hereby adopted by reference.

(c) Other security controls for nonpractitioners.
(1) Good faith inquiry. Before distributing a controlled substance to any person whom the registrant does not know to be registered to possess a controlled substance, each registrant shall make a good faith inquiry with the board to determine that the person is registered to possess a controlled substance.
(2) Suspicious orders. Each registrant shall design an operative system to disclose to the registrant any suspicious orders of controlled substances. Each registrant shall inform the board of suspicious orders when discovered. Suspicious orders shall include orders of unusual size, orders deviating from a normal pattern, and orders of unusual frequency.
(3) A controlled substance listed in schedules II through V shall not be distributed on a gratuitous basis by a manufacturer or distributor to a practitioner, mid-level practitioner, pharmacist, or any other person.
(d) Physical security controls for prescribers. Each prescriber shall provide effective controls and procedures to guard against theft and diversion of controlled substances in conformance with the security requirements of federal law, including the requirements of 21 CFR 1301.75 and 1301.76 as in effect on April 1, 1999, which are hereby adopted by reference.
(e) Other security controls for prescribers.
(1) In order to minimize the opportunities for diversion of controlled substances, each prescriber shall provide effective physical security, shall initiate additional procedures to reduce access by unauthorized personnel, and shall provide an alarm system if necessary.
(2) Minimum security standards for prescribers as set forth in this article shall be considered as guidelines to be used in evaluating security. Additional security controls and operating procedures may be required by the board to prevent diversion of controlled substances.
(Authorized by K.S.A. 1998 Supp. 65-4102; implementing K.S.A. 65-4117; effective May 1, 1983; amended May 1, 1988; amended Sept. 9, 1991; amended March 20, 1995; amended Aug. 1, 1997; amended Feb. 5, 1999; amended Dec. 27, 1999.)

68-20-16 Records and inventories of registrants. (a) Except as provided in this regulation, each registrant shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of 21 CFR 1304.04(g) and (h), including 21 CFR 1304.04(f) as referred to by 21 CFR 1304.04(g), and 21 CFR 1304.11, as in effect on April 1, 2008, which are hereby adopted by reference. The registrant shall keep the records on file for a period of at least five years.
(b) After the initial inventory is taken, the registrant shall take a subsequent inventory of all controlled substances on hand at least every year. The annual inventory shall be taken at least eight months after the previous inventory.
(c) Each required inventory of schedule II controlled substances and all products containing hydrocodone shall be taken by exact count.
(d) All registrants handling Schedule V preparations shall be subjected to the same inventory and recordkeeping requirements specified in subsections (a) and (b). In addition, an inventory of Schedule

V items shall be taken in conjunction with the required inventory requirements relating to Schedules II, III, and IV.
(Authorized by and implementing K.S.A. 65-4121; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1989; amended July 31, 1998; amended Dec. 27, 1999; amended Oct. 23, 2009.)

68-20-17 Order forms. Each transfer of any schedule I or II controlled substance shall require the use of a drug enforcement agency (DEA) 222 form issued by the United States attorney general in accordance with 21 CFR part 1305 or an electronic order placed in accordance with 21 CFR part 1311.
(Authorized by K.S.A. 65-4102; implementing K.S.A. 65-4102 and K.S.A. 65-4122; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1987; amended Feb. 5, 1999; amended Dec. 27, 1999; amended April 27, 2007.)

68-20-18 Information concerning prescriptions. (a) Persons entitled to issue prescriptions. A prescription for a controlled substance may be issued only by a practitioner or mid-level practitioner who meets the following conditions:

(1) Is legally authorized to prescribe controlled substances in Kansas or any other competent jurisdiction; and

(2) is either registered or exempted from registration under K.S.A. 65- 4116(d) and amendments thereto.

(b) Purpose of issue of prescription.

(1) To be effective, a prescription for a controlled substance shall be issued for a legitimate medical purpose by a practitioner or mid-level practitioner acting in the usual course of professional practice. The responsibility for the proper prescribing and dispensing of controlled substances shall rest with the prescriber, but a corresponding responsibility shall rest with the pharmacist who fills the prescription. The person filling an unlawful prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of the controlled substance act, K.S.A. 65- 4101, et. seq. and amendments thereto.

(2) A prescription shall not be issued in order for a practitioner or mid-level practitioner to obtain controlled substances for supplying that individual or any other prescriber for the purpose of general dispensing to patients.

(3) A prescription shall not be issued for the dispensing of narcotic drugs listed in any schedule to a narcotic drug-dependent person for the purpose of continuing dependence upon these drugs, except in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program.

(c) Manner of issuance of prescriptions.

(1) Controlled substance prescriptions in schedules II through V shall not be issued on a prescription blank that is preprinted with the name of a propriety preparation or with the strength, quantity, or directions.

(2) All written prescriptions for controlled substances shall meet the following requirements:

(A) Be dated and manually signed on the day issued;

(B) bear the following information:

(i) The full name, address, and registration number of the practitioner or mid-level practitioner;

(ii) the name and address of the patient; and

(iii) the drug name, strength, dosage form, quantity prescribed, and directions for use; and

(C) be written with ink, indelible pencil, or typewriter.

(3) A practitioner or mid-level practitioner shall manually sign a prescription in the same manner as that individual would sign a check or legal document.

(4) The prescriptions may be prepared by a secretary or agent for the signature of a practitioner or mid-level practitioner, but the prescriber shall be responsible if the prescription does not conform in all essential respects to the state and federal law and regulations. A corresponding liability shall rest upon the pharmacist who fills a prescription that is not prepared in the form prescribed by this regulation.

(5) An intern, resident, foreign physician, or foreign medical graduate exempted from registration under K.S.A. 65-4116(d), and amendments thereto, shall include on all prescriptions issued the registration number of the hospital or other institution and the special internal code number assigned to the intern, resident, foreign physician, or foreign medical graduate by the hospital or other institution as provided in K.A.R. 68-20-10. This requirement shall be in lieu of the registration number of the practitioner required by this subsection. Each prescription shall have the name of the intern, resident, foreign physician or foreign medical graduate stamped or printed on it, as well as the signature of the physician.

(6) An official exempted from registration under K.A.R. 68-20-10 shall include on all prescriptions issued the official's branch of service or agency and the service identification number. This requirement shall be in lieu of the registration number of the practitioner otherwise required by this subsection. The service identification number for a public health service employee shall be that individual's social security identification number. Each prescription shall have the name of the officer stamped or printed on it, as well as the signature of the officer.

(d) Manner of issuance of prescriptions by facsimile.

(1) Controlled substance prescriptions in schedules III through V may be transmitted by telephone by a prescriber or designated agent to a pharmacy for a patient of the prescriber. The transmitted telephone prescription may be by oral, facsimile, or electronic transmission. Prescription orders shall be reduced to hard copy by the pharmacist and, if telephoned by other than the prescriber, shall bear the name of the person so transmitting or telephoning the prescription.

(2) Controlled substance prescriptions in schedule II may be transmitted by facsimile or electronic transmission from the prescriber to a pharmacy. However, when the prescription is actually dispensed, the original written prescription that is manually signed by the prescriber shall be presented, verified against the facsimile or electronic transmission, and retained for filing. Exceptions to this subsection shall be in compliance with K.A.R. 68- 20-10a.

(e) Persons entitled to fill prescriptions.

(1) A prescription for controlled substances shall be filled only by the following:

(A) A pharmacist acting in the usual course of professional practice in a registered pharmacy, hospital drug room, or other registered place of employment; or

(B) a pharmacist intern acting under the immediate personal direction and supervision of a licensed pharmacist.

(2) For the purposes of this regulation, an intern shall mean a prospective candidate for examination as a licensed pharmacist who is qualified to receive, and is obtaining, pharmaceutical experience as defined in K.A.R. 68-5-1.

(3) A medical care facility or other institution registered with the board shall administer or dispense directly a controlled substance listed in schedules III and IV and legend V only pursuant to a written

prescription signed by the prescriber or to an order of medication made by a prescriber that is dispensed for immediate administration to the ultimate user.
(Authorized by K.S.A. 1998 Supp. 65-4102; implementing K.S.A. 65-4123, as amended by L. 1999, Ch. 115, Sec. 15; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1988; amended Sept. 9, 1991; amended March 29, 1993; amended March 20, 1995; amended Dec. 27, 1999.)

68-20-19 Controlled substances listed in schedule II. (a) Requirements of prescription.

(1) A pharmacist shall dispense a controlled substance listed in schedule II, which is a prescription drug as determined under these regulations, only pursuant to a written prescription signed by the prescribing practitioner, except as provided in paragraph (4) of this subsection.

(2) Any written prescriptions signed by the prescribing practitioner falling under the above provisions of paragraph (1) shall not be filled if submitted more than six months after the original date appearing on the written prescription.

(3) A prescriber may administer a controlled substance listed in schedule II in the course of professional practice without a prescription, subject to K.A.R. 68-20-18.

(4) (A) In the case of an emergency situation, as defined by paragraph (5) of this subsection, a pharmacist may dispense a controlled substance listed in schedule II upon receiving authorization of a prescriber, if all of the following conditions are met:

(i) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period. Dispensing beyond the emergency period shall be pursuant to a written prescription signed by the prescriber.

(ii) The prescription shall be immediately reduced to a hard copy by the pharmacist and shall contain all information required under K.A.R. 68-20- 18(c) except for the signature of the prescriber.

(iii) If the prescriber is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the authorization came from the prescriber, which may include a call back to the prescriber, using the prescriber's phone number as listed in the telephone directory or other good faith efforts to insure the prescriber's identity, or both.

(iv) Within seven days after authorizing an emergency prescription drug order, the prescriber shall cause a written prescription drug order for the emergency quantity prescribed to be delivered to the dispensing pharmacist.

(B) In addition to conforming to the requirements of K.A.R. 68-20-18(c), the prescription drug order shall have written on its face "Authorization for Emergency Dispensing" and the date of the prescription drug order.

(C) The written prescription drug order shall be delivered to the pharmacist in person within seven days of authorization or, if delivered by mail, it shall be postmarked within the seven-day period.

(D) Upon receipt, the dispensing pharmacist shall attach this written prescription drug order to the pharmacist's record of the emergency prescription drug order.

(E) The pharmacist shall notify the nearest office of the U.S. drug enforcement administration (DEA) if the prescribing practitioner fails to deliver a written prescription drug order to the pharmacist; failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescriber.

(5) For the purposes of authorizing a prescription of any controlled substance listed in schedule II of the federal or state uniform controlled substances act, the term "emergency situation" means those situations in which the prescriber determines the following:

(A) That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;

(B) that no appropriate alternative treatment is available, including administration of a drug that is not a controlled substance under schedule II of the act; and

(C) that it is not reasonably possible for the prescriber to provide a written prescription to be presented, before dispensing, to the pharmacist dispensing the substance.

(b) A medical care facility or other institution registered with the board shall administer or dispense a controlled substance listed in schedule II only pursuant to a written prescription signed by the prescriber or to an order for medication made by a prescriber that is dispensed for immediate administration to the ultimate user.

(c) Partial filling of prescriptions. The partial filling of a prescription for any controlled substance listed in schedule II shall be permissible, only as provided in this subsection.

(1) Whenever the pharmacist is unable to supply the full quantity called for in a written or emergency prescription and the pharmacist makes a notation of the quantity supplied on the face of the written prescription or written record of the emergency prescription, the pharmacist shall perform the following:

(A) Fill the remaining portion of the prescription within 72 hours of the first partial filling or, if the remaining portion cannot be filled within the 72- hour period, the pharmacist shall notify the prescriber of the situation; and

(B) supply no further quantity beyond 72 hours without a new prescription.

(2) Whenever written, prescriptions for schedule II controlled substances for patients in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities, including individual dosage units, as provided in this subsection. The pharmacist shall record on the prescription whether the patient is "terminally ill" or an "LTCF patient."

(A) For each partial filling, the dispensing pharmacist shall record on the back of the prescription, or on another appropriate, uniformly maintained, and readily retrievable record, the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.

(B) The total quantity of schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed.

(C) These schedule II prescriptions shall be valid for a period not to exceed 60 days from the issue date unless terminated sooner by the discontinuance of medication.

(d) Labeling of substances. The pharmacist filling a written or emergency prescription for a controlled substance listed in schedule II shall affix a label to the package showing the following information:

(1) The date the prescription was filled;

(2) the name, address, and telephone number of the pharmacy dispensing the prescription;

(3) the serial number of the prescription;

(4) the full name of the patient;

(5) the name of the practitioner and either the physician's assistant (PA) or the advanced registered nurse practitioner (ARNP);

(6) the directions for use and cautionary statements, if any, contained in the prescription or required by law;

(7) the brand name or corresponding generic name of the prescription medication;

(8) the manufacturer or distributor of the prescription medication, or an easily identified abbreviation of the manufacturer's or distributor's name;

(9) the expiration date of the prescription medication dispensed, if applicable.

(e) Filing of prescriptions.

(1) All written prescriptions and written records of emergency prescriptions shall be kept in accordance with K.A.R. 68-20-16.

(2) All written or emergency prescriptions for a controlled substance listed in schedule II shall be cancelled on the face of the prescription with the name of the pharmacist filling that prescription.

(3) All written or emergency prescriptions for controlled substances listed in schedule II and filled by a pharmacy intern shall be cancelled on the face of the prescription with the names of the pharmacy intern and preceptor authorizing the filling of that prescription.
(Authorized by and implementing K.S.A. 1998 Supp. 65-4102 and K.S.A. 65- 4123, as amended by L. 1999, Ch. 115, Sec. 15; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended Sept. 9, 1991; amended March 29, 1993; amended March 20, 1995; amended Feb. 5, 1999; amended Dec. 27, 1999.)

68-20-20 Controlled substances listed in schedules III and IV. (a) Requirements of prescription.
(1) A pharmacist may dispense any controlled substance listed in schedule III, IV, or V that is a prescription drug as determined under the federal food, drug, and cosmetic act, pursuant only to a written prescription signed by a prescriber, or an oral prescription made by a prescriber, and promptly reduced to writing by the pharmacist containing all information required under K.A.R. 68-20-18(c), except for the signature of the prescriber.
(2) A prescriber may administer any controlled substance listed in schedule III, IV, or V in the course of the practitioner's professional practice without a prescription, subject to K.A.R. 68-20-18.
(3) A medical care facility registered with the board may administer or dispense directly, but shall not prescribe, any controlled substance listed in schedule III, IV, or V only pursuant to a written prescription signed by the prescriber, or to an order for medication made by a prescriber for immediate administration to the ultimate user.
(b) Filling of prescriptions.
(1) Each refilling of a prescription shall be entered on the back of a prescription, with the following additional information:
(A) The date of refilling or dispensing;
(B) the amount dispensed; and
(C) the name or initials of the dispensing pharmacist or pharmacist intern.
(2) Additional quantities of controlled substances listed in schedules III or IV may be authorized by a prescriber through an oral refill authorization transmitted to the pharmacist if all of the following conditions are met:
(A) The total quantity authorized, including the amount of the original prescription, does not exceed five refills or extend beyond six months from the date of issue of the original prescription.
(B) The pharmacist obtaining the oral authorization records on the reverse of the original prescription the following:
(i) The date;
(ii) the quantity of refill;
(iii) the number of additional refills authorized; and
(iv) the initials of the pharmacist who received the authorization from the prescriber.
(C) The quantity of each additional refill authorized is equal to or less than the quantity authorized for the initial filling of the original prescription.
(D) The prescriber executes a new prescription as provided in K.A.R. 68-20- 18 for any additional quantities beyond the five-refill, six-month limitation.
(3) As an alternative to the procedures provided by paragraph (b)(2), an automated data-processing system may be used for the storage and retrieval of refill information for prescription orders for controlled substances in schedule III and IV, if all of the following requirements are met:
(A) Any such proposed computerized system shall provide on-line retrieval, via CRT display or hard-copy printout, of original prescription order information for those prescription orders that are currently authorized for refilling. This shall include the following:
(i) The original prescription number;
(ii) the date of issuance of the original prescription order by the prescriber;

(iii) the full name and address of the patient;

(iv) the name, address, and DEA registration number of the prescriber;

(v) the name, strength, dosage form, quantity of the controlled substance prescribed, and the quantity dispensed, if different from the quantity prescribed; and

(vi) the total number of refills authorized by the prescriber.

(B) Any such proposed computerized system shall also provide on-line retrieval, via CRT display or hard-copy printout, of the current refill history for schedule III or IV controlled substance prescription orders that have been authorized for refill during the past six months. This refill history shall include the following information:

(i) The name of the controlled substance;

(ii) the date of refill;

(iii) the quantity dispensed;

(iv) the identification code, or name or initials of the dispensing pharmacist for each refill; and

(v) the total number of refills dispensed to date for that prescription order.

(C) Documentation that the refill information entered into the computer each time a pharmacist refills an original prescription order for a schedule III or IV controlled substance is correct shall be provided by the individual pharmacist who makes use of such a system. If this system provides a hard-copy printout of each day's controlled substance prescription order refill data, that printout shall be verified, dated, and signed by the individual pharmacist who refilled the prescription order. The individual pharmacist shall verify that the date indicated is correct and then sign this document in the same manner as the pharmacist would sign a check or legal document. This document shall be maintained in a separate file at the pharmacy for five years from the dispensing date. This printout of the day's controlled substance prescription order refill data shall be provided to each pharmacy using the computerized system within 72 hours of the date on which the refill was dispensed. This document shall be verified and signed by each pharmacist who is involved with the dispensing. In lieu of such a printout, the pharmacy shall maintain a bound logbook, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement, in the manner previously described, each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by the pharmacist and is correct as shown. This book or file shall be maintained at the pharmacy employing the system for five years after the date of dispensing the appropriately authorized refill.

(D) Any such computerized system shall have the capability of producing a printout of any refill data that the user pharmacy is responsible for maintaining. This shall include a refill-by-refill audit trail for any specified strength and dosage form of any controlled substance, by brand, generic name, or both. This printout shall include the following:

(i) The name of the prescriber;

(ii) the name and address of the patient;

(iii) the quantity dispensed on each refill;

(iv) the date of dispensing for each refill;

(v) the name or identification code of the dispensing pharmacist; and

(vi) the number of the original prescription order.

(E) In any central computerized system employed by a user pharmacy, the central record-keeping location shall be capable of sending the printout to the pharmacy within 48 hours, and if an authorized agent of the board requests a copy of this printout from the user pharmacy, it shall, if requested to do so by the agent, verify the printout transmittal capability of its system by documentation.

(F) If a pharmacy that employs such a computerized system experiences system downtime, the pharmacy shall have an auxiliary procedure that will be used for documentation of refills of schedule

III and IV controlled substance prescription orders. This auxiliary procedure shall insure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for on-line data entry as soon as the computer system is available for use again.

(4) When filing refill information for original prescription orders for schedule III or IV controlled substances, a pharmacy may use one of the two systems described in paragraphs (2) or (3) of this subsection.

(5) In the case of medical care facilities registered with the board, all requirements specified in paragraphs (b) (1), (2), and (3) above shall be maintained in the medication records or other readily retrievable records regularly maintained by the medical care facility.

(c) Partial filling of prescriptions. A prescription for a controlled substance listed in schedule III, IV, or V may be partially filled if all of the following conditions are met:

(1) Each partial filling is recorded in the same manner as a refilling.

(2) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.

(3) Except for a controlled substance listed in schedule V, no dispensing occurs after six months after the date on which the prescription was issued.

(d) Labeling of substances. The pharmacist filling a prescription for a controlled substance listed in schedule III or IV shall affix to the package a label showing the following:

(1) The pharmacy name and address;

(2) the serial number of the prescription;

(3) the date of initial filling;

(4) the name of the patient;

(5) the name of the prescriber issuing the prescription;

(6) the directions for use; and

(7) cautionary statements, if any, contained in the prescription as required by law, except as provided in 21 CFR 1306.24 as in effect on April 1, 1999, which is hereby adopted by reference.

(e) Filing prescriptions. All prescriptions for controlled substances listed in schedules III, IV, and V shall be kept in accordance with K.A.R. 68-20-16.

(Authorized by and implementing K.S.A. 1998 Supp. 65-4102, K.S.A. 65-4121, K.S.A. 65-4123; effective, E-73-24, Aug. 25, 1972; effective Jan. 1, 1973; amended May 1, 1983; amended April 30, 1990; amended Aug. 4, 2000.)

68-20-21 Controlled substances listed in schedule V. Requirements of prescriptions.

(a) A pharmacist may dispense a controlled substance listed in schedule V pursuant to a prescription as required for controlled substances listed in schedules III and IV in K.A.R. 68-20-20 in this article. A prescription for a controlled substance listed in schedule V may be refilled only as expressly authorized by the prescriber on the prescription; if no such authorization is given, the prescription shall not be refilled. A pharmacist dispensing this substance pursuant to a prescription shall label the substance in accordance with subsection (d) of K.A.R. 68-20-20 in this article and file the prescription in accordance with K.A.R. 68-20-16 in this article.

(b) A prescriber may administer a controlled substance listed in schedule V in the course of professional practice without a prescription, subject to subsection (e) of K.A.R. 68-20-18 in this article.

(c) A hospital or other institution registered with the board may administer or dispense any controlled substance listed in schedule V only pursuant to a written prescription signed by the prescriber or to an order for medication made by a prescriber that is dispensed for immediate administration to the ultimate user.

(Authorized by K.S.A. 1998 Supp. 65-4113; effective, E-72-24, Aug. 25, 1972; effective Jan. 1, 1973; amended Dec. 27, 1999.)

68-20-22 Dispensing without prescription. A controlled substance listed in schedule V and a controlled substance listed in schedule II, III or IV which is not a prescription drug as determined under the federal food, drug, and cosmetic act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:
(a) Such dispensing is made only by a pharmacist as that term is defined by the pharmacy act of the state of Kansas and not by a non-pharmacist employee, even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his or her professional and legal responsibilities set forth in this act, the actual cash, credit transaction, or delivery, may be completed by a non-pharmacist.
(b) Not more than 240 cc. (8 ounces) of any such controlled substance containing opium, nor more than 120 cc. (4 ounces), of any other such controlled substance nor more than forty-eight (48) dosage units of any such controlled substance containing opium, nor more than twenty-four (24) dosage units of any other such controlled substance may be dispensed at retail to the same purchaser in any given forty-eight (48) hour period.
(c) The purchaser is at least eighteen (18) years of age.
(d) The pharmacist requires every purchaser of a controlled substance under this section not known to him or her to furnish suitable identification (including proof of age where appropriate).
(e) A bound record book for dispensing of controlled substances under this section is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser (the book shall be maintained in accordance with the record keeping requirements of the uniform controlled substances act of the state of Kansas);
(f) A prescription is not required for distribution or dispensing of the substance pursuant to any other federal, state or local law.
(Authorized by K.S.A. 1977 Supp. 65-4116; effective May 1, 1978.)

68-20-23. N-Benzylpiperazine included in schedule I. N- Benzylpiperazine, including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance. (Authorized and implementing K.S.A. 65-4102; effective, T-68-11-6-08, Nov. 6, 2008, effective March 6, 2009.)

68-20-24. [1-Pentyl-3-(4-methoxy-1-naphthoyl)indole] included in schedule I. [1-Pentyl-3-(4-methoxy-1-naphthoyl)indole], including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance.

This temporary regulation shall expire after 120 days or upon publication of 2011 Senate Substitute for House Bill 2049 in the Kansas Register, whichever occurs first. (Authorized by and implementing K.S.A. 2010 Supp. 65-4102; effective, T-68-3-23-11, March 23, 2011.)

68-20-25. [1-Pentyl-3-(4-methyl-1-naphthoyl)indole] included in schedule I. [1-Pentyl-3-(4-methyl-1-naphthoyl)indole], including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance.

This temporary regulation shall expire after 120 days or upon publication of 2011 Senate Substitute for House Bill 2049 in the Kansas Register, whichever occurs first. (Authorized by and implementing K.S.A. 2010 Supp. 65-4102; effective, T-68-3-23-11, March 23, 2011.)

68-20-26. [1-Pentyl-3-(4-ethyl-1-naphthoyl)indole] included in schedule I. [1-Pentyl-3-(4-ethyl-1-naphthoyl)indole], including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance.

