

SENATE BILL No. 164

By Committee on Public Health and Welfare

2-6

AN ACT concerning nonresident pharmacies; amending K.S.A. 65-1657 and repealing the existing section.

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

Section 1. K.S.A. 65-1657 is hereby amended to read as follows: 65-1657. (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;

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

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

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

11 (c) Each nonresident pharmacy shall comply with the following un-
12 less compliance would be in conflict with specific laws or rules and reg-
13 ulations of the state in which the pharmacy is located:

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

16 (2) labeling of all prescriptions dispensed, to include but not be lim-
17 ited to identification of the product and quantity dispensed;

18 (3) all the statutory and regulatory requirements of Kansas for dis-
19 pensing prescriptions in accordance with the quantities indicated by the
20 prescriber; and

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

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

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

33 (1) Normal delivery protocols and times;

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

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

42 (4) the procedure to be followed when the nonresident pharmacy is
43 advised that the patient's medication has not been received within the

1 normal delivery time and that the patient is out of medication and re-
2 quires interim dosage until mailed prescription drugs become available.

3 (f) Except in emergencies that constitute an immediate threat to the
4 public health and require prompt action by the board, the board may file
5 a complaint against any nonresident pharmacy that violates any provision
6 of this section. This complaint shall be filed with the regulatory or li-
7 censing agency of the state in which the nonresident pharmacy is located.
8 If the regulatory or licensing agency of the state in which the nonresident
9 pharmacy is located fails to resolve the violation complained of within a
10 reasonable time, not less than 180 days from the date that the complaint
11 is filed, disciplinary proceedings may be initiated by the board. The board
12 also may initiate disciplinary actions against a nonresident pharmacy if
13 the regulatory or licensing agency of the state in which the nonresident
14 pharmacy is located lacks or fails to exercise jurisdiction.

15 (g) The board shall adopt rules and regulations that make exceptions
16 to the requirement of registration by a nonresident pharmacy when the
17 out-of-state pharmacy supplies lawful refills to a patient from a prescrip-
18 tion that was originally filled and delivered to a patient within the state
19 in which the nonresident pharmacy is located, or when the prescriptions
20 being mailed into the state of Kansas by a nonresident pharmacy occurs
21 only in isolated transactions. In determining whether the prescriptions
22 being mailed into the state of Kansas by a nonresident pharmacy are
23 isolated transactions, the board shall consider whether the pharmacy has
24 promoted its services in this state and whether the pharmacy has a con-
25 tract with any employer or organization to provide pharmacy services to
26 employees or other beneficiaries in this state.

27 (h) It is unlawful for any nonresident pharmacy which is not regis-
28 tered under this act to advertise its services in this state, or for any person
29 who is a resident of this state to advertise the pharmacy services of a
30 nonresident pharmacy which has not registered with the board, with the
31 knowledge that the advertisement will or is likely to induce members of
32 the public in this state to use the pharmacy to fill prescriptions. A violation
33 of this section is a class C misdemeanor.

34 (i) *In addition to any other penalties prescribed by law, a nonresident*
35 *pharmacy which violates the provisions of subsection (b)(3), (5) or (6),*
36 *subsection (c)(4) or subsection (e)(3) or (4) shall be guilty of a violation*
37 *of the Kansas consumer protection act.*

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

1 Kansas.

2 ~~(j)~~ (k) adopt rules and regulations as necessary and as are consistent
3 with this section to carry out the provisions of this section.

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

10 ~~(l)~~ (m) This section shall be part of and supplemental to the pharmacy
11 act of the state of Kansas.

12 Sec. 2. K.S.A. 65-1657 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.

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