Session of 2006

HOUSE Substitute for SENATE BILL No. 217

By Committee on Health and Human Services

3-21

AN ACT concerning the state board of pharmacy; relating to distributor licensure; study of pedigrees for prescription drugs; amending K.S.A. 65-1627, 65-1645, 65-1655, 65-1660, 65-4117, 65-4118, 65-4119, 65-4121, 65-4122, 65-4131 and 65-4137 and K.S.A. 2005 Supp. 65-1626, 65-1643 and 65-4116 and repealing the existing sections.

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

Section 1. K.S.A. 2005 Supp. 65-1626 is hereby amended to read as follows: 65-1626. 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) "Board" means the state board of pharmacy created by K.S.A. 74-1603 and amendments thereto.

(d) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name than the brand name drug product prescribed.

(e) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(f) "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.

(g) "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 ac-

tivities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(h) "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.

(i) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication.

(j) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(k) "Distributor" means a person who distributes a drug *but shall not include a registered manufacturer*.

(l) "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.

(m) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(n) "Generic name" means the established chemical name or official name of a drug or drug product.

(o) (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 Kansas code for care of children and the 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.

(p) "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 the mentally retarded.

(q) "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.

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

(s) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

(t) "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.

(u) "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.

(v) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

(w) "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.

(x) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, 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.

(y) "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.

(z) "Prescription" means, according to the context, either a prescription order or a prescription medication.

(aa) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(bb) "Prescription-only drug" means any drug whether intended for use by man or animal, required by federal or state law (including 21 United States Code section 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.

(cc) "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner or a mid-level practitioner in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner or mid-level practitioner.

(dd) "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.

(ee) "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.

(ff) "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.

(gg) "Secretary" means the executive secretary of the board.

(hh) "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.

(ii) "Mid-level practitioner" means an advanced registered nurse

practitioner issued a certificate of qualification 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.

(jj) "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.

(kk) "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 non-human.

Sec. 2. K.S.A. 65-1627 is hereby amended to read as follows: 65-1627. (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. 2002 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2002 Supp. 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 con-

sented 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 or *a license* to distribute at wholesale a drug or a registration *or license* for the place of business where any such operation is conducted may be suspended, revoked, placed in a proba-

tionary status or the renewal of such registration *or license* may be denied by the board upon a finding that the registrant *or licensee* or the registrant's *or licensee'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 *or licensee'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.

Sec. 3. K.S.A. 2005 Supp. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (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~~ *license to do so* 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 (u) 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; and

(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. 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; or

(2) there is a lawful prescription.

(l) For any person to sell or distribute in a pharmacy four or more packages or containers of any controlled substance designated in subsection (e) or (f) of K.S.A. 65-4113, and amendments thereto, to a specific customer within any seven-day period.

Sec. 4. K.S.A. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for *licenses,* 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~~ *licensure* 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 *license,* 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 sus-

pension, probation, revocation or denial of the applicant's *license,* 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 *license,* registration or permit. Separate applications shall be made and separate *licenses,* 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~~ *licensed* 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~~ *license* 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~~ *licensure* and ~~reregistration~~ *renewal of licensure* 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 *license,* 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 *license,* registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643 and amendments thereto. *Licenses,* 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 *license,* registration or permit was granted. Such *licenses,* registrations or permits shall not be transferable. All such *licenses,* 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 *licenses,* registrations and permits shall be renewed annually. Application blanks for renewal of *licenses,* registrations and permits shall be mailed by the board to each registrant or permittee at least 30 days prior to expiration of the *license,* registration or permit. If application for renewal is not made before 30 days after such expiration, the existing *license,* registration or permit shall lapse and become null and void on the date of its expiration, and no new *license,* 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 *licensee,* registrant or permittee to receive such application blank shall not relieve the *licensee,* 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. 5. K.S.A. 65-1655 is hereby amended to read as follows: 65-1655. *(a) Each wholesale distributor who engages in the wholesale dis-*

tribution of prescription drugs shall be licensed by the state board of pharmacy and every nonresident wholesale distributor shall be licensed in a state if it ships prescription drugs into that state, in accordance with this act before engaging in wholesale distribution of wholesale prescription drugs.

(b) Each applicant for a distributor's license shall apply for a license in one or more of the following classifications: Class A, class B, class C, class D or another classification established by the board. Such classifications are as follows:

(1) A class A distributor license or prescription drug wholesale distributor license authorized a wholesale distributor to deliver any prescription only drug for human use, required by federal law, including 21 U.S.C. section 353, and amendments thereto, or state law to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(2) A class B distributor license or nonprescription wholesale drug distributor authorizes a distributor to deliver nonprescription drugs intended for human use.