This temporary regulation shall expire after 120 days or upon publication of 2011 Senate Substitute for House Bill 2049 in the Kansas Register, whichever occurs first. (Authorized by and implementing K.S.A. 2010 Supp. 65-4102; effective, T-68-3-23-11, March 23, 2011.)

68-20-27. (1-(5-fluoropentyl)-3-(1-naphthoyl)indole) included in schedule I. (1-(5-fluoropentyl)-3-(1-naphthoyl)indole), including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance.

This temporary regulation shall expire after 120 days or upon publication of 2011 Senate Substitute for House Bill 2049 in the Kansas Register, whichever occurs first. (Authorized by and implementing K.S.A. 2010 Supp. 65-4102; effective, T-68-3-23-11, March 23, 2011.)

68-20-28. N-Methyl-3,4-methylenedioxycathinone included in schedule I. N-Methyl-3,4-methylenedioxycathinone, including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance. (Authorized by and implementing K.S.A. 2010 Supp. 65-4102; effective, T-68-5-17-11, May 17, 2011.)

68-20-29. 4-methylmethcathinone included in schedule I. 4-methylmethcathinone, including its salts, isomers, and salts of isomers, shall be classified as a schedule I controlled substance. (Authorized by and implementing K.S.A. 2010 Supp. 65-4102; effective, T-68-5-17-11, May 17, 2011.)

68-20-30. Tetramethylcyclopropanoylindoles included in schedule I. Each compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent, shall

be classified as a schedule I controlled substance. (Authorized by and implementing K.S.A. 2011 Supp. 65-4102; effective, T- 68-7-23-12.July 23, 2012.)

68-21-1. Definitions. As used in these regulations, the following terms shall have the meanings specified in this regulation:

(a) "Authentication" means the provision of information, an electronic device, or a certificate by the board or its designee to a dispenser or prescriber that allows the dispenser or prescriber to electronically access prescription monitoring information. The authentication may include the provision of a user name, a password, or an electronic identification device or certificate.

(b) "Board" means the state board of pharmacy.

(c) "Dispenser identification number" means the drug enforcement administration (DEA) number if available or, if not available, the national provider identifier (NPI).

(d) "Drug enforcement administration number" means a unique registration number issued to an authorized prescriber of controlled substances by the drug enforcement administration, United States department of justice.

(e) "National provider identifier" and "NPI" mean a unique 10-digit number issued by the national provider identifier registry and used to identify each health care provider whose services are authorized by medicaid or medicare.

(f) "Patient identification number" means a unique number that a dispenser uses to identify a particular person.

(g) "Prescriber identification number" means the DEA number if available or, if not available, the NPI.

(h) "Program" means the Kansas prescription monitoring program.

(i) "Report" means a compilation of data concerning a dispenser, patient, drug of concern, or schedule II through IV drugs.

(j) "Stakeholder" means a person, group, or organization that could be affected by the program's actions, objectives, and policies.

(k) "Valid photographic identification" means any of the following:

(1) An unexpired permanent or temporary driver's license or instruction permit issued by any U.S. state or Canadian province;

(2) an unexpired state identification card issued by any U.S. state or Canadian province;

(3) an unexpired official passport issued by any nation;

(4) an unexpired United States armed forces identification card issued to any active duty, reserve, or retired member and the member's dependents;

(5) an unexpired merchant marine identification card issued by the United States coast guard;

(6) an unexpired state liquor control identification card issued by the liquor control authority of any U.S. state or Canadian province; or

(7) an unexpired enrollment card issued by the governing authority of a federally recognized Indian tribe located in Kansas, if the enrollment card incorporates security features comparable to those used by the Kansas department of revenue for drivers' licenses. (Authorized by and implementing K.S.A. 2009 Supp. 65-1692; effective April 15, 2011.)

68-21-2. Electronic reports. (a) Each dispenser shall file a report with the board for schedule II through IV drugs and any drugs of concern dispensed in this state or to an address in this state. On and after January 1, 2013, this report shall be submitted within 24 hours of the time that the substance is dispensed, unless the board grants an extension as specified in subsection d. Before January 1, 2013, each dispenser shall submit the report within seven days of dispensing the substance. Each dispenser that does not dispense schedule II through IV drugs or any drugs of concern in this state or to an

address in this state during the reporting periods specified in this subsection shall file a zero report with the board.

(b) In addition to the requirements of K.S.A. 65-1683 and amendments thereto, each dispenser shall submit the prescriber's name, the patient's telephone number, and the number of refills for the dispensed drug on the report to the board. As an alternative to reporting the dispenser identification number, any dispenser may report the pharmacy DEA number.

(c) Except as specified in K.A.R. 68-21-3, the report shall be submitted by secure file transfer protocol in the electronic format established by the American society for automation in pharmacy, dated no earlier than 2007, version 4, release 1.

(d) An extension may be granted by the board to a dispenser for the submission of a report if both of the following conditions are met:

(1)(A) The dispenser suffers a mechanical or electronic failure; or

(B) the dispenser cannot meet the deadline established by subsection (a) because of circumstances beyond the dispenser's control.

(2) The dispenser files a written application for extension on a form provided by the board within 24 hours of discovery of the circumstances necessitating the extension request or on the next day the board's administrative office is open for business.

(e) An extension for the filing of a report shall be granted to a dispenser if the board is unable to receive electronic reports submitted by the dispenser.

(f) Each dispenser that is registered or licensed to dispense schedule II through IV drugs or any drugs of concern in this state or to an address in this state but does not dispense any of these drugs shall notify the board in writing that the dispenser will not be reporting to the board. If the dispenser begins dispensing schedule II through IV drugs or any drugs of concern in this state or to an address in this state, the dispenser shall notify the board of this fact and shall begin submitting reports to the board pursuant to this regulation. (Authorized by K.S.A. 2009 Supp. 65-1683 and 65-1692; implementing K.S.A. 2009 Supp. 65-1683; effective Oct. 15, 2010; amended April 15, 2011.)

68-21-3. Waivers for electronic reports. (a) A waiver may be granted by the board to a dispenser who does not have an automated recordkeeping system capable of producing an electronic report as specified in K.A.R. 68-21-2(c) if the following conditions are met:

(1) The dispenser files a written application for a waiver on a form provided by the board.

(2) The dispenser agrees in writing to immediately begin filing a paper report on a form provided by the board for each drug of concern and each schedule II through IV drug dispensed in this state or dispensed to an address in this state.

(b) A waiver may be granted by the board to a dispenser who has an automated recordkeeping system capable of producing an electronic report as specified in K.A.R. 68-21-2(c) if both of the following conditions are met:

(1) The dispenser files a written application for a waiver on a form provided by the board.

(2)(A) A substantial hardship is created by natural disaster or other emergency beyond the dispenser's control; or

(B) the dispenser is dispensing in a controlled research project approved by a regionally accredited institution of higher education.

(c) If a medical care facility dispenses an interim supply of a drug of concern or a schedule II through IV drug to an outpatient on an emergency basis when a prescription cannot be filled as authorized by K.A.R. 68-7-11, that facility shall be exempt from the reporting requirements. The interim quantity shall not exceed a 48-hour supply and, as described in K.A.R. 68-7-11(d)(2)(B), shall be limited to an amount sufficient to supply the outpatient's needs until a prescription can be filled. (Authorized by K.S.A. 2009 Supp. 65-1692; implementing K.S.A. 2009 Supp. 65-1683; effective Oct. 15, 2010.)

68-21-4. Notice of requests for information. Each dispenser who may access information maintained by the board on each drug of concern and schedule II through IV drug dispensed to one of the dispenser's patients for the purpose of providing medical or pharmaceutical care shall notify the patient of this access to prescription monitoring information by performing either of the following:

(a) Posting an easily viewable sign at the place where prescription orders are issued or accepted for dispensing; or

(b) providing written material about the dispenser's access to prescription monitoring information. (Authorized by K.S.A. 2009 Supp. 65-1692; implementing K.S.A. 2009 Supp. 65-1685; effective April 15, 2011.)

68-21-5. Access to information. All requests for, uses of, and disclosures of prescription monitoring information by authorized persons shall meet the requirements of K.S.A. 65-1685, and amendments thereto, and this article.

(a) By patients or patient's personal representative.

(1) Any patient or that patient's personal representative may obtain a report listing all program information that pertains to the patient, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto.

(2) Each patient or the patient’s personal representative seeking access to the information described in paragraph (a)(1) shall submit a written request for information in person to the board. The written request shall be in a format established by the board and shall include the following elements:

(A) The patient’s name and, if applicable, the full name of the patient’s personal representative;

(B) the patient’s residential address and, if applicable, the complete residential address of the patient’s personal representative;

(C) the patient’s telephone number, if any, and, if applicable, the telephone number of the personal representative; and

(D) the time period for which information is being requested.

(3) The patient or the patient’s personal representative shall produce two forms of valid photographic identification before obtaining access to the patient's information obtained by the program. The patient or the patient’s personal representative shall allow photocopying of the identification.

(4) Before access to the patient's information obtained by the program is given, one of the following shall be produced if the requester is not the patient:

(A) For a personal representative, an official attested copy of the judicial order granting authority to gain access to the health care records of the patient;

(B) for a parent of a minor child, a certified copy of the birth certificate of the minor child or other official documents establishing legal guardianship; or

(C) for a person holding power of attorney, the original document establishing the power of attorney.

(5) The patient’s personal representative shall allow the photocopying of the documents described in this subsection.

(6) The patient authorization may be verified by the board by any reasonable means before providing the information to the personal representative.

(b) By dispensers.

(1) Any dispenser may obtain any program information relating to a patient of the dispenser for the purpose of providing pharmaceutical care to that patient, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile transmission, or telephone.

(2) Each dispenser who seeks access to the information described in paragraph (b)(1) shall submit a written request to the board by mail, hand delivery, or electronic means in a manner established by the board, using authentication. If the authentication is lost or missing or the security of the authentication is compromised, the dispenser shall cause the board to be notified by telephone and in writing as soon as reasonably possible. Information regarding more than one patient may be submitted in a single request.

Each request shall be submitted in a format established by the board and shall include the following elements for each patient:

(A) The patient's name and birth date;

(B) if known to the dispenser, the patient's address and telephone number;

(C) the time period for which information is being requested;

(D) the dispenser's name;

(E) if applicable, the name and address of the dispenser's pharmacy;

(F) the dispenser identification number; and

(G) the dispenser's signature.

(3) The authentication and identity of the dispenser shall be verified by the board before allowing access to any prescription monitoring information.

(c) By prescribers.

(1) Any prescriber or health care practitioner authorized by a prescriber may obtain any program information relating to a patient under the prescriber's care, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Each prescriber or health care practitioner authorized by a prescriber who seeks access to program information shall submit a written request to the board by mail, hand delivery, or electronic means in a manner established by the board, using authentication. If the authentication is lost or missing or the security of the authentication is compromised, the prescriber shall cause the board to be notified by telephone and in writing as soon as reasonably possible. Information regarding more than one patient may be submitted in a single request.

Each request shall be submitted in a format established by the board and shall include the following elements for each patient:

(A) The patient's name and birth date;

(B) if known to the prescriber, the patient's address and telephone number;

(C) the time period for which information is being requested;

(D) the prescriber's name;

(E) the name and address of the prescriber's medical practice;

(F) the prescriber identification number; and

(G) the prescriber's signature.

(3) The authentication and identity of the dispenser shall be verified before allowing access to any program information.

(d) By director or board investigator of a health professional licensing, certification, or regulatory agency or entity.

(1) Any director or board investigator of a health professional licensing, certification, or regulatory agency or entity may obtain any program information needed in carrying out that individual's business, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Each director or board investigator of a licensing board with jurisdiction over a dispenser or prescriber who seeks access to program information shall submit a written request by mail,

facsimile, or electronic means to a location specified by the board. The written request shall contain a statement of facts from which the board can make a determination of reasonable cause for the request.

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

(1) Any local, state, or federal law enforcement officer or prosecutorial official may obtain any program information as required for an ongoing case, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Each local, state, or federal law enforcement officer or prosecutorial official who seeks access to program information shall register with the board. Once registration is approved, the requester may submit a written request by mail, facsimile, or electronic means to the board. All requests for, uses of, and disclosures of prescription monitoring information by authorized persons under this subsection shall meet the requirements of K.S.A. 65-1685 (c)(4), and amendments thereto.

(f) By the Kansas health policy authority for purposes of the Kansas medicaid and state children's health insurance program (SCHIP).

(1) An authorized representative of the Kansas health policy authority may obtain any program information regarding medicaid or SCHIP program recipients, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board.

(2) Each authorized representative of the Kansas health policy authority seeking program information regarding medicaid or SCHIP program recipients who seeks access to program information shall submit a request to the board.

(g) By any other state's prescription monitoring program.

(1) Any authorized representative from any other state's prescription monitoring program may obtain any program information for requests from within that state that do not violate the authentication and security provisions of the prescription monitoring program act, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Any authorized representative from another state's prescription monitoring program seeking access to program information shall first establish a data-sharing agreement with the board in which the states agree to share prescription monitoring information with one another. The agreement shall specify what information will be made available and to whom, how requests will be made, how quickly requests will be processed, and in which format the information will be provided.

(h) By public or private entities for statistical, research, or educational purposes.

(1) Any public or private entity may obtain program information, in accordance with this regulation and K.S.A. 65-1685(d) and amendments thereto. The information shall be provided in a format established by the board.

(2) Each public or private entity who seeks access to program information shall submit a written request by mail, facsimile, or electronic means to the board. The written request shall contain a statement of facts from which the board can make a determination of reasonable cause for the request. (Authorized by K.S.A. 2009 Supp. 65-1692; implementing K.S.A. 2009 Supp. 65-1685; effective April 15, 2011.)

68-21-6. Reciprocal agreements with other states to share information. (a) Reciprocal agreements with one or more states in the United States may be entered into by the board to share program information if the other state's prescription monitoring program is compatible with the program. If the board elects to evaluate the prescription monitoring program of another state, priority shall be given to a state that is contiguous to Kansas.

(b) In determining the compatibility of the other state's prescription monitoring program, the following may be considered by the board:

(1) The safeguards for privacy of patient records and the other state's success in protecting patient privacy;

(2) the persons authorized in the other state to view the data collected by the program;

(3) the schedules of controlled substances monitored in the other state;

(4) the data required by the other state to be submitted on each prescription; and

(5) the costs and benefits to the board of mutually sharing information with the other state.

(c) Each reciprocal agreement shall be reviewed annually by the board to determine its continued compatibility with the program. (Authorized by K.S.A. 2009 Supp. 65-1692; implementing K.S.A. 2009 Supp. 65-1685; effective April 15, 2011.)

68-21-7. Drugs of concern. (a) Each of the following shall be classified as a drug of concern:

(1) Any product containing all three of these drugs: butalbital, acetaminophen, and caffeine;

(2) carisoprodol; and

(3) tramadol.

(b) The stakeholders of the program shall be notified by the board if a drug is to be considered by the board for classification as a drug of concern.

(c) Any individual who wants to have a drug added to the program for monitoring may submit a written request to the board. (Authorized by K.S.A. 2009 Supp. 65-1682 and 65-1692; implementing K.S.A. 2009 Supp. 65-1682; effective April 15, 2011.)

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V. Drug Crimes-Statutes

KSA Chapter 21.—Crimes and Punishments
Article 36a.—Crimes Involving Controlled Substances

21-36a01. Definitions. (a) ‘‘Controlled substance’’ means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.
(b) (1) ‘‘Controlled substance analog’’ means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) ‘‘Controlled substance analog’’ does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. 355) to the extent conduct with respect to the substance is permitted by the exemption.

(c) ‘‘Cultivate’’ means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(d) ‘‘Distribute’’ means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. ‘‘Distribute’’ includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. ‘‘Distribute’’ does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, or otherwise authorized by law.

(e) ‘‘Drug’’ means:

(1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(3) substances, other than food, intended to affect the structure or any function of the body of man or animals; and

(4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories.

(f) ‘‘Drug paraphernalia’’ means all equipment and materials of any kind which are used, or primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance and in violation of this act. ‘‘Drug paraphernalia’’ shall include, but is not limited to:

(1) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(4) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) scales and balances used or intended for use in weighing or measuring controlled substances;

(6) diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;

(7) separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

(8) blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

(9) capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances;

(10) containers and other objects used or intended for use in storing or concealing controlled substances;

(11) hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;

(12) objects used or primarily intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;

(C) carburetion pipes, glass or other heat resistant tubes or any other device used or intended to be used, designed to be used to cause vaporization of a controlled substance for inhalation;

(D) smoking and carburetion masks;

(E) roach clips, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(F) miniature cocaine spoons and cocaine vials;

(G) chamber smoking pipes;

(H) carburetor smoking pipes;

(I) electric smoking pipes;

(J) air-driven smoking pipes;

(K) chillums;

(L) bongs;

(M) ice pipes or chillers;

(N) any smoking pipe manufactured to disguise its intended purpose;

(O) wired cigarette papers; or

(P) cocaine freebase kits.

(g) ‘‘Immediate precursor’’ means a substance which the board of pharmacy has found to be and by rules and regulations designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(h) ‘‘Isomer’’ means all enantiomers and diastereomers.

(i) ‘‘Manufacture’’ means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. ‘‘Manufacture’’ does not include the preparation or compounding of a controlled substance by an individual for the individual’s own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner’s agent pursuant to a lawful order of a practitioner as an incident to the practitioner’s administering or dispensing of a controlled substance in the course of the practitioner’s professional practice; or

(2) by a practitioner or by the practitioner’s authorized agent under such practitioner’s supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(j) ‘‘Marijuana’’ means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. ‘‘Marijuana’’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except

the resin extracted there from, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

(k) ‘‘Narcotic drug’’ means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(l) ‘‘Opiate’’ means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. ‘‘Opiate’’ does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). ‘‘Opiate’’ does include its racemic and levorotatory forms.

(m) ‘‘Opium poppy’’ means the plant of the species Papaver somniferum l. except its seeds.

(n) ‘‘Person’’ means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or any other legal entity.

(o) ‘‘Poppy straw’’ means all parts, except the seeds, of the opium poppy, after mowing.

(p) ‘‘Possession’’ means having joint or exclusive control over an item with knowledge of and intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

(q) ‘‘School property’’ means property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12. This definition shall not be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children

must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the above definition, the actual use of that structure or property at the time alleged shall not be a defense to the crime charged or the sentence imposed.

(r) ‘‘Simulated controlled substance’’ means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

History: L. 2009, ch. 32, § 1; July 1.

21-36a02. Effective date; scope of act. (a) Prosecutions for crimes committed prior to July 1, 2009, shall be governed by the law in effect at the time the crime was committed. For purposes of this section, a crime was committed prior to July 1, 2009, if any element of the crime occurred prior thereto.

(b) The prohibitions of this act shall apply unless the conduct prohibited is authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act or otherwise authorized by law.

History: L. 2009, ch. 32, § 2; July 1.

21-36a03. Unlawful manufacturing of controlled substances. (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.

(b) Violation or attempted violation of subsection (a) is a drug severity level 1 felony. The provisions of subsection (d) of K.S.A. 21-3301, and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance pursuant to this section.
(c) For persons arrested and charged under this section, bail shall be at least $50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program.
(d) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.
(e) The sentence of a person who violates this section or K.S.A. 65-4159 prior to its repeal, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to such sections repeal, or section 5, and amendments thereto.
History: L. 2009, ch. 32, § 3; July 1.

21-36a04. Same; costs and expenses. All costs and expenses resulting from the seizure, disposition and decontamination of an unlawful manufacturing site shall be assessed as costs against the defendant.
History: L. 2009, ch. 32, § 4; July 1.

21-36a05. Unlawful cultivation or distribution of controlled substances. (a) It shall be unlawful for any person to cultivate, distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof;
(1) Opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto;
(2) any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;
(3) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;
(4) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;
(5) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; or
(6) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; or
(7) any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.
(b) It shall be unlawful for any person to distribute or possess with the intent to distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113, and amendments thereto.
(c) (1) Violation of subsection (a) is a drug severity level 3 felony, except that:
(A) Violation of subsection (a) on or within 1,000 feet of any school property is a drug severity level 2 felony;
(B) violation of subsection (a)(1) is a drug severity level 2 felony if that person has one prior conviction under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction; and
(C) violation of subsection (a)(1) is a drug severity level 1 felony if that person has two prior convictions under subsection (a)(1), under K.S.A. 65-4161 prior to its repeal, or under a substantially similar offense from another jurisdiction.
(2) Violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b) is a drug severity level 4 felony if the substance was distributed to or possessed with the intent to distribute to a child under 18 years of age.

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.
History: L. 2009, ch. 32, § 5; L. 2011, ch. 83 § 1, May 26.

21-36a06. Unlawful possession of controlled substances. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto, or a controlled substance analog thereof.
(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105 and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; or

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto;

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 4 felony;

(2) violation of subsection (b) is a class A nonperson misdemeanor, except that, violation of subsection (b) is a drug severity level 4 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162 prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methy-lenedioxymethamphetamine (MDMA), marijuana or as designated in subsection (d) of K.S.A. 65-4105, and amendments thereto, or any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.
(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.
History: L. 2009, ch. 32, § 6; L. 2011, ch. 83 § 2, May 26.

21-36a07. Unlawful manufacture, distribution, cultivation or possession of controlled substances using a communication facility. (a) It shall be unlawful for any person to knowingly or intentionally use any communication facility:

(1) In committing, causing, or facilitating the commission of any felony under section 3, 5 or 6, and amendments thereto; or

(2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under section 3, 5 or 6, and amendments thereto. Each separate use of a communication facility may be charged as a separate offense under this subsection.

(b) Violation of subsection (a) is a nondrug severity level 8, nonperson felony.
(c) As used in this section, ‘‘communication facility’’ means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.
History: L. 2009, ch. 32, § 7; July 1.

21-36a08. Unlawfully obtaining and distributing a prescription-only drug. (a) Unlawfully obtaining and distributing a prescription-only drug is:

(1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner;

(2) distribution of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;

(3) possession of a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;

(4) possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or

(5) providing false information to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.

(b) (1) Unlawfully obtaining and distributing a prescription-only drug is a class A nonperson misdemeanor, except that:

(2) Unlawfully obtaining and distributing a prescription-only drug is a nondrug severity level 6, nonperson felony if that person is distributing, and such distribution involves selling, possessing with the intent to sell, or offering for sale the prescription-only drug so obtained; and

(3) Unlawfully obtaining and distributing a prescription-only drug is a nondrug severity level 9 nonperson felony if that person has a prior conviction of paragraph (1) or K.S.A. 21-4214 prior to its repeal.

(c) As used in this section:

(1) ‘‘Pharmacist,’’ ‘‘practitioner,’’ ‘‘mid-level practitioner’’ and ‘‘prescription-only drug’’ shall have the meanings ascribed thereto by K.S.A. 65-1626, and amendments thereto.

(2) ‘‘Prescription order’’ means an order transmitted in writing, orally, telephonically or by other means of communication for a prescription-only drug to be filled by a pharmacist. ‘‘Prescription order’’ does not mean a drug dispensed pursuant to such an order.

(d) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be bought under section 5 or 6, and amendments thereto.

History: L. 2009, ch. 32, § 8; July 1.

21-36a09. Unlawful possession of certain drug precursors and drug paraphernalia. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to:

(1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; or

(2) store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

(c) It shall be unlawful for any person to use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas department of agriculture.

(d) It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.

(e) (1) Violation of subsection (a) is a drug severity level 2 felony;

(2) violation of subsection (b)(1) is a drug severity level 4 felony, except that violation of subsection (b)(1) is a class A nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;

(3) violation of subsection (b)(2) is a class A nonperson misdemeanor;

(4) violation of subsection (c) is a drug severity level 4 felony;

(5) violation of subsection (d) is a class A nonperson misdemeanor.

(f) For persons arrested and charged under subsection (a) or (c), bail shall be at least $50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

History: L. 2009, ch. 32, § 9; July 1.

