

SENATE BILL No. 482

AN ACT concerning the pharmacy act of the state of Kansas; licensure and fees relating thereto; civil fines; amending K.S.A. 2001 Supp. 65-1631, 65-1632, 65-1645 and 65-1658 and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 65-1631 is hereby amended to read as follows: 65-1631. (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 ~~administered~~ *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 ~~examinations~~ *licensure by examination* shall be made on a form to be prescribed and furnished by the board ~~and shall be filed with the board at least 30 days before examinations are to be held.~~ Each application ~~must for a new license by examination shall be accompanied by an examination~~ *a license fee* fixed by the board as provided in K.S.A. 65-1645 and amendments thereto ~~unless the board requires the examination fees be paid directly to an examination service 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 ~~administered~~ *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 ~~given~~ *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.

Sec. 2. K.S.A. 2001 Supp. 65-1632 is hereby amended to read as follows: 65-1632. (a) Each license to practice as a pharmacist issued by the board, shall expire on June 30 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis in accordance with this section. 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 ~~examination~~ *application* fee.

Sec. 3. K.S.A. 2001 Supp. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for registrations or permits under K.S.A. 65-1643 and amendments thereto shall be made on a form prescribed and furnished by the board. Applications for registration to distribute at wholesale any drugs shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655 and amendments thereto. The application shall be accompanied by the fee prescribed by the board under the provisions of this section. When such application and fees are received by the executive secretary of the board on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. However, if at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which is carried on any of the operations for which a registration or permit is required by

K.S.A. 65-1643 and amendments thereto except that the board may provide for a single registration for a business entity registered to manufacture any drugs or registered to distribute at wholesale any drugs and operating more than one facility within the state, or for a parent entity with divisions, subsidiaries or affiliate companies, or any combination thereof, within the state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

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

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

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

(3) pharmacist, ~~examination fee for previously licensed 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; or

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

(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 K.S.A. 65-1645 and amendments thereto.

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

Sec. 4. K.S.A. 2001 Supp. 65-1658 is hereby amended to read as follows: 65-1658. 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. ~~Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.~~ *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.*

Sec. 5. K.S.A. 2001 Supp. 65-1631, 65-1632, 65-1645 and 65-1658 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in _____
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.