21-36a10. Unlawful distribution of certain drug precursors and drug paraphernalia. (a) It shall be unlawful for any person to advertise, market, label, distribute or possess with the intent to distribute:

(1) Any product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance; or

(2) any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(b) It shall be unlawful for any person to market, distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to manufacture or distribute a controlled substance in violation of sections 1 through 17, and amendments thereto.

(c) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of sections 1 through 17, and amendments thereto, except subsection (b) of section 6, and amendments thereto.

(d) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of subsection (b) of section 6, and amendments thereto.

(e) (1) Violation of subsection (a) is a drug severity level 2 felony;

(2) violation of subsection (b) is a drug severity level 4 felony;

(3) violation of subsection (c) is a level 9, nonperson felony, except that violation of subsection (c) is a drug severity level 4 felony if that person distributes or causes drug paraphernalia to be distributed to a person under 18 years of age or within 1,000 feet of any school property;

(4) violation of subsection (d) is a class A nonperson misdemeanor, except that violation of subsection (d) is a nondrug severity level 9, non-person felony if that person distributes or causes drug paraphernalia to be distributed to a person under 18 years of age or within 1,000 feet of any school property.

(f) For persons arrested and charged under subsection (a), bail shall be at least $50,000 cash or surety, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(g) As used in this section, ‘‘or under circumstances where one reasonably should know’’ that an item will be used in violation of this section, shall include, but not be limited to, the following:

(1) Actual knowledge from prior experience or statements by customers;
(2) inappropriate or impractical design for alleged legitimate use;
(3) receipt of packaging material, advertising information or other manufacturer supplied information regarding the item's use as drug paraphernalia; or
(4) receipt of a written warning from a law enforcement or prosecutorial agency having jurisdiction that the item has been previously determined to have been designed specifically for use as drug paraphernalia.
History: L. 2009, ch. 32, § 10; July 1.

21-36a11. Factors to consider when determining what is drug paraphernalia. (a) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:
(1) Statements by an owner or person in control of the object concerning its use;
(2) prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance;
(3) the proximity of the object, in time and space, to a direct violation of sections 1 through 17, and amendments thereto;
(4) the proximity of the object to controlled substances;
(5) the existence of any residue of controlled substances on the object;
(6) direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of sections 1 through 17, and amendments thereto. The innocence of an owner or person in control of the object as to a direct violation of sections 1 through 17, and amendments thereto, shall not prevent a finding that the object is intended for use as drug paraphernalia;
(7) oral or written instructions provided with the object concerning its use;
(8) descriptive materials accompanying the object which explain or depict its use;
(9) national and local advertising concerning the object's use;
(10) the manner in which the object is displayed for sale;
(11) whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products;
(12) direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
(13) the existence and scope of legitimate uses for the object in the community;
(14) expert testimony concerning the object's use;
(15) any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia; or
(16) advertising of the item in magazines or other means which specifically glorify, encourage or espouse the illegal use, manufacture, distribution or cultivation of controlled substances.
(b) The fact that an item has not yet been used or did not contain a controlled substance at the time of the seizure is not a defense to a charge that the item was possessed with the intention for use as drug paraphernalia.
History: L. 2009, ch. 32, § 11; July 1.

21-36a12. Unlawful abuse of toxic vapors (a) Unlawful abuse of toxic vapors is possessing, buying, using, smelling or inhaling toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.
(b) Unlawful abuse of toxic vapors is a class B nonperson misdemeanor.

(c) In addition to any sentence or fine imposed, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program, treatment program or both such programs as provided in K.S.A. 8-1008, and amendments thereto.
(d) This section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.
(e) For the purposes of this section, the term ‘‘toxic vapors’’ means vapors from the following substances or products containing such substances:

(1) Alcohols, including methyl, isopropyl, propyl or butyl;
(2) aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
(3) acetone;
(4) benzene;
(5) carbon tetrachloride;
(6) cyclohexane;
(7) freons, including freon 11 and freon 12;
(8) hexane;
(9) methyl ethyl ketone;
(10) methyl isobutyl ketone;
(11) naptha;
(12) perchlorethylene;
(13) toluene;
(14) trichloroethane; or
(15) xylene.

(f) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (e) as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors.
History: L. 2009, ch. 32, § 12; July 1.

21-36a13. Unlawful distribution or possession of a simulated controlled substance. (a) It shall be unlawful for any person to distribute, possess with the intent to distribute, or manufacture with the intent to distribute any simulated controlled substance.
(b) It shall be unlawful for any person to use or possess with intent to use any simulated controlled substance.
(c) (1) Violation of subsection (a) is a nondrug severity level 9, non-person felony, except that violation of subsection (a) is a nondrug severity level 7, nonperson felony if that person is 18 or more years of age and the violation occurs on or within 1,000 feet of any school property;

(2) violation of subsection (b) is a class A nonperson misdemeanor.

History: L. 2009, ch. 32, § 13; July 1.

21-36a14. Unlawful representation that noncontrolled substance is controlled substance. (a) It shall be unlawful for any person to distribute or possess with the intent to distribute any substance which is not a controlled substance:

(1) Upon an express representation that the substance is a controlled substance or that the substance is of such nature or appearance that the recipient will be able to distribute the substance as a controlled substance; or

(2) under circumstances which would give a reasonable person reason to believe that the substance is a controlled substance.

(b) Violation of subsection (a) is a class A nonperson misdemeanor, except that violation of subsection (a) is a nondrug severity level 9, non-person felony if the distributor is 18 or more years of age,

distributing to a person under 18 years of age and at least three years older than the person under 18 years of age to whom the distribution is made.
(c) If any one of the following factors is established, there shall be a presumption that distribution of a substance was under circumstances which would give a reasonable person reason to believe that a substance is a controlled substance:

(1) The substance was packaged in a manner normally used for the illegal distribution of controlled substances;

(2) the distribution of the substance included an exchange of or demand for money or other consideration for distribution of the substance and the amount of the consideration was substantially in excess of the reasonable value of the substance; or

(3) the physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.
History: L. 2009, ch. 32, § 14; July 1.

21-36a15. Treatment of a controlled substance analog. Within 10 days after the initiation of prosecution with respect to a controlled substance analog by indictment, complaint or information, the prosecuting attorney shall notify the board of pharmacy of information relevant to emergency scheduling as provided for in subsection (e) of K.S.A. 65-4102, and amendments thereto. After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may be commenced or continued.
History: L. 2009, ch. 32, § 15; July 1.

21-36a16. Unlawful acts involving proceeds derived from violations of 21-36a01 through (a) It shall be unlawful for any person to receive or acquire proceeds or engage in transactions involving proceeds, known to be derived from a violation of sections 1 through 17, and amendments thereto, or any substantially similar offense from another jurisdiction. The provisions of this subsection do not apply to any transaction between an individual and that individual's counsel necessary to preserve that individual's right to representation, as guaranteed by section 10 of the bill of rights of the constitution of the state of Kansas and by the sixth amendment to the United States constitution. This exception does not create any presumption against or prohibition of the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of sections 1 through 17, and amendments thereto.
(b) It shall be unlawful for any person to distribute, invest, conceal, transport or maintain an interest in or otherwise make available anything of value which that person knows is intended to be used for the purpose of committing or furthering the commission of any crime in sections 1 through 17, and amendments thereto, or any substantially similar offense from another jurisdiction..
(c) It shall be unlawful for any person to direct, plan, organize, initiate, finance, manage, supervise or facilitate the transportation or transfer of proceeds known to be derived from commission of any crime in sections 1 through 17, and amendments thereto, or any substantially similar offense from another jurisdiction..
(d) It shall be unlawful for any person to conduct a financial transaction involving proceeds derived from commission of any crime in sections 1 through 17, and amendments thereto, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds known to be derived from commission of any crime in sections 1 through 17, and amendments
thereto, or any substantially similar offense from another jurisdiction, or to avoid a transaction reporting requirement under state or federal law.
(e) (1) Violation of this section is a drug severity level 4 felony if the value of the proceeds is less than $5,000;

(2) violation of this section is a drug severity level 3 felony if the value of the proceeds is at least $5,000 but less than $100,000;

(3) violation of this section shall be a drug severity level 2 felony if the value of the proceeds is at least $100,000 but less than $500,000;

(4) violation of this section shall be a drug severity level 1 felony if the value of the proceeds is $500,000 or more.

History: L. 2009, ch. 32, § 16; July 1.

21-36a17. Uniformity of act. The statutes listed below shall be applicable and uniform throughout this state and in all cities and counties therein. No city or county shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions listed below unless expressly authorized by law to do so:

(a) Subsection (c) of K.S.A. 21-2501a, and amendments thereto;

(b) subsections (k) and (l) of K.S.A. 65-1643, and amendments thereto;

(c) subsections (e), (f) and (g) of K.S.A. 65-4113, and amendments thereto;

(d) subsection (c) of section 3, and amendments thereto;

(e) subsection (f) of section 9, and amendments thereto;

(f) subsection (f) of section 10, and amendments thereto.

History: L. 2009, ch. 32, § 17; July 1.

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VI. KS Food, Drug, and Cosmetic Act
Chapter 65: Public Health
Article 6: Food, Drugs and Cosmetics

65-619. Chemicals in meat products; penalty. The use of sulphites, any preparation containing sulphur dioxide, or any secret preparation the ingredients of which are unknown, in the manufacture or preparation of meat products, and the manufacture, selling, keeping or offering for sale of any meat products containing sulphites, sulphur dioxide, or the ingredients of any secret preparation, is hereby prohibited, and said meat products are hereby declared to be adulterated within the meaning of the provisions of K.S.A. 65-664, and any amendments thereto, and the manufacture, sale, keeping or offering for sale of any such meat product shall subject the offender to the penalties prescribed in K.S.A. 65-659, and any amendments thereto, relating to adulterated foods.
History: L. 1908, ch. 64, § 1; R.S. 1923, 65-619; L. 1957, ch. 340, § 1; June 29.

65-620. Diseased animals; sale. Any person or persons who shall kill, sell or trade or exchange, or offer to sell, trade or exchange, for human consumption, any diseased animal or animals, knowing them to be diseased, shall be guilty of a misdemeanor: Provided, That this act shall not apply to animals sold for immediate slaughter under state or federal inspection.
History: L. 1909, ch. 185, § 1; March 26; R.S. 1923, 65-620.

65-621. Same; purchase. Any person or persons who shall purchase or get by trade or exchange or in any other way come in possession of any diseased animal or animals, knowing the same to be diseased, for the purpose and with the intent of disposing the same for food, except for immediate slaughter under state or federal inspection, shall be guilty of a misdemeanor.
History: L. 1909, ch. 185, § 2; March 26; R.S. 1923, 65-621.

65-622. Same; penalty. Every person found guilty of violating any of the provisions of this act shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.
History: L. 1909, ch. 185, § 3; March 26; R.S. 1923, 65-622.

65-623. Sale of certain cold-storage meats unlawful; penalty. Every person who shall offer or expose for sale at retail, for human food, at any public market, store, shop, or house, or in or about any street or other public place, any slaughtered domestic or wild fowls, rabbits, squirrels, or other small animals, wild or tame, that have been preserved by refrigeration or cold storage, unless the entrails, crops and other offensive parts are properly drawn and removed, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than fifty dollars nor more than one hundred dollars for each offense.
History: L. 1907, ch. 187, § 1; Feb. 9; R.S. 1923, 65-623.

65-624. Protection of meat; penalty for violation. Every dealer in slaughtered fresh meats, fish, fowl or game for human food, at wholesale or retail, at any established place, or as a peddler in the transportation of such food from place to place to customers, shall protect the same from dust, flies and other vermin or substance which may injuriously affect it, by securely covering it while being so transported. Every violation of this provision shall be a misdemeanor punishable by a fine of not less than ten dollars, or by imprisonment in the county jail for not less than ten days.
History: L. 1907, ch. 187, § 2; Feb. 9; R.S. 1923, 65-624.

65-625. Conditions of places of sale of food and drugs. Every place occupied or used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food or drug shall be properly lighted, drained, plumbed, ventilated, screened and conducted with strict regard to the influence of such condition upon the health of operatives, employees, clerks or other persons therein employed, and the purity and wholesomeness of the foods or drugs therein produced.
History: L. 1909, ch. 230, § 1; March 24; R.S. 1923, 65-625.

65-626. Rules and regulations; penalty for violations. The secretary of health and environment is hereby authorized and directed to make such sanitary rules and regulations as are necessary in food and drug inspection and to carry out the provisions of this act; and any person or persons or associations violating the provisions of this act, or any rules and regulations adopted under the provisions of this act, shall upon conviction be fined in a sum not exceeding $100.
History: L. 1909, ch. 230, § 2; R.S. 1923, 65-626; L. 1965, ch. 506, § 26; L. 1974, ch. 352, § 95; L. 2010, ch. 72, § 1; July 1.

65-627 to 65-630.
History: L. 1891, ch. 1, §§ 1 to 4; R.S. 1923, 65-627 to 65-630; Repealed, L. 1931, ch. 231, § 9; May 28.

65-630a to 65-630h.

History: L. 1931, ch. 231, §§ 1 to 8; Repealed, L. 1965, ch. 375, § 1; June 30.

65-631. Adulteration of turpentine or certain oils. Hereafter it shall be unlawful to manufacture, mix for sale, sell, offer or expose for sale in this state, under the name of raw linseed oil or flaxseed oil, any substance which is not wholly the product obtained from well-cleaned flaxseed or linseed, and unless the same fulfills the latest requirements of the United States pharmacopoeia, or any so-called boiled linseed oil, or boiled flaxseed oil, unless the same shall have been prepared by incorporating drier with raw linseed oil, as defined above, at a temperature of not less than 225 degrees Fahrenheit, and unless the same contains not less than 96 percent of linseed oil. And for the purpose of this act it shall also be deemed a violation thereof if boiled linseed oil does not conform to the following requirements:

(1) Its specific gravity at 60 degrees Fahrenheit must be not less than 0.935.
(2) Its saponification value (Koettstorfer figure) must not be less than 186.
(3) Its iodine number (Huebl's method) must not be less than 160.
(4) Its acid value must not exceed 10.
(5) The volatile matter expelled at 212 degrees Fahrenheit must not exceed one-half of one percent.
(6) No mineral oil shall be present, and the amount of unsaponifiable matter as determined by standard methods shall not exceed 2.5 percent.
(7) The film left after flowing the oil over glass and allowing it to drain in a vertical position must dry free from tackiness in not to exceed twenty hours, at a temperature of about 70 degrees Fahrenheit.

It shall be unlawful to manufacture, mix for sale, sell, offer for sale or expose for sale in this state under the name of turpentine or spirits of turpentine or any compound of the word turpentine or under any name or device illustrating or suggesting turpentine, oil of turpentine or spirits of turpentine, any article which is not wholly distilled from rosin, turpentine gum, or scrape from pine trees, and unmixed and unadulterated with oil, benzine or any other foreign substance of any kind whatsoever.
History: L. 1911, ch. 179, § 1; May 22; R.S. 1923, 65-631.

65-632. Same; branding. No person, firm or corporation shall sell, expose or offer for sale any turpentine, flaxseed oil or linseed oil, unless it is done under its true name, and each barrel, keg or can of such oil so sold, exposed or offered for sale, has distinctly and durably painted, stamped, stenciled, labeled or marked thereon the true name of such oil in ordinary bold-face capital letters, not less than five lines pica in size, and the name and address of the manufacturer thereof, or that of the jobber or dealer therein: Provided, That if the contents of the package be less than twenty-five gallons, a label may be used printed in type not less than two-line pica in size.
History: L. 1911, ch. 179, § 2; May 22; R.S. 1923, 65-632.

65-633. Same; penalty for misbranding. Any person, firm or corporation who shall fail to comply with the requirements of K.S.A. 65-632, or falsely paint, stencil, label or mark, as required by K.S.A. 65-632, said barrels, kegs or cans containing turpentine, flaxseed oil or linseed oil or knowingly permit such false painting, stamping, labeling or marking, or violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction punished with a fine of not less than ten dollars nor more than one hundred dollars or imprisonment not less than ten days nor more than ninety days or both for each offense.
History: L. 1911, ch. 179, § 3; May 22; R.S. 1923, 65-633.

65-634. Same; spirits of turpentine or linseed oil compounds. Nothing in this act shall be construed as prohibiting the manufacture or sale of adulterated spirits of turpentine or linseed oil compounds: Provided, If such compounds or adulterations are designed to take the place of raw or

boiled linseed oil or turpentine as defined in K.S.A. 65-631, they shall not be manufactured or mixed for sale, sold, offered or exposed for sale under any title or designation conveying the impression, either directly or indirectly, that it is flaxseed oil or linseed oil, and all compounds of linseed oil or flaxseed oil shall, when sold, offered or exposed for sale, under invented proprietary names or titles, bear conspicuously upon the containing vessel in capital letters, not less than five-line pica in size, and the word "compound," or "adulterated," and be labeled so as to state clearly and distinctly the actual proportions of turpentine or linseed oil and other ingredients contained therein, said label to be printed in the English language, in plain legible type in continuous list, with no intervening matter of any kind.
History: L. 1911, ch. 179, § 4; May 22; R.S. 1923, 65-634.

65-635. Same; powers and duties of inspectors. The secretary of agriculture, as well as inspectors, assistants, experts, analysts, or others appointed by the secretary, shall have full rights of ingress and egress to the premises occupied by parties who manufacture, deal in or compound turpentine, linseed oil or flaxseed oil, and also shall have power and authority to open any tank, barrel, can or other vessel believed to contain such oil, turpentine, or products used in its manufacture, and to inspect the contents thereof, and to take therefrom samples for analysis, and in case any of the samples so taken shall prove on analysis to be adulterated in violation of the provisions of this act, it shall be the duty of the person securing the sample to proceed against the offender as herein provided.
History: L. 1911, ch. 179, § 5; L. 2010, ch. 72, § 2; July 1; R.S. 1923, 65-635.

65-636. Exhibition of title "drugstore," "pharmacy" or "apothecary." It shall be unlawful for any person, who is not legally licensed as a pharmacist by the state board of pharmacy, or any person, firm or corporation who does not have in continuous employ, at each place of business, a pharmacist licensed by the state board of pharmacy, to take, use or exhibit the title "drugstore," "pharmacy" or "apothecary" or any combination of such titles, or any title or description of like import, or any other term designed to take the place of such title.
History: L. 1925, ch. 205, § 1; L. 1986, ch. 231, § 8; June 1.

65-637. Same; penalty. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for the first offense and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each succeeding offense.
History: L. 1925, ch. 205, § 2; May 28.

65-643. Caustic or corrosive substances; definition of terms. When used in this act, unless the context or subject matter otherwise requires, the following shall be held and construed to mean as follows:
A. The terms "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten percentum or more; (b) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H2SO4) in a concentration of ten percentum or more; (c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO3) in a concentration of five percentum or more; (d) carbolic acid (C6H5CH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five percentum or more; (e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H2C2O4) in a concentration of ten percentum or more; (f) any salt of oxalic acid and any preparation containing any such salt in a concentration of ten percentum or more; (g) acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC2H3O2) in a concentration of twenty percentum or more; (h) hypochlorous acid, either free or

combined, and any preparation containing the same in a concentration so as to yield ten percentum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten percentum or more; (j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten percentum or more; (k) silver nitrate sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO3) in a concentration of five percentum or more; and (l) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH3), including ammonium hydroxide and "Hartshorn" in a concentration of five percentum or more.

B. The term "misbranded parcel, package or container" means a retail parcel, package or container or any dangerous caustic or corrosive substance for household use, not bearing a conspicuous easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller or distributor; (c) the word "poison" running parallel with the main body of reading matter on said label or sticker on a clear, plain background or a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.

C. The words "person" or "persons" shall be held, understood and construed to mean every person, natural or artificial, and all firms, copartnerships, trust estates, corporations and the principal officers and agents thereof.

History: L. 1927, ch. 247, § 1; June 1.

65-644. Same; misbranding. No person shall sell, barter or exchange, or receive, hold, display or offer for sale, barter or exchange, in the state of Kansas, any dangerous caustic or corrosive substance in a misbranded parcel, package or container, said parcel, package or container being designed for household use.

History: L. 1927, ch. 247, § 2; June 1.

65-645. Same; condemnation and disposition. Any dangerous caustic or corrosive substance in a misbranded parcel, package or container suitable for household use, that is being sold, bartered or exchanged, or held, displayed or offered for sale, barter or exchange, shall be liable to be proceeded against in any court of competent jurisdiction. If such substance is condemned as misbranded by said court, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds, less the actual costs and charges, shall be paid over to the clerk of the district court of the county in which such sale is had, but such substance shall not be sold contrary to the laws of the state: Provided, however, That upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may order [or] direct that such substance be delivered to the owner thereof. Such condemnation proceedings shall conform as near as may be to proceedings in confiscation of intoxicating liquors.

History: L. 1927, ch. 247, § 3; June 1.

65-646. Same; enforcement of act. The attorney general and the county attorneys of the respective counties of this state shall enforce the provisions of this act, and they are hereby authorized and

empowered to approve and register such brands and labels intended for use under the provisions of this act as may be submitted to him for that purpose and as may, in his judgment, conform to the requirements of this statute.
History: L. 1927, ch. 247, § 4; June 1.

65-647. Same; penalty. Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than two hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment in the discretion of the court.
History: L. 1927, ch. 247, § 5; June 1.

65-648. Same; prosecutions. The attorney general and the county attorneys of the respective counties of the state to whom there is presented, or who in any way procures satisfactory evidence of any violation of the provisions of this act, shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided.
History: L. 1927, ch. 247, § 6; June 1.

65-649. Same; sale of household products. Household products for cleaning and washing purposes subject to this act and labeled in accordance therewith may be sold, offered for sale, held for sale and distributed in this state by any dealer, wholesaler or retailer.
History: L. 1927, ch. 247, § 7; June 1.

65-650. Medicines, drugs and poisons sold through vending machines, requirements; penalties for violations. (a) Any person, firm or corporation who offers for sale, sells or distributes any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison through or by means of any vending machine or other mechanical device, or who uses any vending machine in or for the sale or distribution of any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison, shall be guilty of a class C nonperson misdemeanor and upon conviction shall be fined not less than $25 nor more than $500.
(b) No nonprescription drugs shall be offered for sale or sold through a vending machine in anything other than the manufacturer's original tamper-evident and expiration-dated packet. No more than 12 different nonprescription drugs products shall be offered for sale or sold through any one vending machine. Any vending machine in which nonprescription drugs are offered for sale or sold shall be located so that the drugs stored in such vending machine are stored in accordance with drug manufacturer's requirements. Drugs offered for sale or sold in such vending machine shall not be older than the manufacturer's expiration date. Each vending machine through which nonprescription drugs are offered for sale or sold shall have an obvious and legible statement on the machine that identifies the owner of the machine, a toll-free telephone number at which the consumer may contact the owner of the machine, a statement advising the consumer to check the expiration date of the product before using the product and the telephone number of the state board of pharmacy. As used in this subsection, "nonprescription drug" does not include any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison. A violation of this subsection is a class C nonperson misdemeanor and upon conviction the violator shall be fined not less than $25 nor more than $500.

History: L. 1933, ch. 177, § 1; L. 2000, ch. 40, § 1; July 1.

65-651. Distinctive coloring of certain poisonous substances; purpose. It shall be unlawful for any person, firm or corporation to sell, expose for sale or offer for sale any sodium fluoride, sodium silico-fluoride, lead arsenate, calcium arsenate, or any other poisonous insecticide, fungicide or rodent poison unless said poison has been distinctly colored in such a manner as to make it easily distinguished from food products such as flour, soda, baking powder, cream of tartar, etc.
History: L. 1945, ch. 255, § 1; June 28.

65-652. Same; enforcement; destruction or sale; disposition of proceeds of sale. Any poison such as described in K.S.A. 65-651 which is not distinctly colored as required by this act when offered or exposed for sale, or sold, or located upon the premises of any establishment handling foods, shall be liable to be proceeded against in any court of competent jurisdiction. If such poison is condemned by said court as not being distinctly colored, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the same shall be distinctly colored in accordance with the provisions of this act, and the proceeds, less the actual cost and charges, shall be paid over to the clerk of the district court in the county in which such sale is had, and the clerk of such court shall pay the same to the county treasurer. Such condemnation proceedings shall conform as near as may be to proceedings in confiscation of intoxicating liquors.
History: L. 1945, ch. 255, § 2; L. 1973, ch. 106, § 17; June 1.

65-653. Same; enforcement of act. It shall be the duty of the secretary of agriculture through the food and drug inspectors of the department of agriculture to enforce the provisions of this act.
History: L. 1945, ch. 255, § 3; L. 1974, ch. 352, § 96; L. 1975, ch. 312, § 8; L. 2010, ch. 72, § 4. July 1.

65-654. Same; penalties. Any person, firm, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than three hundred dollars or imprisonment for a period of not more than sixty days, or both such fine and imprisonment at the discretion of the court.
History: L. 1945, ch. 255, § 4; June 28.

65-655. Food, drug and cosmetic act; title. K.S.A. 65-619 through 65-690, and sections 1 and 2, and amendments thereto, may be cited as the Kansas food, drug and cosmetic act.
History: L. 1953, ch. 286, § 1; L. 2010, ch. 72, § 5; L. 2012, ch 45, § 15; July 1.

65-656. Same; definitions. For the purpose of this act:
(a) "Secretary" means the secretary of agriculture or the secretary's authorized representatives.
(b) "Person" means an individual, partnership, governmental entity, corporation, or association of persons.
(c) "Food" means (1) articles used for food or drink for humans or other animals, (2) chewing gum, and (3) articles used for components of any such article.
(d) "Drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to

any of them (2) articles intended for use in diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals (3) articles (other than food) intended to affect the structure or any function of the body of humans or other animals; and (4) articles intended for use as a component of any article specified in paragraph (1), (2), or (3); but does not include devices or their components, parts or accessories. The term "drug" shall not include amygdalin (laetrile).

(e) “Device," except as used in subsection (j) of K.S.A. 65-657, subsection (f) of K.S.A. 65-665, subsection (c) and (o) of K.S.A. 65-669, and subsection (c) of K.S.A. 65-671, and amendments thereto, means instruments, apparatus and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; or (2) to affect the structure or any function of the body of humans or other animals.

(f) "Cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleaning, beautifying, promoting attractiveness, or altering appearance; and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.

(g) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them.

(h) "Label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) "Immediate container" does not include package liners.

(j) "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrapper, or accompanying such article.

(k) "Advertisement" means all representations disseminated in any manner or by any means other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

(l) "New drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions. The term "new drug" shall not include amygdalin (laetrile).

(m) "Contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(n) "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is within the meaning of the agricultural chemicals act, K.S.A. 2-2202, and which is used in the production, storage, or transportation of raw agricultural commodities.

(o) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(p) "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among

experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use. “Food additive” does not include: (1) A pesticide chemical in or on a raw agricultural commodity; (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; (3) a color additive; or (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the food additive amendment of 1958, pursuant to the federal act.

(q) (1) "Color additive" means a material which: (A) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or (B) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with another substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act.

(2) The term "color" includes black, white and intermediate grays.

(3) Nothing in this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(r) "Imitation" means any article made in the semblance of another, consisting of similar or dissimilar ingredients and being capable of being substituted for the imitated article without the knowledge of the consumer.

(s) "Federal act" means the federal food, drug and cosmetic act (title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.).

(t) ‘‘Department’’ means the Kansas department of agriculture.

(u) ‘‘Distribution’’ means the provision of food, drug, cosmetic or device to another person and includes selling, offering for sale, giving, supplying, transporting, applying and dispensing.

(v) ‘‘Food establishment’’ means any place in which food is prepared, served or offered for sale or service on the premises or elsewhere. ‘‘Food establishment’’ does not include roadside markets that offer only whole fresh fruits, nuts and vegetables for sale. ‘‘Food establishment’’ includes, but is not limited to:

(1) Eating or drinking establishments, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, tea rooms, grills, sandwich shops, soda fountains, taverns, private clubs, roadside stands, industrial-feeding establishments, catering kitchens, commissaries and
any other private, public or nonprofit organizations routinely serving
food; and

(2) grocery stores, convenience stores, bakeries and locations where food is provided for the public with or without charge.

(w) ‘‘Food processing plant’’ means a commercial operation that processes or stores food for human consumption and provides food for distribution to other business entities at other locations, including other food processing plants and food establishments. ‘‘Food processing plant’’ does not include any operation or individual beekeeper that produces and distributes honey to other business entities if the producer does not process the honey beyond extraction from the comb.

(x) ‘‘Food vending machine’’ means any self-service device, which, upon payment, dispenses unit servings of food, either in bulk or in pack ages. Such device shall not necessitate replenishing between each vending operation. ‘‘Food vending machine’’ does not include any vending machine dispensing only canned or bottled soft drinks or prepackaged food that does not require temperature control for safety.

(y) ‘‘Food vending machine company’’ means any person in the business of operating and servicing food vending machines.
(z) ‘‘Location’’ means a physical address, or absent an address, the geographical area within 300 feet of a food establishment or food processing plant. In the case of a mobile food establishment housed in a trailer, such trailer shall be considered a food establishment with its own location.
In the case of a mobile food establishment that is not housed in a trailer, the equipment used for storage, preparation or offering of food shall be considered a food establishment with its own location.
(aa) ‘‘Municipality’’ means any city or county of this state.
(bb) ‘‘Processing’’ means the handling of a food, drug, cosmetic or device, including the production, manufacturing, packaging, packing and labeling of such item.
(cc) ‘‘Sample’’ means a small quantity of food and does not include a meal or entree.
(dd) ‘‘Storage’’ means holding for distribution or processing.
History: L. 1953, ch. 286, § 2; L. 1965, ch. 377, § 1; L. 1967, ch. 338, § 1; L. 1974, ch. 352, § 97; L. 1978, ch. 239, § 13; L. 2010, ch. 72, § 6. July 1.

65-657. Same; unlawful acts. The following acts and the causing thereof within the state of Kansas are hereby prohibited:
(a) The processing, storage, or distribution sale of any food, drug, device, or cosmetic that is adulterated or misbranded.
(b) The adulteration or misbranding of any food, drug, device, or cosmetic.
(c) The receipt in commerce of any food, drug, device, or cosmetic knowing it to be adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.
(d) The dissemination of any false advertisement.
(e) The refusal to permit entry, inspection, or taking of a sample, as authorized by K.S.A. 65-674, and amendments thereto.
(f) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the United States from whom such person received in good faith the food, drug, device, or cosmetic.
(g) The removal or disposal of a detained or embargoed article in violation of K.S.A. 65-660, and amendments thereto.
(h) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.
(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification method authorized, or required by regulations promulgated under the provisions of this act.
(j) The using of any person to such person's own advantage, or revealing, other than to the administrator or officers or employees of the department of agriculture or to the courts where relevant in any jurisdictional proceeding under this act, any information acquired under authority of this act

concerning any method or process which constitutes a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto) and as a trade secret is entitled to protection.
(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under K.S.A. 65-669a, and amendments thereto, or that such drug complies with the provisions of such section.
(l) In the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this act.
(m) (1) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; (2) selling, dispensing, disposing of or causing to be sold, dispensed or disposed of or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by paragraph (1); or (3) making, selling, disposing of or causing to be made, sold or disposed of or keeping in possession, control or custody, or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device or container thereof.
(o)*(n)* Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the person ordering or prescribing.
(o) Knowingly killing, selling, trading, exchanging or offering to sell, trade or exchange any diseased animal for human consumption, except immediate slaughter under state or federal meat and poultry inspection.
(p) Knowingly purchasing or otherwise obtaining possession of any diseased animal for the purpose and with the intent of disposing the same for food, except immediate slaughter under state or federal meat and poultry inspection.
(q) Offering or exposing for sale at retail, for human consumption, any slaughtered wild or domestic fowl, rabbit, squirrel or other small animal unless the entrails, crops and other offensive parts are properly drawn and removed and the carcass is cooled to 41 degrees Fahrenheit or less within four hours of slaughter and held at such temperature until delivery to the end consumer.
(r) Failing to protect slaughtered fresh meats, fish, fowl or game for human consumption from dust, flies and other vermin or substance which may injuriously affect it. Protection shall be required at any wholesale or retail food establishment or food processing plant and for peddlers transporting such goods from place to place.
History: L. 1953, ch. 286, § 3; L. 1965, ch. 377, § 2; L. 1974, ch. 352, § 98; L. 2005, ch. 67, § 6; L. 2010, ch. 72, § 7; L. 2012, ch 145, § 17; July 1.

65-658. Same; injunction to restrain violation of 65-657. In addition to the remedies provided by the food, drug, and cosmetic act, the secretary of agriculture is hereby authorized to apply to the district court for, and the court may grant, a temporary or permanent injunction restraining, any person from violating any provision of the food, drug, and cosmetic act; irrespective of whether or not there exists an adequate remedy at law.

History: L. 1953, ch. 286, § 4; L. 1974, ch. 352, § 99; L. 2010, ch. 72, § 8; L. 2012, ch 145, § 18; July 1.

65-659. Same; penalties for violations of 65-657. (a) Any person who violates any of the provisions of K.S.A. 65-657, as amended, shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than sixty (60) days or a fine of not more than three hundred dollars ($300), or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than six (6) months, or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) or (c) if he establishes a guaranty of undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this act, designating this act.
(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller or the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the secretary to furnish the secretary the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement.
History: L. 1953, ch. 286, § 5; L. 1974, ch. 352, § 100; July 1.

65-660. Same; adulterated or misbranded food, drug, device or cosmetic; detaining or embargoing; condemnation proceedings; consolidation, when; samples and analyses of seized articles; destruction of certain perishable food. (a) Whenever the secretary finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, contains any substance injurious to public health, is offered in violation of any of the provisions of the food, drug, and cosmetic act or rules and regulations adopted thereunder, or so misbranded as to be dangerous or fraudulent, within the meaning of this act, the secretary shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed. Such tag or marking shall warn all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the secretary. It shall be unlawful for any person to remove such tag or marking from a detained or embargoed article or remove or dispose of such detained or embargoed article by sale or otherwise without the permission of the secretary.
(b) When an article detained or embargoed under subsection (a) has been found to be adulterated, or misbranded, the secretary shall issue an order establishing measures to prevent further contamination or threat to the public health. The secretary may order the destruction
of contaminated food, drugs, devices or cosmetics if no alternative assures that further contamination or health hazards are averted. (c) If the secretary finds that an article so detained or embargoed is not adulterated or misbranded, the secretary shall remove the tag or other
marking. Any order issued pursuant to subsection (b) or (c) shall be subject to review in accordance with the Kansas judicial review act. Nothing in this section shall be construed as limiting the right of the secretary to proceed as authorized by other sections of this act.
History: L. 1953, ch. 286, § 6; L. 1974, ch. 352, § 101; L. 2012, ch 145, § 19; July 1.

65-661. Same; proceedings instituted by county attorney. It shall be the duty of each county attorney to whom the secretary reports any violation of this act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.
History: L. 1953, ch. 286, § 7; L. 1974, ch. 352, § 102; July 1.

65-662. Same; minor violations; notice or warning. Nothing in this act shall be construed as requiring the secretary to report for the institution of proceedings under this act, minor violations of this act, whenever the secretary believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.
History: L. 1953, ch. 286, § 8; L. 1974, ch. 352, § 103; July 1.

65-668. Same; drugs or devices deemed adulterated, when. A drug or device shall be deemed to be adulterated:
(a) (1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or
(2) (A) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or
(B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess; or
(3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
(4) if (A) it is a drug and it bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of K.S.A. 65-667, or
(B) it is a color additive, the intended use of which in or on drugs is for purposes of coloring only, and is unsafe within the meaning of K.S.A. 65-667.
(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal act. No drug defined in any official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.
(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.
(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor.
History: L. 1953, ch. 286, § 14; L. 1965, ch. 377, § 5; July 1.

65-669. Same; drugs or devices deemed misbranded, when. A drug or device shall be deemed to be misbranded:
(a) If its labeling is false or misleading in any particular.
(b) If in package form unless it bears a label containing:

(1) the name and place of business of the manufacturer, the packer or the distributor, except that in the case of a prescription drug it shall bear the name and place of business of the person responsible for the production of the finished dosage form of the drug, the packer and the distributor; except that nothing in clause (1) of this paragraph shall be construed to apply to wholesalers and the requirement of clause (1) shall be satisfied by stating such information on the label of the drug and filing a statement with such information with the secretary which shall be made available by the secretary on request to local, public and private health agencies, poison control centers, licentiates of the healing arts, the state board of pharmacy, consumers and others to promote the purposes of this act; in no event, however, shall the label contain less information than required under federal law; and

(2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, except that under clause (2) of this paragraph reasonable variations shall be permitted and exemptions as to small packages shall be allowed, in accordance with regulations prescribed by the secretary, or issued under the federal act.

(c) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative has been by the secretary after investigation, found to be, and by regulations under this act, or by regulations issued pursuant to 21 U.S.C. 352 (d), designated as, habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "warning-may be habit forming."

(e) (1) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula), (i) the established name (as defined in subparagraph (2)) of the drug, if such there be; and (ii) in case it is fabricated from two or more ingredients, the established name of each active ingredient, including the kind and quantity of proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The requirements for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs. To the extent that compliance with the requirements of clause (ii) of this subparagraph is impracticable, exemptions shall be allowed under regulations promulgated by the secretary, or under the federal act.

(2) As used in this paragraph (e), the term "established name," with respect to a drug or ingredient thereof, means

(A) the applicable official name designated pursuant to 21 U.S.C. 358, or

(B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium or

(C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient. Where clause (B) of this subparagraph applies to an article recognized in the United States pharmacopoeia and in the homeopathic pharmacopoeia under different official titles, the official title used in the United States pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the homeopathic pharmacopoeia shall apply.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warning against use in those pathological conditions or by children where its use may be dangerous to health, or against

unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirements. Articles exempted under regulations issued under 21 U.S.C. 352 (f) may also be exempt.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The method of packing may be modified with the consent of the secretary, or if consent is obtained under the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to the packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia. In the event of inconsistency between the requirements of this paragraph and those of paragraph (e) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (e) shall prevail.

(h) If it has been found by the secretary or under the federal act to be a drug liable to deterioration, unless it is packed in such form and manner, and its label bears a statement of such precautions, as the regulations adopted by the secretary require as necessary for the protection of public health. No such regulations shall be established for any drug recognized in an official compendium until the secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or

(2) if it is an imitation of another drug; or

(3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency of duration prescribed, recommended, or suggested in the labeling thereof.

(k) If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C. 356, and (2) such certificate or release is in effect with respect to such drug.

(l) If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C. 357, and (2) such certificate or release is in effect with respect to such drug. This paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under 21 U.S.C. 357 (c) or (d). For the purpose of this subsection the term "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(m) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, prescribed under the provisions of K.S.A. 65-667 or of the federal act.

(n) In the case of any prescription drug distributed or offered for sale in this state, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of (1) the established name, as defined in subsection (e) (2) of this section, (2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under 21

U.S.C. 352 (e), and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations issued under the federal act.

(o) If a trademark, trade name or other identifying mark, imprint or device of another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

(p) Drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of this act if such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with regulations issued by the secretary or under the federal act.

(q) A drug intended for use by man which

(A) is a habit-forming drug to which K.S.A. 65-668 applies; or

(B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or

(C) is limited by an approved application under 21 U.S.C. 355 or K.S.A. 65-669a to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug or upon the written prescription of a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto, or (ii) upon an oral prescription of such practitioner or mid-level practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling, any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

(r) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug or by filling or refilling a written or oral prescription of a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto shall be exempt from the requirements of this section, except subsections (a), (i) (2) and (3), (k), and (l), and the packaging requirements of subsections (g) and (h), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (q) of this section.

(s) The secretary may, by regulation, remove drugs subject to subsection (d) of this section and K.S.A. 65-669a from the requirements of paragraph (q) of this section when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the federal act by regulations issued thereunder may also, by regulations issued by the secretary, be removed from the requirements of paragraph (q) of this section.

(t) A drug which is subject to paragraph (q) of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "caution: federal law prohibits dispensing without prescription," or "caution: state law prohibits dispensing without prescription." A drug to which paragraph (q) of this section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(u) Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications of narcotic drugs or marijuana as defined in the applicable federal and state laws relating to narcotic drugs and marijuana.

History: L. 1953, ch. 286, § 15; L. 1965, ch. 377, § 6; L. 1972, ch. 230, § 1; L. 1974, ch. 352, § 108; L. 1977, ch. 215, § 1; L. 1999, ch. 115, § 8; Apr. 1, 2000.

65-669a. New drugs; selling, offering or giving away, restrictions; investigational uses. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless:

(1) an application with respect thereto has been approved and such approval has not been withdrawn under 21 U.S.C.A. 355, or

(2) when not subject to the federal act, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the secretary an application setting forth

(A) full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use;

(B) a full list of the articles used as components of such drug;

(C) a full statement of the composition of such drug;

(D) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such drug;

(E) such samples of such drug and of the articles used as components thereof as the secretary may require; and

(F) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subsection (a)(2) of this section shall become effective 180 days after the filing thereof, except that if the secretary finds, after due notice to the applicant and giving the applicant an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, the secretary shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) An order refusing to permit an application under this section to become effective may be revoked by the secretary.

(d) This section shall not apply to:

(1) A drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with regulations issued by the secretary or pursuant to 21 U.S.C.A. 355 or 21 U.S.C.A. 357; or

(2) a drug sold in this state at any time prior to the enactment of this act or introduced into interstate commerce at any time prior to the enactment of the federal act; or

(3) any drug which is licensed under the virus, serum, and toxin act of July 1, 1902 (U.S.C. 1958 ed. title 42, chapter 6A, sec. 262); or

(4) any drug which is subject to subsection (1) of K.S.A. 65-669 and amendments thereto.

(e) The provisions of subsection (n) of K.S.A. 65-656 and amendments thereto shall not apply to any drug which was, on October 9, 1962, or on the date immediately preceding the enactment of this subsection, (1) commercially sold or used in this state or in the United States, (2) not a new drug as defined by subsection (n) of K.S.A. 65-656 and amendments thereto as then in force, and (3) was not covered by an effective application under this section or under 21 U.S.C.A. 355, when such drug is intended solely for use under conditions prescribed, recommended or suggested in labeling with respect to such drug.

History: L. 1965, ch. 377, § 7; L. 1974, ch. 352, § 109; L. 1988, ch. 356, § 187; July 1, 1989.

65-670. Same; cosmetic deemed adulterated, when. A cosmetic shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual: Provided, That this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution-this product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying direction should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness," and the labeling of which bears adequate direction for such preliminary testing. For the purposes of this paragraph and the paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.
(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.
(c) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.
(d) If its container is composed in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the federal act.
History: L. 1953, ch. 286, § 16; June 30.

65-671. Same; cosmetic deemed misbranded, when. A cosmetic shall be deemed to be misbranded:
(a) If its labeling is false or misleading in any particular.
(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the secretary.
(c) If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
(d) If its container is so made, formed, or filled as to be misleading.
History: L. 1953, ch. 286, § 17; L. 1974, ch. 352, § 110; July 1.

65-672. Same; advertisements of food, drugs, devices or cosmetics deemed false, when. (a) An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.
(b) For the purpose of this act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not in violation of subsection (a) shall be deemed to be false under this subsection if it is disseminated only to a physician, dentist or veterinarian, or appears only in the scientific periodicals of these professions, or is disseminated only

for the purpose of public-health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: Provided, That whenever the secretary determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the secretary shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such condition and restriction as the secretary may deem necessary in the interests of public health: Provided, That this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.
History: L. 1953, ch. 286, § 18; L. 1974, ch. 352, § 111; July 1.

65-673. Rules and regulations; authority of secretary; hearings. (a) The authority to promulgate rules and regulations for the efficient enforcement of this act is hereby vested in the secretary. The secretary is hereby authorized to make the regulations promulgated under this act conform, insofar as practicable, with those promulgated under the federal act.
(b) Hearings authorized or required by this act shall be conducted by the secretary or by a presiding officer from the office of administrative hearings for this purpose. The secretary shall prescribe by rule and regulation the procedure for conducting hearings. The presiding officer shall have the same powers in conducting a hearing as the secretary. In conducting a hearing the secretary or the presiding officer may issue subpoenas to compel the attendance of witnesses, administer oaths, take testimony, require the production of books, papers, records, correspondence or other documents which the secretary or the presiding officer deems relevant and render decisions. In case of the refusal of any person to comply with any subpoena issued under this section or to testify with respect to any matter which the person may be lawfully questioned, the district court of any county on application of the secretary may issue an order requiring such person to comply with the subpoena and to testify, and any failure to obey the order of the court may be punished by the court as a contempt thereof. Notwithstanding the foregoing provisions of this subsection, hearings on an order, as defined in subsection (d) of K.S.A. 77-502 and amendments thereto, shall be conducted in accordance with the provisions of the Kansas administrative procedure act.
(c) Before promulgating any rules and regulations contemplated by K.S.A. 65-663, 65-665, 65-666, 65-669, or 65-672, and amendments thereto, the secretary shall give appropriate notice of the proposal and of the time and place for a hearing as provided in this act. Such rules and regulations may be amended or revoked in the same manner as is provided by law for adoption.
History: L. 1953, ch. 286, § 19; L. 1965, ch. 506, § 27; L. 1974, ch. 352, § 112; L. 1982, ch. 258, § 5; L. 1988, ch. 356, § 188; L. 2004, ch. 145, § 21; July 1, 2005.

65-674. Same; free access to establishments and vehicles for inspections and samples. (a) The secretary shall have free access at all reasonable hours to any location in which foods, drugs, devices, or cosmetics are processed, stored, or distributed, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the following purposes: (1) To inspect any location, products or equipment subject to the provisions of the food, drug and cosmetic act and rules and regulations adopted thereunder;
(2) to inspect or sample food, drugs, devices or cosmetics reported to be adulterated or a threat to public health;
(3) to inspect or investigate complaints of violations of the provisions of the food, drug and cosmetic act and rules and regulations adopted thereunder; or
(4) to sample products.
(b) If the secretary is denied access to any location where such access is sought for the purposes as provided in subsection (a), the secretary may apply to any court of competent jurisdiction for a search warrant authorizing access to such location for such purpose. Upon such application
and a showing of cause therefor, the court shall issue such search warrant.

History: L. 1953, ch. 286, § 20; L. 1974, ch. 352, § 113; L. 2012, ch 145, § 20; July 1.

65-675. Same; reports and dissemination of information. (a) The secretary may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this act, including the nature of the charge and the disposition thereof.
(b) The secretary may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as the secretary deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in the section shall be construed to prohibit the secretary from collecting, reporting and illustrating the results of the investigations of the secretary.
History: L. 1953, ch. 286, § 21; L. 1974, ch. 352, § 114; July 1.

65-676. Same; enforcement of act. The enforcement of the provisions of this act and all acts ancillary hereto shall be the duty of the department of agriculture. The secretary is hereby authorized to appoint the necessary personnel to properly administer this act.
History: L. 1953, ch. 286, § 22; L. 1974, ch. 352, § 115; L. 2010, ch. 72, § 10; July 1.

65-677. Same; examinations by office of laboratory services and at state educational institutions; expenses. The examinations of foods, drugs, devices and cosmetics required for the proper enforcement of this act may be made by the office of laboratory services or by specialists and experts in the various fields of science at the state educational institutions, and the secretary shall pay the actual and necessary expenses of such specialists and experts.
History: L. 1953, ch. 286, § 23; L. 1974, ch. 352, § 116; L. 1975, ch. 312, § 9; July 1.

65-678. Same; cooperation with federal food and drug administration. The secretary is hereby authorized to confer and cooperate with the federal food and drug administration in the enforcement of the national food, drug and cosmetic act as it may apply to food, liquor, drugs, and cosmetic products received in this state from other states, territories or foreign countries.
History: L. 1953, ch. 286, § 24; L. 1974, ch. 352, § 117; July 1.

65-679. Same; act not to limit authority established under certain other acts. Nothing in this act shall be construed as limiting or abridging the authority of the secretary of agriculture established under the Kansas dairy law, K.S.A. 65-771 through 65-791, and amendments thereto; or the Kansas commercial feeding stuffs law, K.S.A. 2-1001 through 2-1013, and amendments thereto.
History: L. 1953, ch. 286, § 25; L. 1974, ch. 352, § 118; L. 2001, ch. 32, § 23; L. 2002, ch. 25, § 1; July 1.

65-679a. Dimethyl sulfoxide; labeling and information requirements if sold other than by prescription. (a) Any dimethyl sulfoxide (DMSO) sold in this state other than by prescription shall be labeled by the manufacturer and seller. The label shall contain a description of all of the contents in the solution, a statement of purity, the percent of dimethyl sulfoxide (DMSO) in the solution and the manufacturer's name and address. Whenever dimethyl sulfoxide (DMSO) is sold or otherwise supplied, the seller or supplier shall give additional printed material, approved by the secretary, to the person

receiving the dimethyl sulfoxide (DMSO) that provides adequate warning against use that may be dangerous to the health of the user.
(b) The secretary of agriculture may adopt rules and regulations necessary to administer the provisions of this section.
(c) This section shall be part of and supplemental to the Kansas food, drug and cosmetic act.
History: L. 1982, ch. 255, § 1; L. 2010, ch. 72, § 11; July 1.

65-680. Same; invalidity of part. If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the act and applicability thereof to other persons and circumstances shall not be affected thereby.
History: L. 1953, ch. 286, § 26; June 30.

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VII. Related Laws/Useful Information

Selected Organization, Powers, and Finances of Boards of Education Statutes

Chapter 72. Schools
Article 82.--Organization, Powers, and Finances of Boards of Education

72-8258. Epinephrine kits; requirements. Any accredited school may maintain an epinephrine kit. An epinephrine kit may consist of one or more doses of epinephrine. Epinephrine from an epinephrine kit shall be used only in emergency situations when the person administering the epinephrine reasonably believes that the signs and symptoms of an anaphylactic reaction are occurring and if administered at school, on school property or at a school-sponsored event. A school may not maintain an epinephrine kit unless the school has consulted with a pharmacist licensed by the state board of pharmacy. The consultant pharmacist shall have supervisory responsibility for maintaining the epinephrine kit. The consultant pharmacist shall be responsible for developing procedures, proper control and accountability for the epinephrine kit. Periodic physical inventory of the epinephrine kit shall be required. An epinephrine kit shall be maintained under the control of the consultant pharmacist.
History: L. 2009, ch. 102, § 2; July 1.

MEDICAL CARE FACILITIES – SELECTED STATUTES

65-643. Termination of human pregnancy; performance or participation in medical procedures not required (Exact caption not yet provided). No person shall be required to perform, refer for, or participate in medical procedures or in the prescription or administration of any device or drug which result in the termination of a pregnancy or an effect of which the person reasonably believes may result in the termination of a pregnancy, and the refusal of any person to perform, refer for, or participate in those medical procedures, prescription or administration shall not be a basis for civil liability to any person. No medical care facility, medical care facility administrator or governing board of any medical care facility shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any person because of such exercise of rights protected by this section.
History: L. 1969, ch. 182, § 1; L. 1975, ch. 313, § 1; L. 2012, ch. 112, § 1; July 1.

65-444. Same; performance in hospital; refusal to permit; adoption of criteria and procedures (Exact caption not yet provided). No medical care facility, medical care facility administrator or governing board of any medical care facility shall be required to permit the performance, referral for, or participation in medical procedures or in the prescription or administration of any device or drug which result in the termination of human pregnancies of an effect of which the medical care facility, administrator or board reasonably believes may result in the termination of human pregnancies within its facility and the refusal to permit such procedures, prescription or administration shall not be grounds for civil liability to any person. A medical care facility may establish criteria and procedures under which pregnancies may be terminated within its institution, in addition to those which may be prescribed by licensing, regulating or accrediting agencies.
History: L. 1969, ch. 182, § 2; L. 2011, ch. 30, § 233; L. 2012, ch. 112, § 2; July 1.

CONTACT LENS PRESCRIPTIONS - SELECTED STATUTES

65-4966. Patient entitled to receive copy of contact lens prescription; disclosures; prescription limitations. Each patient shall be entitled to receive a copy of such patient's contact lens prescription once the same prescription has been determined and the adaptation period has been completed. Any prescription for a specific brand of contact lenses available only from the licensed optometrist or person licensed to practice medicine and surgery, but which are generally marketed under an alternate brand, must disclose the name of the manufacturer and the trade name of the alternate brand. No contact lens prescription may be limited by an expiration date or otherwise to a period of less than 12 months from either the date the prescription is first determined or the last date of the contact lens evaluation by a licensed optometrist or a person licensed to practice medicine and surgery, whichever date is later, unless a health related reason for the limitation is noted in the patient's medical record.
History: L. 2002, ch. 113, § 3; Jan. 1, 2003.

65-4967. Definition of person dispensing contact lenses for purposes of section; persons mailing contact lenses to patients in Kansas; registration requirements; fees; temporary suspension or limitation of registration; emergency proceedings; moneys remitted to state board of healing arts. (a) For purposes of this section a person dispensing contact lenses means a person or entity not licensed under K.S.A. 65-1505, and amendments thereto, or licensed to practice medicine and surgery in Kansas who mails or delivers, using commercial courier or overnight or other delivery services,

contact lenses to patients in Kansas pursuant to a contact lens prescription which such person or entity did not determine.

(b) No person dispensing contact lenses as defined under subsection (a) may dispense contact lenses to Kansas residents unless such person meets the criteria of this section, is registered under this section and pays the annual registration fee set by the state board of healing arts. Registration fees shall not exceed the annual fee for an initial or renewal permit to practice optometry in this state as provided in K.S.A. 65-1505 and amendments thereto.

(c) Approval of the registration for dispensing contact lenses shall be provided by the state board of healing arts upon certification by the person dispensing the contact lenses that such person:

(1) Is licensed or registered to dispense contact lenses in the state where the dispensing facility is located, if required to be licensed or registered in such state;

(2) provides the location, names and titles of all principal corporate officers and of the individual who is responsible for overseeing the dispensing of contact lenses in Kansas;

(3) complies with directions and appropriate requests for information from the regulating agency of each state where such person is licensed or registered;

(4) will respond directly and within a reasonable period of time, not to exceed 15 days, to all communications from the state board of healing arts concerning the dispensing of contact lenses in Kansas;

(5) maintains records of contact lenses and their corresponding valid, unexpired prescription dispensed in Kansas;

(6) agrees to cooperate with the state board of healing arts in providing information to the regulatory agency of any state where it is licensed or registered concerning matters related to the dispensing of contact lenses in Kansas;

(7) provides a toll-free telephone service for responding to questions and complaints from individuals in Kansas during such person's regular hours of operation and agrees to (a) include the toll-free number in literature provided with mailed contact lenses and (b) refer all questions relating to eye care for the lenses prescribed to the licensee who determined the contact lens prescription;

(8) provides the following, or substantially equivalent, written notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE OR REDNESS;

(9) fills contact lens prescriptions according to the strict directions of a person licensed to practice optometry or person licensed to practice medicine and surgery in Kansas, without any deviation or substitution of lenses; and

(10) consents in writing to the personal and subject matter jurisdiction of the district courts of this state and the state board of healing arts for actions arising out of this act.

(d) The state board of healing arts may temporarily suspend or temporarily limit the registration of any person dispensing contact lenses to Kansas residents in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that any of the requirements of subsection (c) and that the registrant's continued dispensing of contact lenses to Kansas residents would constitute an imminent danger to the public health and safety.

(e) The state board of healing arts shall remit all moneys received under this section 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 healing arts fee fund.

History: L. 2002, ch. 113, § 4; L. 2008, ch. 75, § 3; L. 2010, ch. 27, § 1; March 24.

SOCIAL WELFARE - DRUG FORMULARY - SELECTED STATUTES

39-7,121e. Limitation of reimbursement to multisource generic equivalent drugs, when; pharmacists not required to dispense certain drugs. (a) Except where a prescriber has personally written "dispense as written" or "D.A.W.," or has signed the prescriber's name on the "dispense as written" signature line in accordance with K.S.A. 65-1637 and amendments thereto, the secretary of health and environment may limit reimbursement for a prescription under the medicaid program to the multisource generic equivalent drug.
(b) No pharmacist participating in the medical assistance program shall be required to dispense a prescription-only drug that will not be reimbursed by the medical assistance program.
History: L. 2002, ch. 180, § 5; L. 2005, ch. 187, § 29; L. 2005, ch. 187, § 58; L. 2012, ch 102, § 13; July 1

LICENSURE OF ADULT CARE HOMES - SELECTED REGULATIONS

28-39-156. Pharmacy services. The nursing facility shall provide pharmaceutical services including policies and procedures that assure the accurate acquisition, receipt, and administration of all drugs and biologicals to meet the needs of each resident.
(a) Supervision by a licensed pharmacist.
(1) A pharmacist shall develop, coordinate, and supervise all pharmacy services.
(2) The pharmacist shall perform a monthly review of the methods, procedures, storage, administration, disposal, and record-keeping of drugs and biologicals.
(3) The pharmacist shall prepare a written report which includes recommendations for the administrator after each monthly review.
(b) Ordering and labeling.
(1) All drugs and biologicals shall be ordered pursuant to a written order issued by a licensed physician.
(2) The dispensing pharmacist shall label each prescription container in accordance with K.A.R. 68-7-14.
(3) Over-the-counter drugs. The facility shall ensure that any over-the-counter drug delivered to the facility is in the original, unbroken manufacturer’s package. The pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer’s package other than for administration, the pharmacist shall label the drug as required for prescription drugs.
(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in the resident’s clinical record. The physician shall counter-sign all verbal orders within seven working days after receipt of the verbal order.
(c) Automatic stop orders. Drugs not specifically limited as to time or number of doses when ordered shall be controlled by automatic stop orders in accordance with written policies of the facility. A

licensed nurse shall notify the physician of an automatic stop order before the administration of the last dose so that the physician may decide if additional drug is to be ordered.

(d) Storage.

(1) The licensed pharmacist shall ensure that all drugs and biologicals are stored according to state and federal laws.

(2) The nursing facility shall store all drugs and biologicals in a locked medication room or a locked medication cart located at the nurses' station. Only the administrator and persons authorized to administer medications shall have keys to the medication room or the medication cart.

(3) The nursing facility shall store drugs and biologicals under sanitary conditions.

(4) The temperature of the medication room shall not exceed 85_F. The nursing facility shall store drugs and biologicals at the temperatures recommended by the manufacturer.

(e) The nursing facility shall develop and implement policies and procedures to assure that residents who self-administer drugs do so safely and accurately.

(f) Accountability and disposition. The nursing facility shall control and dispose of drugs and biologicals in a manner that ensures the safety of the resident.

(1) The nursing facility shall maintain records of receipt and disposition of all controlled substances in order that there can be an accurate reconciliation.

(2) The licensed pharmacist shall determine whether the records of drug and biological administration are in order and that an accurate account of all controlled substances was maintained and reconciled.

(3) The licensed pharmacist shall identify any deteriorated, outdated, or discontinued drugs and biologicals and any drugs or biologicals that are unused remaining from a discharged or deceased resident during the monthly pharmacy services review.

The licensed pharmacist shall destroy, if appropriate, any deteriorated, outdated, unused, or discontinued drugs and biologicals at the nursing facility and in the presence of one witness who is a licensed nurse employed by the facility. A record shall be on file in the facility which contains the date, drug name, quantity of drugs and biologicals destroyed, and signatures of the pharmacist and licensed nurse.

(4) The nursing facility shall return to the dispensing pharmacy any drugs and biologicals which have been recalled and shall maintain documentation of this action in the facility.

(5) Staff members who have authority to administer drugs may provide drugs to residents or a responsible party during short-term absences from the facility.

(A) A staff member who has the authority to administer drugs may transfer drugs to a suitable container.

(B) The staff member preparing the drugs shall provide written instructions for the administration of the drugs to the resident or responsible party.

(6) The staff member preparing the drugs shall document the drugs provided and the instructions given in the resident's clinical record.

(7) The nursing facility may send drugs with a resident at the time of discharge, if so ordered by the physician.

(g) Drug regimen review.

(1) The licensed pharmacist shall review the drug regimen of each resident at least monthly.

(2) The licensed pharmacist shall document in the resident's clinical record that the drug regimen review has been performed.

(3) The licensed pharmacist shall report any irregularities to the attending physician, the director of nursing, and the medical director. The pharmacist or a licensed nurse shall act upon any responses by the physician to the report.

(4) The pharmacist shall document the drug regimen review in the resident's clinical record or on a drug regimen report form. A copy of the drug regimen review shall be available to the department.

(5) Any deviation between drugs ordered and drugs given shall be reported to the quality assessment and assurance committee.

(h) Emergency drug kits. A nursing facility may have an emergency drug kit available for use when needed.

(1) The medical director, director of nursing, and licensed pharmacist shall determine the contents of the emergency drug kit. The contents of the kit shall be periodically reviewed and drugs added and deleted as appropriate. Written documentation of these determinations shall be available in the facility.

(2) Policies and procedures shall be available for the use of the emergency drug kit.

(3) The facility shall have a system in place which ensures that drugs used from the emergency drug kit are replaced in a timely manner.

(4) The emergency drug kit shall be in compliance with K.A.R. 68-7-10 (d).

(Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997.)

28-39-436. Medication management in home-plus facilities.

(a) Self-administration of medications.

(1) Each resident may manage and self-administer the individual's own medications if an assessment by a licensed nurse or physician has determined that the resident can perform this function safely and accurately.

(2) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to manage that individual's own medications.

(3) The assessment shall be documented on the resident's clinical record.

(4) Each resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and identify the licensed nurse responsible for management of the selected medications.

(5) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall consist of the following:

(A) An inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Each resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled syringes, if an assessment performed by a licensed nurse has determined that the resident can safely and accurately administer the preselected medications using medication reminder boxes or prefilled syringes without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(1) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer the medications using medication reminder boxes or prefilled syringes.

(2) An assessment shall be performed either when the resident is admitted or before the resident begins to self-administer medications with assistance. An assessment shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(3) The licensed nurse or pharmacist who prefills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(4) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(A) Medication reminder boxes are labeled with the resident's name and the date on which the box was prefilled.

(B) A label is placed on the medication box, or a medication administration record is provided to the resident, either of which includes the name and dosage of each drug and the time the drug is to be self-administered by the resident.

(5) Each resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility,
a home health agency, or a hospice, or by a medication aide employed by the facility, if the resident believes that the resident is unable to perform this function safely.

(6) A licensed nurse employed by the facility, a home health agency, a hospice, or the resident shall develop a health services plan that provides directions to unlicensed staff to report problems related to the resident's drug regimen.

(7) Medication reminding by staff shall be allowed, subject to the following conditions:

(A) Each medication is preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether medication was taken;

(ii) handing the appropriately labeled prefilled medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. When a facility is responsible for the management of a resident's medications, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's written order. Each
facility shall ensure that all of the following conditions are met:

(1) All drugs, except parenteral drugs, are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs are administered only by a physician or licensed nurse.

(3) The drugs are prepared and administered by the same person.

(4) Each resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record by the person who administered the drug.

(d) Medications may be preselected or administered by family members or friends gratuitously pursuant to K.S.A. 65-1124(a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be ordered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container, pursuant to K.A.R. 68-7-14.

(3) Over-the-counter drugs. Each facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. A pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other than for administration, the pharmacist shall label the drug, as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in the resident's clinical record. The physician shall countersign all verbal orders
within seven working days after the receipt of the verbal order.

(5) Each resident who self-administers medication may request that the facility staff reorder that resident's medications from a pharmacy of the resident's choice. Staff who perform this function shall be authorized to administer medications.

(f) Storage.

(1) All drugs managed by the facility shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Each resident who self-administers medication or self-administers medication with assistance shall store the medications in a place that is accessible only to the resident and persons authorized to administer medications.

(3) Each resident may request that the facility store a medication or medications when the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All drugs and biologicals managed by the facility shall be stored in a locked cabinet or locked medication cart, and only those persons authorized to administer medications shall have access to the keys to the cabinet or cart.

(5) Each facility shall ensure that there are records maintained of receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. Each facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or for whom the facility manages medications:

(1) Physician orders for medications;

(2) the pharmacy provider of the resident's choice;

(3) any known drug allergies;

(4) the date and time medications were selected for residents who required assistance with self-administration of medications; and

(5) the date and time medications were administered to residents.

(h) Drug regimen review.

(1) Each resident who self-administers any medication shall be offered the opportunity to have a drug review conducted by a pharmacist or licensed nurse on a monthly basis. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least annually. Each facility shall document the resident's decision in the resident's clinical record.

(2) A pharmacist or licensed nurse shall conduct a drug regimen review on a monthly basis for all residents who self-administer their medications with assistance and those residents whose medications are managed by the facility.

(3) A drug regimen review shall identify any potential or current drug-related problem, including the following:

(A) Lack of clinical indication for use of any drug;

(B) subtherapeutic dose of any drug;

(C) failure of the resident to receive an ordered drug;

(D) drugs administered in excessive dosage, including duplicate therapy;

(E) adverse drug reactions;

(F) drug interactions; and

(G) lack of adequate monitoring.

(4) The facility shall report each variance identified in the drug regimen review to the resident's physician.

(5) The facility shall maintain documentation of any drug regimen review performed in the resident's record.

(Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

Chapter 65.--Public Health
Article 61.--Emergency Medical Services

65-6149a. Automated external defibrillator; use by qualified persons and other entities, immunity from liability; notice of acquisition of unit; placement of units in state facilities.
(a) (1) Any person who in good faith renders emergency care or treatment by the use of or provision of an automated external defibrillator shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

(2) No person or entity which owns, leases, possesses or otherwise controls an automated external defibrillator and provides such automated external defibrillator to others for use shall be held liable for any civil damages as a result of such use where the person or entity which owns, leases, possesses or otherwise controls the automated external defibrillator has developed, implemented and follows guidelines to ensure proper maintenance and operation of the device.

(3) No person licensed to practice medicine and surgery who pursuant to a prescription order authorizes the acquisition of an automated external defibrillator or participates in the development of usual and customary protocols for an automated external defibrillator by a person or entity which owns, leases, possesses or otherwise controls such automated external defibrillator and provides such automated external defibrillator for use by others shall be held liable for any civil damages as a result of such use.

(4) No person or entity which teaches or provides a training program for cardiopulmonary resuscitation that includes training in the use of automated external defibrillators shall be held liable for any civil damages as a result of such training or use if such person or entity has provided such training in a manner consistent with the usual and customary standards for the providing of such training.

(b) Pursuant to the provisions of this subsection, persons or entities which purchase or otherwise acquire an automated external defibrillator shall notify the emergency medical service which operates in the geographic area of the location of the automated external defibrillator. Persons or entities acquiring an automatic electronic defibrillator shall notify the emergency medical service providing local service on forms developed and provided by the emergency medical services board.

(c) The secretary of administration, in conjunction with the Kansas highway patrol, shall develop guidelines for the placement of automated external defibrillators in state owned or occupied facilities. The guidelines shall include, but not be limited to:

(1) Which state owned or occupied facilities should have automated external defibrillators readily available for use;

(2) recommendations for appropriate training courses in cardiopulmonary resuscitation and automated external defibrillators use;

(3) integration with existing emergency response plans;

(4) proper maintenance and testing of the devices;

(5) coordination with appropriate professionals in the oversight of training; and

(6) coordination with local emergency medical services regarding placement and conditions of use.

Nothing in this subsection shall be construed to require the state to purchase automated external defibrillators.

History: L. 1998, ch. 133, § 18; L. 2003, ch. 43, § 1; L. 2009, ch. 96, § 1; July 1.

KANSAS RETAILERS' SALES TAX - SELECTED STATUTES

79-3606. Exempt sales. The following shall be exempt from the tax imposed by this act: * * *
(p) all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto. As used in this subsection, "drug" means a compound, substance or preparation and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages, recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, and supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or intended to affect the structure or any function of the body;
(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;
(r) all sales of oxygen delivery equipment, kidney dialysis equipment, enteral feeding systems, prosthetic devices and mobility enhancing equipment prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry, and in addition to such sales, all sales of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amendments thereto, and repair and replacement parts therefor, including batteries, by a person licensed in the practice of dispensing and fitting hearing aids pursuant to the provisions of K.S.A. 74-5808, and amendments thereto. For the purposes of this subsection: (1) "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include durable medical equipment, which is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; is not generally used by persons with normal mobility; and does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer; and (2) "prosthetic device" means a replacement, corrective or supportive device including repair and replacement parts for same worn on or in the body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction or support a weak or deformed portion of the body; * * *
(hh) all sales of medical supplies and equipment, including durable medical equipment, purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes. As used in this subsection, "durable medical equipment" means equipment including repair and replacement parts for such equipment, which can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury and is not worn in or on the body, but does not include mobility enhancing equipment as defined in subsection (r), oxygen delivery equipment, kidney dialysis equipment or enteral feeding systems;
History: L. 1937, ch. 374, § 6; L. 1938, ch. 77, § 1; L. 1941, ch. 382, § 2; L. 1947, ch. 463, § 3; L. 1949, ch. 488, § 1; L. 1957, ch. 509, § 4; L. 1961, ch. 457, § 1; L. 1961, ch. 458, § 1; L. 1963, ch. 494, § 1; L. 1964, ch. 39, § 1 (Budget Session); L. 1965, ch. 534, § 1; L. 1966, ch. 47, § 1 (Budget Session); L. 1967, ch. 500, § 1; L. 1970, ch. 389, § 4; L. 1971, ch. 320, § 1; L. 1971, ch. 321, § 3; L. 1977, ch. 337, § 3; L. 1978, ch. 416, § 1; L. 1978, ch. 415, § 2; L. 1979, ch. 326, § 2; L. 1979, ch. 327, § 1; L. 1980, ch. 323, § 1; L. 1980, ch. 322, § 2; L. 1981, ch. 376, § 5; L. 1981, ch. 391, § 1; L. 1982, ch. 420,

§ 1; L. 1982, ch. 419, § 1; L. 1982, ch. 421, § 1; L. 1984, ch. 362, § 1; L. 1985, ch. 331, § 1; L. 1986, ch. 384, § 1; L. 1986, ch. 385, § 6; L. 1987, ch. 292, § 32; L. 1987, ch. 64, § 1; L. 1988, ch. 386, § 3; L. 1989, ch. 302, § 1; L. 1991, ch. 33, § 42; L. 1992, ch. 280, § 60; L. 1994, ch. 2, § 4; L. 1994, ch. 325, § 1; L. 1995, ch. 242, § 4; L. 1996, ch. 264, § 7; L. 1997, ch. 126, § 32; L. 1997, ch. 185, § 7; L. 1998, ch. 12, § 27; L. 1998, ch. 130, § 31; L. 1998, ch. 188, § 7; L. 1999, ch. 154, § 6; L. 1999, ch. 154, § 75; L. 2000, ch. 123, § 1; L. 2000, ch. 140, § 10; L. 2001, ch. 146, § 1; L. 2001, ch. 199, § 3; L. 2003, ch. 147, § 7; L. 2004, ch. 88, § 18; L. 2004, ch. 171, § 8; L. 2005, ch. 50, § 1; L. 2006, ch. 135, § 4; L. 2006, ch. 202, § 2; L. 2007, ch. 155, § 5; L. 2008, ch. 182, § 24; L. 2009, ch. 142, § 8; May 28.

INSURANCE DEPARTMENT - SELECTED STATUTES

40-3821. Pharmacy benefits manager registration act; citation of act; applicability. (a) K.S.A. 2008 Supp. 40-3821 through 40-3828, and amendments thereto, shall be known and may be cited as the pharmacy benefits manager registration act.
(b) This act shall apply to any pharmacy benefits manager that provides claims processing services, other prescription drug or device services, or both, to covered persons who are residents of this state.
(c) This act shall not apply to any pharmacy benefits manager that holds a certificate of registration as an administrator pursuant to K.S.A. 40-3810 and amendments thereto.
History: L. 2006, ch. 154, § 1; Apr. 27.

40-3822. Same; definitions. For purposes of this act: (a) "Commissioner" means the commissioner of insurance as defined by K.S.A. 40-102 and amendments thereto.
(b) (1) "Covered entity" means:
(A) A nonprofit hospital or medical service corporation, health insurer, health benefit plan or health maintenance organization;
(B) a health program administered by a department or the state in the capacity of provider of health coverage; or
(C) an employer, labor union or other group of persons organized in the state that provides health coverage to covered individuals who are employed or reside in the state.
(2) Covered entity shall not include any:
(A) Self-funded plan that is exempt from state regulation pursuant to ERISA;
(B) plan issued for coverage for federal employees; or
(C) health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, medicare supplement, disability income, long-term care or other limited benefit health insurance policies and contracts.
(c) "Covered person" means a member, policyholder, subscriber, enrollee, beneficiary, dependent or other individual participating in a health benefit plan.
(d) "Pharmacy benefits management" means:
(1) Any of the following services provided with regard to the administration of the following pharmacy benefits:
(A) Mail service pharmacy;
(B) claims processing, retail network management and payment of claims to pharmacies for prescription drugs dispensed to covered individuals;
(C) clinical formulary development and management services;
(D) rebate contracting and administration;
(E) certain patient compliance, therapeutic intervention and generic substitution programs; or
(F) disease management programs involving prescription drug utilization; and

(2) (A) the procurement of prescription drugs by a prescription benefits manager at a negotiated rate for dispensation to covered individuals within this state; or

(B) the administration or management of prescription drug benefits provided by a covered insurance entity for the benefit of covered individuals.

(e) "Pharmacy benefits manager" means a person, business or other entity that performs pharmacy benefits management. Pharmacy benefits manager includes any person or entity acting in a contractual or employment relationship for a pharmacy benefits manager in the performance of pharmacy benefits management for a covered entity.

The term "pharmacy benefits manager" shall not include a covered insurance entity.

(f) "Person" means an individual, partnership, corporation, organization or other business entity.

History: L. 2006, ch. 154, § 2; Apr. 27.

40-3823. Same; registration. Registration requirement to act as a pharmacy benefits manager.

(a) No person shall act or operate as a pharmacy benefits manager without first obtaining a valid certificate of registration issued by the commissioner.

(b) Each person seeking a certificate of registration to act as a pharmacy benefits manager shall file with the commissioner an application for a certificate of registration upon a form to be furnished by the commissioner. The application form shall include:

(1) The name, address, official position and professional qualifications of each individual who is responsible for the conduct of the affairs of the pharmacy benefits manager, including all members of the board of directors, board of trustees, executive committee, other governing board or committee, the principal officers in the case of a corporation, the partners or members in the case of a partnership or association and any other person who exercises control or influence over the affairs of the pharmacy benefits manager.

(2) The name and address of the applicant's agent for service of process in the state.

(3) A nonrefundable application fee of $140.

History: L. 2006, ch. 154, § 3; Apr. 27.

40-3824. Same; fees. (a) Each pharmacy benefits manager registration shall expire on March 31 each year and may be renewed annually on the request of the registrant. The application for renewal shall be submitted on a form furnished by the commissioner and accompanied by a renewal fee of $140. The application for renewal shall be in such form and contain such matters as the commissioner prescribes.

(b) If a registration renewal fee is not paid by the prescribed date, the amount of the fee, plus a penalty fee of $140 shall be paid. The pharmacy benefits manager registration may be revoked or suspended by the commissioner until the renewal fee and any penalty assessed has been paid.

(c) Any person who performs or is performing any pharmacy benefits management service on the effective date of this act must obtain a certificate of registration as a pharmacy benefits manager from the commissioner within 90 days after the effective date of this act in order to continue to do business in Kansas.

History: L. 2006, ch. 154, § 4; Apr. 27.

40-3825. Same; rules and regulations. In accordance with the provisions of the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the commissioner may adopt, amend and revoke rules and regulations governing the administration and enforcement of this act, including but not limited to:

(a) The content of the application form;

(b) the content of any other form or report required to implement this act; and

(c) such other rules and regulations as the commissioner may deem necessary to carry out the provisions of this act.

History: L. 2006, ch. 154, § 5; Apr. 27.

40-3826. Same; violation; penalty. Any person who acts as a pharmacy benefits manager without being registered as required by this act shall be subject to a fine of $500 for each violation.
History: L. 2006, ch. 154, § 6; Apr. 27.

40-3827. Same; pharmacy benefits manager registration fee fund. The commissioner shall remit all moneys received by or for the commissioner under the provisions of this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and such amount shall be credited to the pharmacy benefits manager registration fund.
History: L. 2006, ch. 154, § 7; Apr. 27.

40-3828. Same; severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
History: L. 2006, ch. 154, § 8; Apr. 27.

TRANSIENT MERCHANT LICENSING ACT - SELECTED STATUTES

19-2243. Flea markets; prohibition of sale of certain baby products or drugs. (a) No person at a flea market shall sell, offer for sale or knowingly permit the sale of baby food, infant formula or similar products or any drugs. The provisions of this section shall not apply to a person who keeps available for public inspection an identification card identifying such person as an authorized representative of the manufacturer or distributor of over-the-counter drugs or baby food, infant formula or similar products, as long as the card is not false, fraudulent or fraudulently obtained.
(b) For purposes of this section:
(1) "Flea market" means any location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business as a transient merchant as defined in K.S.A. 29-2232 and amendments thereto.
(2) "Drug" shall have the meaning ascribed to such term under K.S.A. 65-1626 and amendments thereto.
(c) The provisions of this section shall be part of and supplemental to the transient merchant licensing act.
History: L. 1998, ch. 72, § 1; July 1.

JURORS - SELECTED STATUTES

43-159. Same; exclusions from jury service by court. In addition to the persons excused from jury service in K.S.A. 43-158, and amendments thereto, the following persons may be excused from jury service by the court: (a) Persons so physically or mentally infirm as to be unequal to the task of ordinary jury duty;
(b) persons whose presence elsewhere is required for the public welfare, health or safety;
(c) persons for whom jury service would cause extraordinary or compelling personal hardship; and

(d) persons whose personal relationship to the parties or whose information or interest in the case to be tried is such that there is a probability such persons would find it difficult to be impartial.
History: L. 1971, ch. 176, § 5; L. 2000, ch. 42, § 2; July 1.

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VIII. Other Healthcare Provider Statutes and Regulations

HEALING ARTS - SELECTED STATUTES

65-2837a. Restrictions on prescribing, ordering, dispensing, administering, selling, supplying or giving certain amphetamine or sympathomimetic amine controlled substances; unprofessional conduct. (a) It shall be unlawful for any person licensed to practice medicine and surgery to prescribe, order, dispense, administer, sell, supply or give or for a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto to prescribe, administer, supply or give any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, except as provided in this section. Failure to comply with this section by a licensee shall constitute unprofessional conduct under K.S.A. 65-2837 and amendments thereto.
(b) When any licensee prescribes, orders, dispenses, administers, sells, supplies or gives or when any mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto prescribes, administers, sells, supplies or gives any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, the patient's medical record shall adequately document the purpose for which the drug is being given. Such purpose shall be restricted to one or more of the following:

(1) The treatment of narcolepsy.
(2) The treatment of drug-induced brain dysfunction.
(3) The treatment of hyperkinesis.
(4) The differential diagnostic psychiatric evaluation of depression.
(5) The treatment of depression shown by adequate medical records and documentation to be unresponsive to other forms of treatment.
(6) The clinical investigation of the effects of such drugs or compounds, in which case, before the investigation is begun, the licensee shall, in addition to other requirements of applicable laws, apply for and obtain approval of the investigation from the board of healing arts.
(7) The treatment of obesity with controlled substances, as may be defined by rules and regulations adopted by the board of healing arts.
(8) The treatment of any other disorder or disease for which such drugs or compounds have been found to be safe and effective by competent scientific research which findings have been generally accepted by the scientific community, in which case, the licensee before prescribing, ordering, dispensing, administering, selling, supplying or giving the drug or compound for a particular condition, or the licensee before authorizing a mid-level practitioner to prescribe the drug or compound for a particular condition, shall obtain a determination from the board of healing arts that the drug or compound can be used for that particular condition.

History: L. 1984, ch. 237, § 1; L. 1997, ch. 57, § 1; L. 1999, ch. 115, § 12; L. 2007, ch. 18, § 1; March 29.

65-2869. Persons deemed engaged in practice of medicine and surgery. For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:
(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings.
(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings.
History: L. 1957, ch. 343, § 69; L. 1969, ch. 299, § 14; L. 1976, ch. 273, § 30; L. 1988, ch. 251, § 5; July 1.

65-2870. Persons deemed engaged in practice of osteopathy. For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:
(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.
(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act.
History: L. 1957, ch. 343, § 70; L. 1969, ch. 299, § 15; L. 1976, ch. 273, § 31; Feb. 13.

65-2871. Persons deemed engaged in practice of chiropractic. For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic:
(a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college; and
(b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics.
History: L. 1957, ch. 343, § 71; L. 1976, ch. 273, § 32; Feb. 13.

65-2872b. Same; administration of epinephrine; limitation of liability. (a) The practice of the healing arts shall not be construed to include any person administering epinephrine in emergency situations to a student or a member of a school staff if:
(1) The person administering the epinephrine reasonably believes that the student or staff member is exhibiting the signs and symptoms of an anaphylactic reaction;
(2) a physician has authorized, in writing, the school to maintain a stock supply of epinephrine; and
(3) the epinephrine is administered at school, on school property or at a school-sponsored event.
(b) Any person who gratuitously and in good faith renders emergency care or treatment through the administration of epinephrine to a student or a member of a school staff at school, on school property or at a school-sponsored event shall not be held liable for any civil damages as a result of such care or administration or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.
History: L. 2009, ch. 102, § 1; July 1.

65-28,127. Licensees who direct, supervise, order, refer, accept responsibility for, enter into practice protocols with or delegate acts which constitute practice of healing arts to others; requirements and limitations; construction of section. (a) Every responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

(1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required practice protocols between the responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a practice protocol with, or delegate to such persons only those acts and functions which the responsible licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation;

(4) direct, supervise, order, refer, enter into a practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and practice protocols with such persons when the responsible licensee is temporarily absent;

(6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158 and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq. and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq. and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) This section shall be part of and supplemental to the Kansas healing arts act.

History: L. 1998, ch. 170, § 1; L. 2000, ch. 162, § 20; L. 2004, ch. 117, § 6; L. 2009, ch. 133, § 2; July 1.

HEALING ARTS - SELECTED REGULATIONS

100-10a-4. Criteria. (a) Exempt licenses may be issued to qualified applicants if the professional activities of the applicant will be limited to the following:

(1) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions;

(2) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation. Nothing in this subsection shall prohibit an exempt license holder from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services;

(3) rendering professional services as a ‘‘charitable health care provider’’ as defined in K.S.A. 1990 Supp. 75-6102 and amendments thereto; and

(4) providing services as a district coroner or deputy coroner.

(b) Applications describing professional activities not included in (a) shall be reviewed by the board on a case-by-case basis to determine eligibility for an exempt license.

(Authorized by K.S.A. 1990 Supp. 65-2865; implementing K.S.A. 1990 Supp. 65-2809; effective, T-88-52, Dec. 16, 1987; effective May 1, 1988; amended June 24, 1991.)

100-21-1. Definition of dispensing physician.

‘‘Dispensing physician’’ means a person licensed to practice medicine and surgery who purchases and keeps drugs and compounds his or her own prescriptions for the purpose of supplying such drugs to his or her patients.

(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-2. Drug label. A dispensing physician shall clearly label each drug dispensed. The label shall be typed or machine printed and shall include the following:

(a) The name, address and telephone number of the dispensing physician.

(b) The full name of the patient.

(c) The identification number assigned to the prescription order by the dispensing physician.

(d) The date the prescription was filled or refilled.

(e) Adequate directions for use.

(f) The expiration date of the drug dispensed, if applicable.

(g) The brand name or corresponding generic name and manufacturer or distributors name and the strength, at the discretion of the physician.

(Authorized by K.S.A. 65-2865; effective, E-81- 11, May 14, 1980; effective May 1, 1981.)

100-21-3. Packaging. All oral medications shall be dispensed in child resistant containers in accordance with the poison prevention packaging act of 1970 and in light resistant air-tight containers as required by the United States pharmacopeia. In those cases where a bona fide circumstance exists to make it undesirable to use safety closures, medication may be dispensed in a nonchild resistant container.

(Authorized by K.S.A. 65-2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-4. Record keeping and inventories.

(a) There shall be kept in the office of every dispensing physician a suitable book or file in which shall be preserved for a period of not less than three (3) years, every prescription order filled or refilled by

such dispensing physician, and said book or file of prescription orders shall at all times be open to inspection to proper authorities.
(b) Each dispensing physician shall maintain the inventories and records of controlled substances as follows:
(1) Inventories and records of all controlled substances listed in schedules I and II shall be maintained separately from all other records and prescriptions for such substances shall be maintained in a separate prescription file:
(2) Inventories and records of controlled substances listed in schedules III, IV, and V shall be maintained either separately from all other records or in such form that the information required is readily retrievable from ordinary business records and prescriptions for such substances shall be maintained either in a separate prescription file
for controlled substances listed in schedules III, IV, and V only, or in such form that they are readily retrievable from the other prescription records. Prescriptions will be deemed readily retrievable if, at the time they are initially filled the face of the prescription is stamped in red ink in the lower right corner with the letter ‘‘C’’ no less than 1-inch high and filed either in the prescription file for controlled substances listed in schedules I and II or in the usual consecutively numbered prescription file for non-controlled substances.
(c) Inventory requirements. An initial inventory of all controlled substances shall be taken and recorded. Every two years on May 1, a new inventory shall be taken and recorded. The records of these inventories shall be maintained for a period of three years.
(Authorized by K.S.A. 65- 2865; effective, E-81-11, May 14, 1980; effective May 1, 1981.)

100-21-5. Storage and security. (a) All dispensing physicians shall provide effective controls and procedures to guard against theft and diversion of controlled substances.
(b) All drugs shall be stored under conditions proper and suitable to maintain their integrity.
(Authorized by K.S.A. 65-2865; effective, E-81- 11, May 14, 1980; effective May 1, 1981.)

100-23-1. Treatment of obesity. A person shall not dispense or prescribe controlled substances to treat obesity, as defined by this regulation, except in conformity with the following minimal requirements.
(a) Amphetamines shall not be dispensed or prescribed to treat obesity.
(b) The treating physician shall personally examine the patient. The physical examination shall include checking the blood pressure and pulse, examining the heart and lungs, recording weight and height, and administering any other appropriate diagnostic tests. The examination and patient history shall determine if controlled substances are indicated and if any co-morbidity exists. The treating physician shall enter each of these findings in the patient’s record.
(c) The treating physician shall prescribe nutritional counseling, including behavior modification and appropriate exercise for weight loss, and record these parameters on the patient record.
(d) The treating physician shall not dispense or prescribe more than a 30-day supply of controlled substances, at one time, to treat obesity.
(e) Except as provided by subsection (f) of this regulation, the treating physician may continuously dispense or prescribe controlled substances to treat obesity when the physician observes and records that the patient significantly benefits from the controlled substances and has no serious adverse effects related to the drug regimen. A patient significantly benefits from the controlled substances when weight is reduced, or when weight loss is maintained and any existing co-morbidity is reduced. At the time of each return patient visit, the treating physician shall monitor progress of the patient; the treating physician or a person acting at the treating physician’s order shall check the patient’s weight, blood pressure, pulse, heart, and lungs. The findings shall be entered in the patient’s record.

(f) The treating physician shall not dispense or prescribe additional controlled substances to treat obesity for a patient who has not achieved a weight loss of at least 5% of the patient's initial weight, during the initial 90 days of treatment using controlled substances to treat obesity.
(g) As used in this regulation, the term ''controlled substance'' means any drug included in any schedule of the Kansas uniform controlled substances act.
(h) As used in this regulation, the term ''obesity'' means a documented diagnosis of excess adipose tissue, resulting in body mass index of 30 or higher (BMI _ 30kg/m2), or a body mass index of 27 or higher in the presence of other risk factors (BMI _ 27kg/m2). Body mass index is calculated by dividing measured body weight in kilograms by body height in meters squared (kg/m2); expected body mass index is 20-25 kg/m2.
(Authorized by and implementing K.S.A. 1997 Supp. 65-2837a; effective, T-86-25, July 24, 1985; effective May 1, 1986; amended, T-100-12-16-96, Dec. 16, 1996; amended May 9, 1997; amended, T-100-7-1-97, July 1, 1997; amended, T-100-10-30-97, Oct. 30, 1997; amended March 20, 1998.)

Chapter 65. Public Health
Article 49.-Health Care Providers

65-4915. Peer review; health care providers, services and costs; definitions; authority of peer review officer or committee; records and testimony of information contained therein privileged; licensing agency disciplinary proceedings; exceptions.
(a) As used in this section:

(1) "Health care provider" means: (A) Those persons and entities defined as a health care provider under K.S.A. 40-3401 and amendments thereto; and (B) a dentist licensed by the Kansas dental board, a dental hygienist licensed by the Kansas dental board, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health technician licensed by the board of nursing, a physical therapist licensed by the state board of healing arts, a physical therapist assistant certified by the state board of healing arts, an occupational therapist licensed by the state board of healing arts, an occupational therapy assistant licensed by the state board of healing arts, a respiratory therapist licensed by the state board of healing arts, a physician assistant licensed by the state board of healing arts and attendants and ambulance services certified by the emergency medical services board.

(2) "Health care provider group" means:

(A) A state or local association of health care providers or one or more committees thereof;

(B) the board of governors created under K.S.A. 40-3403 and amendments thereto;

(C) an organization of health care providers formed pursuant to state or federal law and authorized to evaluate medical and health care services;

(D) a review committee operating pursuant to K.S.A. 65-2840c and amendments thereto;

(E) an organized medical staff of a licensed medical care facility as defined by K.S.A. 65-425 and amendments thereto, an organized medical staff of a private psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto or an organized medical staff of a state psychiatric hospital or state institution for people with intellectual disability., as follows: Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center;

(F) a health care provider;

(G) a professional society of health care providers or one or more committees thereof;

(H) a Kansas corporation whose stockholders or members are health care providers or an association of health care providers, which corporation evaluates medical and health care services; or

(I) an insurance company, health maintenance organization or administrator of a health benefits plan which engages in any of the functions defined as peer review under this section; or

(J) the university of Kansas medical center.

(3) "Peer review" means any of the following functions:

(A) Evaluate and improve the quality of health care services rendered by health care providers;

(B) determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care;

(C) determine that the cost of health care rendered was considered reasonable by the providers of professional health services in this area;

(D) evaluate the qualifications, competence and performance of the providers of health care or to act upon matters relating to the discipline of any individual provider of health care;

(E) reduce morbidity or mortality;

(F) establish and enforce guidelines designed to keep within reasonable bounds the cost of health care;

(G) conduct of research;

(H) determine if a hospital's facilities are being properly utilized;

(I) supervise, discipline, admit, determine privileges or control members of a hospital's medical staff;

(J) review the professional qualifications or activities of health care providers;

(K) evaluate the quantity, quality and timeliness of health care services rendered to patients in the facility;

(L) evaluate, review or improve methods, procedures or treatments being utilized by the medical care facility or by health care providers in a facility rendering health care.

(4) "Peer review officer or committee" means:

(A) An individual employed, designated or appointed by, or a committee of or employed, designated or appointed by, a health care provider group and authorized to perform peer review; or

(B) a health care provider monitoring the delivery of health care at correctional institutions under the jurisdiction of the secretary of corrections.

(b) Except as provided by K.S.A. 60-437 and amendments thereto and by subsections (c) and (d), the reports, statements, memoranda, proceedings, findings and other records submitted to or generated by peer review committees or officers shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding. Information contained in such records shall not be discoverable or admissible at trial in the form of testimony by an individual who participated in the peer review process. The peer review officer or committee creating or initially receiving the record is the holder of the privilege established by this section. This privilege may be claimed by the legal entity creating the peer review committee or officer, or by the commissioner of insurance for any records or proceedings of the board of governors.

(c) Subsection (b) shall not apply to proceedings in which a health care provider contests the revocation, denial, restriction or termination of staff privileges or the license, registration, certification or other authorization to practice of the health care provider. A licensing agency in conducting a disciplinary proceeding in which admission of any peer review committee report, record or testimony is proposed shall hold the hearing in closed session when any such report, record or testimony is disclosed. Unless otherwise provided by law, a licensing agency conducting a disciplinary proceeding may close only that portion of the hearing in which disclosure of a report or record privileged under this section is proposed. In closing a portion of a hearing as provided by this section, the presiding officer may exclude any person from the hearing location except the licensee, the licensee's attorney, the agency's attorney, the witness, the court reporter and appropriate staff

support for either counsel. The licensing agency shall make the portions of the agency record in which such report or record is disclosed subject to a protective order prohibiting further disclosure of such report or record. Such report or record 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 at a subsequent civil, criminal or administrative hearing, be required to testify regarding the existence or content of a report or record privileged under this section which was disclosed in a closed portion of a hearing, nor shall such testimony be admitted into evidence in any subsequent civil, criminal or administrative hearing. A licensing agency conducting a disciplinary proceeding may review peer review committee records, testimony or reports but must prove its findings with independently obtained testimony or records which shall be presented as part of the disciplinary proceeding in open meeting of the licensing agency. 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, records or report.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the commissioner of insurance, the state board of healing arts or other health care provider licensing or disciplinary boards of this state to require a peer review committee or officer to report to it any disciplinary action or recommendation of such committee or officer; to transfer to it records of such committee's or officer's proceedings or actions to restrict or revoke the license, registration, certification or other authorization to practice of a health care provider; or to terminate the liability of the fund for all claims against a specific health care provider for damages for death or personal injury pursuant to subsection (i) of K.S.A. 40-3403 and amendments thereto. Reports and records so furnished shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the state board of healing arts or other health care provider licensing or disciplinary boards of this state.

(e) A peer review committee or officer may report to and discuss its activities, information and findings to other peer review committees or officers or to a board of directors or an administrative officer of a health care provider without waiver of the privilege provided by subsection (b) and the records of all such committees or officers relating to such report shall be privileged as provided by subsection (b).

(f) Nothing in this section shall be construed to prevent an insured from obtaining information pertaining to payment of benefits under a contract with an insurance company, a health maintenance organization or an administrator of a health benefits plan.

History: L. 1984, ch. 238, § 7; L. 1987, ch. 176, § 7; L. 1988, ch. 236, § 1; L. 1993, ch. 171, § 1; L. 1996, ch. 5, § 1; L. 1997, ch. 149, § 1; L. 1999, ch. 87, § 5; L. 2000, ch. 162, § 22; L. 2002, ch. 203, § 18; L. 2003, ch. 128, § 25; L. 2012, ch 166, § 12; July 1.

65-4923. Reporting requirements. (a) If a health care provider, or a medical care facility agent or employee who is directly involved in the delivery of health care services, has knowledge that a health care provider has committed a reportable incident, such health care provider, agent or employee shall report such knowledge as follows:

(1) If the reportable incident did not occur in a medical care facility, the report shall be made to the appropriate state or county professional society or organization, which shall refer the matter to a professional practices review committee duly constituted pursuant to the society's or organization's bylaws. The committee shall investigate all such reports and take appropriate action. The committee shall have the duty to report to the appropriate state licensing agency any finding by the committee that a health care provider acted below the applicable standard of care which action had a reasonable probability of causing injury to a patient, or in a manner which may be grounds for disciplinary

action by the appropriate licensing agency, so that the agency may take appropriate disciplinary measures.

(2) If the reportable incident occurred within a medical care facility, the report shall be made to the chief of the medical staff, chief administrative officer or risk manager of the facility. The chief of the medical staff, chief administrative officer or risk manager shall refer the report to the appropriate executive committee or professional practices peer review committee which is duly constituted pursuant to the bylaws of the facility. The committee shall investigate all such reports and take appropriate action, including recommendation of a restriction of privileges at the appropriate medical care facility. In making its investigation, the committee may also consider treatment rendered by the health care provider outside the facility. The committee shall have the duty to report to the appropriate state licensing agency any finding by the committee that a health care provider acted below the applicable standard of care which action had a reasonable probability of causing injury to a patient, or in a manner which may be grounds for disciplinary action by the appropriate licensing agency, so that the agency may take appropriate disciplinary measures.

(3) If the health care provider involved in the reportable incident is a medical care facility, the report shall be made to the chief of the medical staff, chief administrative officer or risk manager of the facility. The chief of the medical staff, chief administrative officer or risk manager shall refer the report to the appropriate executive committee which is duly constituted pursuant to the bylaws of the facility. The executive committee shall investigate all such reports and take appropriate action. The committee shall have the duty to report to the department of health and environment any finding that the facility acted in a manner which is below the applicable standard of care and which has a reasonable probability of causing injury to a patient, so that appropriate disciplinary measures may be taken.

(4) As used in this subsection (a), "knowledge" means familiarity because of direct involvement or observation of the incident.

(5) This subsection (a) shall not be construed to modify or negate the physician-patient privilege, the psychologist-client privilege or the social worker-client privilege as codified by Kansas statutes.

(b) If a reportable incident is reported to a state agency which licenses health care providers, the agency may investigate the report or may refer the report to a review or executive committee to which the report could have been made under subsection (a) for investigation by such committee.

(c) When a report is made under this section, the person making the report shall not be required to report the reportable incident pursuant to K.S.A. 65-28,122 or 65-4216, and amendments to such sections. When a report made under this section is investigated pursuant to the procedure set forth under this section, the person or entity to which the report is made shall not be required to report the reportable incident pursuant to K.S.A. 65-28,121, 65-28,122 or 65-4216, and amendments to such sections.

(d) Each review and executive committee referred to in subsection (a) shall submit to the secretary of health and environment, on a form promulgated by such agency, at least once every three months, a report summarizing the reports received pursuant to subsections (a)(2) and (a)(3) of this section. The report shall include the number of reportable incidents reported, whether an investigation was conducted and any action taken.

(e) If a state agency that licenses health care providers determines that a review or executive committee referred to in subsection (a) is not fulfilling its duties under this section, the agency, upon notice and an opportunity to be heard, may require all reports pursuant to this section to be made directly to the agency.

(f) The provisions of this section shall not apply to a health care provider acting solely as a consultant or providing review at the request of any person or party.

History: L. 1986, ch. 229, § 4; L. 1987, ch. 176, § 10; L. 1988, ch. 236, § 3; July 1.

65-4924. Reports relating to impaired providers; procedures. (a) If a report to a state licensing agency pursuant to subsection (a)(1) or (2) of K.S.A. 65-4923 or any other report or complaint filed with such agency relates to a health care provider's inability to practice the provider's profession with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol, the agency may refer the matter to an impaired provider committee of the appropriate state or county professional society or organization.

(b) The state licensing agency shall have the authority to enter into an agreement with the impaired provider committee of the appropriate state or county professional society or organization to undertake those functions and responsibilities specified in the agreement and to provide for payment therefor from moneys appropriated to the agency for that purpose. Such functions and responsibilities may include any or all of the following:

(1) Contracting with providers of treatment programs;

(2) receiving and evaluating reports of suspected impairment from any source;

(3) intervening in cases of verified impairment;

(4) referring impaired providers to treatment programs;

(5) monitoring the treatment and rehabilitation of impaired health care providers;

(6) providing posttreatment monitoring and support of rehabilitated impaired health care providers; and

(7) performing such other activities as agreed upon by the licensing agency and the impaired provider committee.

(c) The impaired provider committee shall develop procedures in consultation with the licensing agency for:

(1) Periodic reporting of statistical information regarding impaired provider program activity;

(2) periodic disclosure and joint review of such information as the licensing agency considers appropriate regarding reports received, contacts or investigations made and the disposition of each report;

(3) immediate reporting to the licensing agency of the name and results of any contact or investigation regarding any impaired provider who is believed to constitute an imminent danger to the public or to self;

(4) reporting to the licensing agency, in a timely fashion, any impaired provider who refuses to cooperate with the committee or refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who in the opinion of the committee exhibits professional incompetence; and

(5) informing each participant of the impaired provider committee of the procedures, the responsibilities of participants and the possible consequences of noncompliance.

(d) If the licensing agency has reasonable cause to believe that a health care provider is impaired, the licensing agency may cause an evaluation of such health care provider to be conducted by the impaired provider committee or its designee for the purpose of determining if there is an impairment. The impaired provider committee or its designee shall report the findings of its evaluation to the licensing agency.

(e) An impaired health care provider may submit a written request to the licensing agency for a restriction of the provider's license. The agency may grant such request for restriction and shall have authority to attach conditions to the licensure of the provider to practice within specified

limitations. Removal of a voluntary restriction on licensure to practice shall be subject to the statutory procedure for reinstatement of license.

(f) A report to the impaired provider committee shall be deemed to be a report to the licensing agency for the purposes of any mandated reporting of provider impairment otherwise provided for by the law of this state.

(g) An impaired provider who is participating in, or has successfully completed, a treatment program pursuant to this section shall not be excluded from any medical care facility staff solely because of such participation. However, the medical care facility may consider any impairment in determining the extent of privileges granted to a health care provider.

(h) Notwithstanding any other provision of law, a state or county professional society or organization and the members thereof shall not be liable to any person for any acts, omissions or recommendations made in good faith while acting within the scope of the responsibilities imposed pursuant to this section.

History: L. 1986, ch. 229, § 5; July 1.

65-4926. Immunity from civil liability for report or investigation, limits. Any person or entity which, in good faith, reports or provides information or investigates any health care provider as authorized by K.S.A. 65-4923 or 65-4924 shall not be liable in a civil action for damages or other relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report or information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person making the report, providing the information or conducting the investigation at the time thereof.

History: L. 1986, ch. 229, § 7; July 1.

65-4971. Same; copies of health care records; authorization; health care provider withholding; fees. (a) Subject to applicable law, copies of health care records shall be furnished to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient's authorized representative of the reasons why copies are not available. A health care provider may withhold copies of health care records if the health care provider reasonably believes that providing copies of the requested records will cause substantial harm to the patient or another person. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, upon the payment of charges not to exceed a $15 fee for the cost of supplies and labor; and for copies of health care records routinely duplicated on a standard photocopy machine, $.50 per page for the first 250 pages and $.35 per page for additional pages. Providers may charge for the reasonable cost of all duplications of health care record information which cannot be routinely duplicated on a standard photocopy machine.

(b) On January 1, 2004, and annually thereafter, the fees set forth in subsection (a) shall be increased by the secretary of labor in accordance with the all-items consumer price index published by the United States department of labor.

History: L. 2002, ch. 165, § 2; L. 2004, ch. 179, § 90; July 1.

DENTAL ACT - SELECTED STATUTES

65-1422. Persons deemed to be practicing dentistry. A person shall be deemed to be practicing dentistry:
(a) Who performs, or attempts or professes to perform, any dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other remuneration paid, or to be paid directly or indirectly, to such person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed; or
(b) who directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws or performs any phase of any operation incident to the replacement of a part of a tooth; or
(c) who supplies artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, except on the written prescription of a licensed dentist; or
(d) who places such appliance or structure in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose prescription the work was performed; or
(e) who professes to the public by any method to furnish, supply, construct, reproduce or repair any prosthetic denture, bridge, appliance or other structure to be worn in the human mouth; or
(f) who diagnoses, or professes to diagnose, prescribe for, or professes to prescribe for, treats, or professes to treat, disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structure; or
(g) who extracts, or attempts to extract, human teeth, or corrects or attempts to correct, malformations of teeth or of the jaws; or
(h) who repairs or fills cavities in the human teeth; or
(i) who diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction; or
(j) who uses a roentgen or x-ray machine for the purpose of taking dental x-rays or roentgenograms; or
(k) who gives, or professes to give, interpretations or readings of dental x-rays or roentgenograms; or
(l) who administers an anesthetic of any nature in connection with a dental operation; or
(m) who uses the words dentist, dental surgeon, oral surgeon, or the letters D.D.S., D.M.D., or any other words, letters, title or descriptive matter which in any way represents oneself as being able to diagnose, treat, prescribe or operate for any disease, pain, deformity, deficiency, injury or physical condition of the teeth or jaws or adjacent structures; or
(n) who states, or professes, or permits to be stated or professed by any means or method whatsoever that such person can perform or will attempt to perform dental operations or render a diagnosis connected therewith.
History: L. 1943, ch. 221, § 5; L. 2000, ch. 169, § 2; July 1.

65-1438. Using services of unlicensed person; written prescription; misdemeanors; suspension or revocation of license. (a) Any dentist who shall use the services of any person (which word when used in this section shall include all legal entities) not licensed to practice dentistry in this state, to construct, alter, repair or duplicate any denture, plate, partial plate, bridge, splint, orthodontic or

prosthetic appliance, shall first furnish such unlicensed person with a written prescription, on forms prescribed by the board, which shall contain:

(1) The name and address of such unlicensed person.

(2) The patient's name or number. In event such number is used, the name of the patient shall be written upon the duplicate copy of such prescription retained by the dentist.

(3) The date on which it was written.

(4) A prescription [description] of the work to be done, with diagrams if necessary.

(5) A specification of the type and quality of materials to be used.

(6) The signature of the dentist, and the number of his Kansas license. Such unlicensed person shall retain the original prescription and the dentist shall retain a duplicate copy thereof for inspection by the board, or its agent, for two years.

(b) Any dentist who shall:

(1) Use any such service of any such licensed [unlicensed] person without first having furnished him such prescription; or

(2) fail to retain a duplicate copy thereof for two years; or

(3) refuse to allow the board, or its agent, to inspect it during such time, shall be guilty of a misdemeanor, and the board may revoke or suspend his license therefor.

(c) Any such unlicensed person who shall:

(1) Perform any such service without first having obtained such prescription; or

(2) fail to retain the original thereof for two years; or

(3) refuse to allow the board, or its agent, to inspect it during such time shall be guilty of a misdemeanor.

History: L. 1943, ch. 221, § 22; June 28.

65-1444. Drugs; surgery; anesthetics; appliances; qualifications for administering intravenous sedation and general anesthetics; sedation permits; rules and regulations; assistant administering and monitoring nitrous oxide or oxygen, requirements; denial, revocation, suspension or limitation of sedation permit. (a) A dentist shall have the right to prescribe drugs or medicine, perform such surgical operations, administer analgesia, local anesthetics and use such appliances as may be necessary to the proper practice of dentistry. Dentists may be authorized by the board to administer sedation and general anesthetics subject to rules and regulations concerning qualifications of such dentists as may be adopted by the board. The board shall have authority to issue sedation permits to administer sedation and general anesthetics. The board may establish different requirements and qualifications based upon the type of sedation or general anesthetics the dentist is authorized by the board to use. The board may also establish by rules and regulations the requirement that the authorization to administer sedation and general anesthetics be periodically renewed and the requirements that must be met to obtain such renewal. Any office of a dentist who is authorized by the board to administer sedation or general anesthetics shall be subject to inspection by the board for purposes of determining if the dentist is in compliance with the board's rules and regulations.

(b) A dentist may utilize an assistant not licensed by the board in the administration and monitoring of nitrous oxide or oxygen, or both, if that person is certified in cardiopulmonary resuscitation and has satisfactorily completed a course of instruction which has been approved by the board. To be approved by the board, the course of instruction shall include a minimum of six hours of instruction at a teaching institution accredited by the American dental association and include satisfactory completion of courses which offer both didactic and clinical instruction in:

(A) Theory of pain control;

(B) anatomy;

(C) medical history;

(D) pharmacology; and

(E) emergencies and complications.
(c) The board may deny, revoke, suspend or limit a sedation permit for violation by the permit holder of the requirements established by the board by rules and regulations or in lieu thereof or in addition thereto may assess a fine in accordance with K.S.A. 65-1436, and amendments thereto.
History: L. 1943, ch. 221, § 28; L. 1994, ch. 169, § 2; L. 1997, ch. 30, § 2; L. 2004, ch. 58, § 1; L. 2007, ch. 134, § 1; July 1.

NATUROPATHIC ACT - SELECTED STATUTES

65-7201. Citation of act. K.S.A. 65-7201 to 65-7218, inclusive, and amendments thereto shall be known and may be cited as the naturopathic doctor licensure act.
History: L. 2002, ch. 203, § 20; L. 2010, ch. 126, § 1; July 1.

65-7202. Definitions. As used in K.S.A. 65-7201 to 65-7218, inclusive, and amendments thereto:
(a) "Naturopathic doctor" means a doctor of naturopathic medicine who is authorized and licensed pursuant to this act.
(b) "Naturopathic medicine," or "naturopathy" means a system of health care practiced by naturopathic doctors for the prevention, diagnosis and treatment of human health conditions, injuries and diseases, that uses education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes, and includes prescribing, recommending or administering:
(1) Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nonprescription drugs, plant substances that are not designated as prescription drugs or controlled substances, topical drugs as defined in subsection (i) of this section, and amendments thereto;
(2) health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, barrier contraceptive devices;
(3) substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol entered into with a physician who has entered into a written protocol with a naturopathic doctor licensed under this act;
(4) noninvasive physical examinations, venipuncture to obtain blood for clinical laboratory tests and oroficial examinations, excluding endoscopies;
(5) minor office procedures; and
(6) naturopathic acupuncture.
A naturopathic doctor may not perform surgery, obstetrics, administer ionizing radiation, or prescribe, dispense or administer any controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act.
(c) “Board" means the state board of healing arts.
(d) "Approved naturopathic medical college" means a college and program granting the degree of doctor of naturopathy or naturopathic medicine that has been approved by the board under this act and which college and program requires at a minimum a four-year, full-time resident program of academic and clinical study.
(e) "Homeopathic preparations" means substances and drugs prepared according to the official homeopathic pharmacopoeia recognized by the United States food and drug administration.
(f) "Naturopathic acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin or both to treat human disease and impairment and to relieve pain.

(g) "Minor office procedures" means care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues, except eyes, and not involving blood vessels, tendons, ligaments or nerves. "Minor office procedures" includes use of antiseptics, but shall not include the suturing, repairing, alteration or removal of tissue or the use of general or spinal anesthesia. Minor office procedures does not include anesthetics or surgery.
(h) "Naturopathic physical applications" means the therapeutic use by naturopathic doctors of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, constitutional hydrotheraphy, naturopathic musculoskeletal technique and therapeutic exercise.
(i) "Topical drugs" means topical analgesics, antiseptics, scabicides, antifungals and antibacterials but does not include prescription only drugs.
(j) "Physician" means a person licensed to practice medicine and surgery.
(k) "Written protocol" means a formal written agreement between a naturopathic doctor licensed under this act and a person licensed to practice medicine and surgery. Any licensee of the board entering into a written protocol with a licensed naturopathic doctor shall notify the board in writing of such relationship by providing such information as the board may require.
History: L. 2002, ch. 203, § 21; L. 2010, ch. 126, § 2; July 1.

65-7211. Unlawful representations; authority not conferred upon naturopathic doctors to engage in activities not conferred by act. (a) A person licensed under this act as a naturopathic doctor shall:

(1) use the letters “N.D.”, when using the letters or term “Dr.” or “Doctor” to identify themselves to patients or to the public; and

(2) be authorized to use the words “naturopathic doctor”, “doctor of naturopathy”, “doctor of naturopathic medicine”, or “naturopath”, to indicate that such a person is a naturopathic doctor licensed under this act. A person licensed under this act may not advertise, hold themselves out to the public, refer to themselves, or use the terms “naturopathic physician”, “physician”, or “naturopathic medical doctor” in conjunction with such licensee’s name. A violation of this subsection (a) shall constitute a class B misdemeanor.

(b) It shall be unlawful for any person who is not licensed under this act as a naturopathic doctor or whose license has been suspended or revoked to hold oneself out to the public in any manner as a licensed naturopathic doctor, or use the abbreviation of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopath," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (b) shall constitute a class B person misdemeanor.
(c) No statute granting authority to persons licensed or registered by the state board of healing arts shall be construed to confer authority upon naturopathic doctors to engage in any activity not conferred by this act.
History: L. 2002, ch. 203, § 30; L. 2010, ch. 126, § 10; July 1.

NATUROPATHIC - SELECTED REGULATIONS

100-72-8. Naturopathic formulary. The following list shall constitute the naturopathic formulary for drugs and substances that are approved for intramuscular (IM) or intravenous (IV) administration, or both, by a naturopathic doctor pursuant
to a written protocol entered into with a physician:
(a) Electrolytes and carrier solutions:
(1) Sterile water (IV, IM);
(2) electrolyte solution (IV);
(3) lactated ringers (IV);
(4) saline solution (IV); and
(5) half normal saline (IV);
(b) vitamins:
(1) Vitamin C (IV);
(2) B complex (IV, IM);
(3) folic acid (IV, IM);
(4) vitamin D (IV);
(5) vitamin E (IV);
(6) vitamin K (IV, IM);
(7) vitamin A (IV, IM); and
(8) vitamin B12 (IV, IM);
(c) minerals:
(1) Calcium (IV, IM);
(2) chromium (IV, IM);
(3) copper (IV, IM);
(4) iron (IV, IM);
(5) zinc (IV, IM);
(6) iodine (IV, IM);
(7) magnesium (IV, IM);
(8) selenium (IV, IM);
(9) molybdenum (IV, IM);
(10) vanadium (IV, IM);
(11) phosphorus (IV, IM); and
(12) manganese (IV, IM);
(d) amino acids:
(1) Amino acids, singular or in combination (IV);
(2) glutathione (IV, IM);
(3) tryptophan (IV); and
(4) 5 hydroxy tryptophan (IV);
(e) botanicals:
(1) Glycyrrhizin (IV, IM); and
(2) thujone-free artemisia (IV, IM); and
(f) the following miscellaneous drugs and substances:

(1) Lipids (IV);
(2) co-enzyme Q 10 (also known as ubiquinone or Co-Q 10) (IV, IM);
(3) alpha lipoic acid (IV, IM);
(4) hydrochloric acid (IV);
(5) epinephrine (IM);
(6) chelators, only with prior board approval:
(A) EDTA (IV); and
(B) DMPS (IV);
(7) diphenhydramine hydrochloride (IV, IM); and
(8) atropine sulfate (IV).
(Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7212; effective Jan. 21, 2005.)

100-72-9. Written protocol. (a) Each physician entering into a written protocol with a registered naturopathic doctor shall be licensed to practice medicine and surgery in the state of Kansas and shall provide a copy of the protocol to the board within 10 days of entering into the protocol.
(b) Each written protocol between a physician and a naturopathic doctor shall contain the following information:
(1) The date on which the protocol was signed and the signatures of the physician and the naturopathic doctor;
(2) the license number of the physician and the registration number of the naturopathic doctor;
(3) the names of the drugs and substances from the naturopathic formulary, which is specified in K.A.R. 100-72-8, that the naturopathic doctor will be allowed to administer and the method of administration of each drug and substance;
(4) the usage and dosage authorized for each drug and substance;
(5) any warning or precaution associated with the administration of each drug and substance;
(6) a statement that a current copy of the protocol will be maintained at each practice location of the physician and the naturopathic doctor and that any change made to the protocol will be provided to the board within 10 days of making the change;
(7) a statement that the physician is professionally competent to order each drug and substance that the protocol authorizes the naturopathic doctor to administer and that treating the conditions identified in the protocol is within the lawful and customary practice of the physician;
(8) a statement that the authority to administer any drug or substance intravenously is limited to times when the physician either is physically present in the same building or can be present within five minutes at the location where the service is performed;
(9) the identification of any task or service that the physician delegates to any unlicensed person working with the naturopathic doctor;
(10) a statement that emergency procedures have been established by the physician and adopted by the naturopathic doctor to protect the patient in the absence of the physician and that the naturopathic doctor is competent to carry out those emergency procedures; and
(11) any conditions imposed by the physician on the naturopathic doctor before the administration of any of the drugs and substances listed in the protocol.
(c) Each written protocol shall be reviewed by the physician and naturopathic doctor at least annually, and each review shall be signed and dated on the current copy of the protocol.
(Authorized by K.S.A. 65-7203; implementing K.S.A. 65-7202; effective Nov. 19, 2004.)

NURSING ACT - SELECTED STATUTES

65-1130. Advanced registered nurse practitioner; standards and requirements for obtaining certificate of qualification; rules and regulations; categories, education, qualifications and role; limitations and restrictions; prescription of drugs authorized. (a) No professional nurse shall announce or represent to the public that such person is an advanced registered nurse practitioner unless such professional nurse has complied with requirements established by the board and holds a valid certificate of qualification as an advanced registered nurse practitioner in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain a certificate of qualification as an advanced registered nurse practitioner. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education of advanced registered nurse practitioners. The board may require that some, but not all, types of advanced registered nurse practitioners hold an academic degree beyond the minimum educational requirement for qualifying for a license to practice as a professional nurse. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced registered nurse practitioners which:

(1) Establish categories of advanced registered nurse practitioners which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education and qualifications necessary for certification for each category of advanced registered nurse practitioner established by the board at a level adequate to assure the competent performance by advanced registered nurse practitioners of functions and procedures which advanced registered nurse practitioners are authorized to perform.

(3) Define the role of advanced registered nurse practitioners and establish limitations and restrictions on such role. The board shall adopt a definition of the role under this subsection (c)(3) which is consistent with the education and qualifications required to obtain a certificate of qualification as an advanced registered nurse practitioner, which protects the public from persons performing functions and procedures as advanced registered nurse practitioners for which they lack adequate education and qualifications and which authorizes advanced registered nurse practitioners to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such role the board shall consider:

(A) The education required for a certificate of qualification as an advanced registered nurse practitioner;

(B) the type of nursing practice and preparation in specialized practitioner skills involved in each category of advanced registered nurse practitioner established by the board;

(C) the scope of practice of nursing specialties and limitations thereon prescribed by national organizations which certify nursing specialties; and

(D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education in nursing.

(d) An advanced registered nurse practitioner may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced registered nurse practitioner is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced registered nurse practitioner. Any written prescription order shall include the name, address and telephone number of the responsible physician. The advanced registered nurse practitioner may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by a responsible physician. In order to prescribe controlled substances, the advanced registered nurse practitioner shall (1) register with the federal drug enforcement administration; and (2) notify the board of the name and address of the responsible physician or physicians. In no case shall the scope of authority of the advanced registered nurse practitioner exceed the normal and customary practice of the responsible physician. An advanced registered nurse practitioner certified in the category of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, with respect to drugs and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery in Kansas who has accepted responsibility for the protocol and the actions of the advanced registered nurse practitioner when prescribing drugs. (e) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101 and amendments thereto.
History: L. 1983, ch. 206, § 2; L. 1989, ch. 192, § 1; L. 1999, ch. 115, § 1; Apr. 1, 2000.

65-1158. Duties of registered nurse anesthetists. (a) Upon the order of a physician or dentist requesting anesthesia or analgesia care, each registered nurse anesthetist shall be authorized to:

(1) Conduct a pre- and post-anesthesia and pre- and post-analgesia visit and assessment with appropriate documentation;

(2) develop a general plan of anesthesia care with the physician or dentist;

(3) select the method for administration of anesthesia or analgesia;

(4) select or administer appropriate medications and anesthetic agents during the peri-anesthetic or peri-analgesic period;

(5) order necessary medications and tests in the peri-anesthetic or peri-analgesic period;

(6) induce and maintain anesthesia or analgesia at the required levels;

(7) support life functions during the peri-anesthetic or peri-analgesic period;

(8) recognize and take appropriate action with respect to patient responses during the peri-anesthetic or peri-analgesic period;

(9) manage the patient's emergence from anesthesia or analgesia; and

(10) participate in the life support of the patient.

(b) Each registered nurse anesthetist may participate in periodic and joint evaluation of services rendered, including, but not limited to, chart reviews, case reviews, patient evaluation and outcome of case statistics.

(c) A registered nurse anesthetist shall perform duties and functions in an interdependent role as a member of a physician or dentist directed health care team.

History: L. 1986, ch. 183, § 8; L. 1988, ch. 242, § 4; L. 1996, ch. 179, § 5; L. 2010, ch. 33, § 1. March 24.

NURSING ACT - SELECTED REGULATIONS

60-11-102. Roles of advanced practice registered nurses. The four roles of advanced practice registered nurses licensed by the board of nursing shall be the following:
(a) Clinical nurse specialist;
(b) nurse anesthetist;
(c) nurse-midwife; and
(d) nurse practitioner.
(Authorized by and implementing K.S.A. 65-1113, as amended by L. 2011, ch. 114, sec. 39, and K.S.A. 65-1130, as amended by L. 2011, ch. 114, sec. 44; effective May 1, 1984; amended Sept. 4, 2009; amended May 18, 2012.)

60-11-104a. **Protocol requirements; prescription orders.** (a) Each written protocol that an advanced practice registered nurse is to follow when prescribing, administering, or supplying a prescription-only drug shall meet the following requirements:

(1) Specify for each classification of disease or injury the corresponding class of drugs that the advanced practice registered nurse is permitted to prescribe;

(2) be maintained in either a loose-leaf notebook or a book of published protocols. The notebook or book of published protocols shall include a cover page containing the following data:

(A) The names, telephone numbers, and signatures of the advanced practice registered nurse and a responsible physician who has authorized the protocol; and

(B) the date on which the protocol was adopted or last reviewed; and

(3) be kept at the advanced practice registered nurse's principal place of practice.

(b) Each advanced practice registered nurse shall ensure that each protocol is reviewed by the advanced practice registered nurse and physician at least annually.

(c) Each prescription order in written form shall meet the following requirements:

(1) Include the name, address, and telephone number of the practice location of the advanced practice registered nurse;

(2) include the name, address, and telephone number of the responsible physician;

(3) be signed by the advanced practice registered nurse with the letters A.P.R.N.;

(4) be from a class of drugs prescribed pursuant to protocol; and

(5) contain the D.E.A. registration number issued to the advanced practice registered nurse when a controlled substance, as defined in K.S.A. 65-4101(e) and amendments thereto, is prescribed.

(d) Nothing in this regulation shall be construed to prohibit any registered nurse or licensed practical nurse or advanced practice registered nurse from conveying a prescription order orally or administering a drug if acting under the lawful direction of a person licensed to practice either medicine and surgery or dentistry or licensed as an advanced practice registered nurse.

(e) When used in this regulation, terms shall be construed to have the meanings specified in K.S.A. 65-1626, and amendments thereto.

(Authorized by and implementing K.S.A. 65-1130, as amended by L. 2011, ch. 114, sec. 44; effective, T-60-9-12-88, Sept. 12, 1988; effective Feb. 13, 1989; amended May 7, 1990; amended Jan. 3, 1995; amended March 31, 2000; amended May 18, 2012.)

60-11-105. Functions of the advanced practice registered nurse in the role of nurse-midwife. Each advanced practice registered nurse in the role of nurse-midwife shall function in an advanced role through the application of advanced skills and knowledge of women's health care through the life span and shall be authorized to perform the following:
(a) Provide independent nursing diagnosis, as defined in K.S.A. 65-1113(b) and amendments thereto, and treatment, as defined in K.S.A. 65-1113(c) and amendments thereto;
(b) develop and manage the medical plan of care for patients or clients, based on the authorization for collaborative practice;
(c) provide health care services for which the nurse midwife is educationally prepared and for which competency has been established and maintained. Educational preparation may include academic coursework, workshops, institutes, and seminars if theory or clinical experience, or both, are included;
d) in a manner consistent with subsection (c), provide health care for women, focusing on gynecological needs, pregnancy, childbirth, the postpartum period, care of the newborn, and family planning, including indicated partner evaluation, treatment, and referral for infertility and sexually transmitted diseases; and (e) provide innovation in evidence-based nursing practice based upon advanced clinical expertise, decision making, and leadership skills and serve as a consultant, researcher, and patient advocate for individuals, families, groups, and communities to achieve quality, cost-effective patient outcomes and solutions.
(Authorized by and implementing K.S.A. 65-1113, as amended by L. 2011, ch. 114, sec. 39, and K.S.A. 65-1130, as amended by L. 2011, ch. 114, sec. 44; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985; amended Sept. 4, 2009; amended May 18, 2012.)

60-11-106. Functions of the advanced practice registered nurse; nurse anesthetist. The functions that may be performed by any advanced practice registered nurse functioning in the advanced role of registered nurse anesthetist shall be those functions defined in K.S.A. 65-1158, and amendments thereto.
(Authorized by and implementing K.S.A. 65-1113, as amended by L. 2011, ch. 114, sec. 39, and K.S.A. 65-1130, as amended by L. 2011, ch.114, sec. 44; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985; amended March 31, 2000;amended May 18, 2012.)

60-11-107. Functions of the advanced practice registered nurse in the role of clinical nurse specialist. Each advanced practice registered nurse in the role of clinical nurse specialist shall function in an advanced role to provide evidence-based nursing practice within a specialty area focused on specific patients or clients, populations, settings, and types of care. Each clinical nurse specialist shall be authorized to perform the following:
(a) Provide independent nursing diagnosis, as defined in K.S.A. 65-1113(b) and amendments thereto, and treatment, as defined in K.S.A. 65-1113(c) and amendments thereto;
(b) develop and manage the medical plan of care for patients or clients, based on the authorization for collaborative practice;

(c) provide health care services for which the clinical nurse specialist is educationally prepared and for which competency has been established and maintained. Educational preparation may include academic coursework, workshops, institutes, and seminars if theory or clinical experience, or both, are included;
(d) provide care for specific patients or clients or specific populations, or both, utilizing a broad base of advanced scientific knowledge, nursing theory, and skills in assessing, planning, implementing, and evaluating health and nursing care; and (e) provide innovation in evidence-based nursing practice based upon advanced clinical expertise, decision making, and leadership skills and serve as a consultant, researcher, and patient advocate for individuals, families, groups, and communities to achieve quality, cost-effective patient outcomes and solutions.
(Authorized by and implementing K.S.A. 65-1113, as amended by L. 2011, ch. 114, sec. 39, and K.S.A. 65-1130, as amended by L. 2011, ch. 114, sec. 44; effective May 1, 1984; amended, T-85-16, June 5, 1984; amended May 1, 1985; amended Sept. 4, 2009; amended May 18, 2012.)

OPTOMETRY ACT - SELECTED STATUTES

65-1501. Practice of optometry defined; exclusions; standard of care in diagnosis and treatment of glaucoma; low vision rehabilitation services. (a) The practice of optometry means:

(1) The examination of the human eye and its adnexae and the employment of objective or subjective means or methods (including the administering, prescribing or dispensing, of topical pharmaceutical drugs) for the purpose of diagnosing the refractive, muscular, or pathological condition thereof;

(2) the prescribing, dispensing or adapting of lenses (including any ophthalmic lenses which are classified as drugs by any law of the United States or of this state), prisms, low vision rehabilitation services, orthoptic exercises and visual training therapy for the relief of any insufficiencies or abnormal conditions of the human eye and its adnexae; and

(3) the prescribing, administering or dispensing of topical pharmaceutical drugs and oral drugs for the examination, diagnosis and treatment of ocular conditions and any insufficiencies or abnormal conditions of the human eye and its adnexae including adult open angle glaucoma.

(b) The practice of optometry shall not include: (1) The management and treatment of glaucoma, except as provided in subsection (a); (2) the performance of surgery, including the use of lasers for surgical purposes, except that licensees may remove non-perforating foreign bodies from the cornea, conjunctiva, or eyelids; remove eyelashes; scrape the cornea for diagnostic tests, smears or cultures; dilate, probe, irrigate or close by punctual plug the tear drainage structures of the eye; express conjunctival follicles or cysts; debridement of the corneal epithelium and co-management of post-operative care; or (3) the performance of procedures requiring anesthesia administered by injection or general anesthesia.

(c) A licensee shall be held to a standard of care in the use of such agents in diagnosis and treatment of adult open - angle glaucoma commensurate to that of a person licensed to practice medicine and surgery, who exercises that degree of skill and proficiency commonly exercised by an ordinary, skillful, careful and prudent person licensed to practice medicine and surgery.

(d) Under the direction and supervision of a therapeutic licensee, a licensed professional nurse, licensed practical nurse, licensed physical therapist and licensed occupational therapist may assist in the provision of low vision rehabilitation services in addition to such other services which such licensed professional nurse, licensed practical nurse, licensed physical therapist and licensed occupational therapist is authorized by law to provide under subsection (d) of K.S.A. 65-1113, subsection (h) of K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901 and subsection (b) of K.S.A. 65-5402, and amendments thereto.

History: L. 1923, ch. 220, § 1; R.S. 1923, 65-1501; L. 1977, ch. 216, § 1; L. 1987, ch. 235, § 1; L. 1996, ch. 95, § 1; L. 1999, ch. 23, § 1; L. 2002, ch. 203, § 16; L. 2003, ch. 128, § 22; L. 2010, ch. 31, § 1; L. 2012, ch 8, § 1; July 1.

65-1501a. Definitions. For the purposes of this act the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(a) "Board" means the board of examiners in optometry established under K.S.A. 74-1501 and amendments thereto.

(b) "License" means a license to practice optometry granted under the optometry law.

(c) "Licensee" means a person licensed under the optometry law to practice optometry.

(d) "Adapt" means the determination, selection, fitting or use of lenses, prisms, orthoptic exercises or visual training therapy for the aid of any insufficiencies or abnormal conditions of the eyes after or by examination or testing.

(e) "Lenses" means any type of ophthalmic lenses, which are lenses prescribed or used for the aid of any insufficiencies or abnormal conditions of the eyes.

(f) "Prescription" means a verbal, written or electronic order transmitted directly or by electronic means from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the specifications and directions for lenses, prisms, orthoptic exercises, low vision rehabilitation services or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes, including instructions necessary for the fabrication or use thereof and the date of issue.

(g) "Prescription for topical pharmaceutical drugs or oral drugs" means a verbal, written or electronic order transmitted directly or by electronic means from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, the number of refills permitted, the date of issue and expiration date.

(h) "Topical pharmaceutical drugs" means drugs administered topically and not by other means.

(i) "Dispense" means to deliver prescription-only medication or ophthalmic lenses to the ultimate user pursuant to the lawful prescription of a licensee and dispensing of prescription-only medication by a licensee shall be limited to a twenty-four hour supply or minimal quantity necessary until a prescription can be filled by a licensed pharmacist, except that the twenty-four hour supply or minimal quantity shall not apply to lenses described in subsection (a)(2) of K.S.A. 65-1501, and amendments thereto.

(j) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(k) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services or ophthalmic goods.

(l) "Health care provider" shall have the meaning ascribed to that term in subsection (f) of K.S.A. 40-3401 and amendments thereto.

(m) "Medical facility" shall have the meaning ascribed to that term in subsection (c) of K.S.A. 65-411 and amendments thereto.

(n) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(o) "Ophthalmologist" means a person licensed to practice medicine and surgery by the state board of healing arts who specializes in the diagnosis and medical and surgical treatment of diseases and defects of the human eye and related structures.

(p) "Low vision rehabilitation services" means the evaluation, diagnosis, management and care of the low vision patient including low vision rehabilitation therapy, education and interdisciplinary consultation under the direction and supervision of an ophthalmologist or optometrist.

(q) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs, oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma drugs and other oral drugs with clinically accepted ocular uses.

History: L. 1975, ch. 318, § 1; L. 1987, ch. 235, § 2; L. 1990, ch. 223, § 1; L. 1996, ch. 95, § 2; L. 1999, ch. 23, § 2; L. 2005, ch. 93, § 3; L. 2010, ch. 31, § 2; L. 2012, ch 8, § 2; July 1.

PHYSICIAN ASSISTANT LICENSURE ACT - SELECTED STATUTES

65-28a02. Definitions. (a) The following words and phrases when used in the physician assistant licensure act shall have the meanings respectively ascribed to them in this section:

(1) "Board" means the state board of healing arts.

(2) "Direction and supervision" means the guidance, direction and coordination of activities of a physician assistant by such physician assistant's responsible or designated physician, whether written or verbal, whether immediate or by prior arrangement, in accordance with standards established by the board by rules and regulations, which standards shall be designed to ensure adequate direction and supervision by the responsible or designated physician of the physician assistant. The term "direction and supervision" shall not be construed to mean that the immediate or physical presence of the responsible or designated physician is required during the performance of the physician assistant.

(3) "Physician" means any person licensed by the state board of healing arts to practice medicine and surgery.

(4) "Physician assistant" means a person who is licensed in accordance with the provisions of K.S.A. 65-28a04 and amendments thereto and who provides patient services under the direction and supervision of a responsible physician.

(5) "Responsible physician" means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the responsible physician.

(6) "Designated physician" means a physician designated by the responsible physician to ensure direction and supervision of the physician assistant.

(7) "Licensee" for purposes of the physician assistant licensure act, means all persons issued a license or temporary license pursuant to the physician assistant licensure act.

(8) "License" for purposes of the physician assistant licensure act, means any license or temporary license granted by the physician assistant licensure act.

History: L. 2000, ch. 162, § 2; Feb. 1, 2001.

65-28a08. Practice of physician assistant; direction and supervision of physician; prescription of drugs; identification to patient of physician assistant; rules and regulations; "drug" defined. (a) The practice of a physician assistant shall include medical services within the education, training and experience of the physician assistant that are delegated by the responsible physician. Physician assistants practice in a dependent role with a responsible physician, and may perform those duties and responsibilities through delegated authority or written protocol. Medical services rendered by physician assistants may be performed in any setting authorized by the responsible physician, including but not limited to, clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other medical institutions.

(b) A person licensed as a physician assistant may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician assistant under the responsible physician's direction and supervision. A physician assistant may prescribe drugs pursuant to a written protocol as authorized by the responsible physician.
(c) Before a physician assistant shall perform under the direction and supervision of a physician, such physician assistant shall be identified to the patient and others involved in providing the patient services as a physician assistant to the responsible physician. Physician assistants licensed under the provisions of this act shall keep their license available for inspection at their primary place of business. A physician assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887 and amendments thereto.
(d) The board shall adopt rules and regulations governing the prescribing of drugs by physician assistants and the responsibilities of the responsible physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the prescribing of drugs by physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and responsible physicians practice, the degree of direction and supervision to be provided by a responsible physician and the needs of the geographic area of the state in which the physician's physician assistant and the responsible physician practice. In all cases in which a physician assistant is authorized to prescribe drugs by a responsible physician, a written protocol between the responsible physician and the physician assistant containing the essential terms of such authorization shall be in effect. Any written prescription order shall include the name, address and telephone number of the responsible physician. In no case shall the scope of the authority of the physician assistant to prescribe drugs exceed the normal and customary practice of the responsible physician in the prescribing of drugs.
(e) The physician assistant may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by the responsible physician. In order to prescribe controlled substances, the physician assistant shall register with the federal drug enforcement administration.
(f) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101 and amendments thereto.
History: L. 2000, ch. 162, § 8; Feb. 1, 2001.

65-28a09. Responsible and designated physician; notice to board when supervision and direction terminated; forms. (a) If a responsible physician temporarily leaves such physician's customary location of practice, the responsible physician shall, by prior arrangement, name a designated physician who shall provide direction and supervision to the physician assistant of such responsible physician.
(b) A physician assistant shall not perform professional services unless the name, address and signature of each responsible physician and the form required under subsection (a)(2) of K.S.A. 65-28a03 and amendments thereto have been provided to the board. A responsible physician shall notify the board when supervision and direction of the physician assistant has terminated. The board shall provide forms for identifying each designated physician and for giving notice that direction and supervision has terminated. These forms may direct that additional information be provided, including a copy of any protocols, as required by rules and regulations adopted by the board.
History: L. 2000, ch. 162, § 9; Feb. 1, 2001.

65-28a10. Limitation on number of physician assistants a responsible physician may direct and supervise. The board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this section shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.
History: L. 2000, ch. 162, § 10; L. 2004, ch. 117, § 7; July 1.

PHYSICIAN ASSISTANT - SELECTED REGULATIONS

100-28a-6. Scope of practice. A physician assistant may perform acts that constitute the practice of medicine and surgery in the following instances:
(a) If directly ordered, authorized, and coordinated by the responsible or designated physician through the physician's immediate or physical presence;
(b) if directly ordered, authorized, and coordinated by the responsible or designated physician through radio, telephone, or other form of telecommunication;
(c) if authorized on the form provided by, and presented to, the board by the responsible physician pursuant to K.S.A. 2000 Supp. 65-28a03 and amendments thereto; or
(d) if an emergency exists.
(Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. 2000 Supp. 65-28a08; effective, T-100-2- 13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-9. Physician request form; content. The responsible physician request form to be presented to the board pursuant to K.S.A. 2000 Supp. 65-28a03, and amendments thereto, shall contain the following information:
(a) The date and signatures of the responsible physician and the physician assistant;
(b) the license numbers of the responsible physician and the physician assistant;
(c) a description of the physician's practice and the way in which the physician assistant is to be utilized;
(d) a statement that the responsible physician will always be available for communication with the physician assistant within 30 minutes of the performance of patient service by the physician assistant;
(e) a completed drug prescription protocol on a form provided by the board specifying categories of drugs, medicines, and pharmaceuticals that the physician assistant will be allowed to prescribe, and the drugs within any category that the physician assistant will not be allowed to supply, prescribe, receive, or distribute;
(f) the name and address of each practice location, including hospitals, where the physician assistant will routinely perform acts that constitute the practice of medicine and surgery;
(g) signatures of all designated physicians who routinely provide direction and supervision to the physician assistant in the temporary absence of the responsible physician, and a description of the procedures to be followed to notify a designated physician in the responsible physician's absence;
(h) an acknowledgment that failure to adequately direct and supervise the physician assistant in accordance with K.S.A. 2000 Supp. 65-28a01 through K.S.A. 65-28a09, and amendments

thereto, or regulations adopted under these statutes by the board, shall constitute grounds for revocation, suspension, limitation, or censure of the responsible physician's license to practice medicine and surgery in the state of Kansas;
(i) a statement that a current copy of the form will be maintained at each practice location of the responsible physician and the physician assistant and that any changes to the form will be provided to the board within 10 days; and
(j) an acknowledgment that the responsible physician has established and implemented a method for initial and periodic evaluation of the professional competency of the physician assistant and that evaluations will be performed at least annually.
(Authorized by and implementing K.S.A. 2000 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-13. Prescription-only drugs.
(a) A physician assistant may prescribe a prescription only drug or administer or supply a prescription only drug as authorized by the drug prescription protocol required by K.A.R. 100-28a-9 and as authorized by this regulation.
(b) As used in this regulation, ''emergency situation'' shall have the meaning ascribed to it in K.A.R. 68-20-19(a)(5).
(c) A physician assistant may directly administer a prescription-only drug as follows:
(1) If directly ordered or authorized by the responsible or designated physician;
(2) if authorized by a written drug prescription protocol between the responsible physician and the physician assistant; or
(3) if an emergency situation exists.
(d)(1) A physician assistant may prescribe a schedule II controlled substance in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a- 6. Except as specified in paragraph (d)(2), each prescription for a schedule II controlled substance shall be in writing.
(2) A physician assistant may, by oral or telephonic communication, prescribe a schedule II controlled substance in an emergency situation. Within seven days after authorizing an emergency prescription order, the physician assistant shall cause a written prescription, completed in accordance with appropriate federal and state laws, to be delivered to the dispenser of the drug.
(e) A physician assistant may orally, telephonically, or in writing prescribe a controlled substance listed in schedule III, IV, or V, or a prescription only drug not listed in any schedule as a controlled substance in the same manner as that in which the physician's assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6.
(f) Each written prescription order by a physician assistant shall meet the following requirements:
(1) Contain the name, address, and telephone number of the responsible physician;
(2) contain the name, address, and telephone number of the physician assistant;
(3) be signed by the physician assistant with the letters ''P.A.'' following the signature;
(4) contain any DEA registration number issued to the physician assistant if a controlled substance is prescribed; and
(5) indicate whether the prescription order is being transmitted by direct order of the responsible or designated physician, pursuant to a written protocol, or because of an emergency situation.
(g) A physician assistant may supply a prescription only drug to a patient only if all of the following conditions are met:
(1) If the drug is supplied under the same conditions as those in which a physician assistant may directly administer a prescription-only drug, as described in subsection (b) above;

(2) if the drug has been provided to the physician assistant or the physician assistant's responsible physician or employer at no cost;

(3) if the drug is commercially labeled and is supplied to the patient in the original prepackaged unit-dose container; and

(4) if the drug is supplied to the patient at no cost.

(h) A physician assistant shall not administer, supply, or prescribe a prescription-only drug for any quantity or strength in excess of the normal and customary practice of the responsible physician.

(Authorized by K.S.A. 2000 Supp. 65-28a03; implementing K.S.A. 2000 Supp. 65- 28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001.)

100-28a-14. Different practice location.

(a) ''Different practice location'' means an office or location that is maintained or utilized by a responsible physician to regularly meet patients or to receive calls and that is not the primary practice location of the responsible physician.

(b) A physician assistant may perform acts that constitute the practice of medicine and surgery at a different practice location only if all of the following conditions are met:

(1) Before providing any services at the different practice location, the physician assistant has spent a minimum of 80 hours since being licensed under the immediate or physical supervision and direction of a physician licensed in this state.

(2) A physician licensed in this state periodically sees and treats patients at the different practice location.

(3) Written notice is conspicuously posted that the different practice location is staffed primarily by a physician assistant.

(Authorized by K.S.A. 2004 Supp. 65-28a03; implementing K.S.A. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended July 22, 2005.)

PODIATRY ACT - SELECTED STATUTES

65-2002. License required; scope of practice; applicability of act. (a) It shall be unlawful for any person to profess to be a podiatrist, to practice or assume the duties incidental to podiatry, to advertise or hold oneself out to the public as a podiatrist, or to use any sign or advertisement with the word or words podiatrist, foot specialist, foot correctionist, foot expert, practapedist or chiropodist, or any other term or terms indicating that such person is a podiatrist or that such person practices or holds oneself out as practicing podiatry or foot correction in any manner, without first obtaining from the board a license authorizing the practice of podiatry in this state, except as hereinafter provided.
(b) A licensed podiatrist shall be authorized to prescribe such drugs or medicine, and to perform such surgery on the human foot or toes, including amputation of the toes, as may be necessary to the proper practice of podiatry, but no podiatrist shall amputate the human foot or administer any anesthetic other than local.
(c) This act shall not prohibit the recommendation, advertising, fitting or sale of corrective shoes, arch supports, or similar mechanical appliances, or foot remedies by manufacturers, wholesalers or retail dealers.
History: L. 1927, ch. 246, § 2; L. 1951, ch. 362, § 1; L. 1975, ch. 323, § 1; L. 1979, ch. 197, § 2; L. 1988, ch. 246, § 1; L. 1997, ch. 88, § 1; July 1.

PODIATRY - SELECTED REGULATIONS

100-49-10. Definition of human foot. As utilized in the podiatry act, K.S.A. 65-2001 through 65-2013 and amendments thereto, ‘‘human foot’’ shall mean that part of the human anatomy that consists of the tarsus, metatarsus, phalanges, cartilage, muscles, tendons, ligaments, skin, vasculature, and the other tissues distal to and including the articulating cartilaginous surfaces of the ankle joint.
(Authorized by K.S.A. 65-2013; implementing K.S.A. 65-2001, K.S.A. 65- 2002, K.S.A. 65-2004, and K.S.A. 2006 Supp. 65-2005; effective Sept. 14, 2007.)

Appendix A – Reviser's Notes
Selected New Statutes Created during the 2011-2012 Legislative Session

From Senate Bill 134 (2012) – Amending K.S.A. 65-1626 and adding new sections: Pharmacist exercise of Professional Judgment; prescriptions; refills.

New Sec. 3. (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.

From Senate Bill 134 (2012) – Derived from 68-20-15a(c)(3):
Distribution of free controlled drug samples banned.

New Sec. 11. A controlled substance listed in schedules II through V, excluding schedule V nonnarcotic depressants that have an effect on the central nervous system, shall not be distributed on a gratuitous basis by a manufacturer or distributor to a practitioner, mid-level practitioner, pharmacist or any other person.

Appendix B –Amended Statutes

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