(3) A class C distributor license or durable medical equipment or medical gas distributor license authorizes a distributor to deliver either articles or devices that require a prescription or physician's order or medical gases that require a prescription, medical order or are restricted to use by a practitioner.

(4) A class D distributor or wholesale veterinary drug or livestock remedy distributor license authorizes a wholesale distributor to deliver veterinary drugs or devices.

(5) The board by rules and regulations shall establish standards that each distributor or distributor's employees must meet to qualify for licensing as a distributor in each classification.

~~(a)~~ *(c)* The board shall require an applicant for ~~registration~~ *licensure* to distribute at wholesale any drugs under K.S.A. 65-1643 and amendments thereto, or an applicant for renewal of such a ~~registration~~ *license*, 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) a list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;

(7) the name of the class A applicant's designated representative for the facility, together with the personal information statement and fingerprints of the class A applicant and such applicant's representative, required pursuant to paragraph (8) of this subsection for such person;

(8) each person required by paragraph (7) of this subsection to provide a personal information statement and fingerprints shall provide the following information to the state:

(A) The person's places of residence for the past seven years;

(B) the person's date and place of birth and social security number;

(C) the person's occupations, positions of employment and offices held during the past seven years;

(D) the principal business and address of any business, corporation or other organization in which each such office of the person was held or in which each such occupation or position of employment was carried on;

(E) whether the person has been, during the past seven years, the subject of any administrative license or registration proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding;

(F) whether, during the past seven years, the person has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control or distribution of prescription drugs or criminal violations, together with details concerning any such event;

(G) a description of any involvement by the person with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past seven years, which manufactured, administered, prescribed, distributed or stored pharmaceutical products and any lawsuits in which such businesses were named as a party;

(H) a description of any misdemeanor or felony criminal offense of which the person, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the person pled guilty or nolo contendere. If the person indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense,

the applicant must, within 15 days after the disposition of the appeal, submit to the state board of pharmacy a copy of the final written order of disposition; and

(I) a photograph of the person taken in the previous 30 days; and

~~(6)~~ *(9)* such other information as the board deems appropriate. Changes in any information in this subsection ~~(a)~~ *(c)* shall be submitted to the board as required by such board.

(d) The state shall not issue a distributor license of an applicant located in Kansas, unless the state:

(1) Conducts a physical inspection of any facility at the address provided by the applicant as required in subsection (c) of this section; and

(2) determines that the designated representative meets the following qualifications:

(A) Is at least 21 years of age;

(B) has been employed full time for at least three years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of and recordkeeping relating to prescription drugs;

(C) is employed by the applicant full time in a managerial level position;

(D) is actively involved in and aware of the actual daily operation of the distributor;

(E) is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized, including, but not limited to, sick leave and vacation leave;

(F) is serving in the capacity of a designated representative for only one applicant at a time;

(G) does not have any convictions under any federal, state or local laws relating to drug samples, wholesale or retail prescription drug distribution or distribution of controlled substances; and

(H) does not have any felony convictions under federal, state or local laws.

(e) The board shall submit the fingerprints provided by a person with a class A license application for a statewide criminal record check and for forwarding to the federal bureau of investigation to conduct a national criminal record check of the person to verify the identity of such persons and their qualifications for licensure. The cost of the fingerprinting shall be the applicant's burden.

(f) The state board of pharmacy shall require every class A distributor applying for a license to submit a bond of a minimum of $100,000, or other equivalent means of security acceptable to the state, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to a fund established by the state, pursuant to subsection (g) of this section. The bond shall be based on criteria set by rules

and regulations. The purpose of the bond is to secure payment of any fines or penalties imposed by the state and any fees and costs incurred by the state regarding such license, which are authorized under state law and which the licensee fails to pay 30 days after the fines, penalties or costs become final. The state may make a claim against such bond or security until one year after the licensee's license ceases to be valid. The bond shall cover all facilities operated by the applicant in the state. The bond requirement may be waived if the wholesale distributor has in place a comparable bond or other equivalent means of security for the purpose of licensure in another state where the wholesale distributor possesses a valid wholesale distributor license in good standing.

(g) There is hereby created in the state treasury the drug wholesaler trust fund. The executive secretary of the state board of pharmacy shall administer the fund. Proceeds from the bond prescribed by subsection (f) of 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 drug wholesaler trust fund. Moneys in the drug wholesaler trust fund may be expended for the purposes prescribed in subsection (f) of this section. All expenditures from the drug wholesaler trust 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 of the state board of pharmacy.

(h) If a distributor distributes drugs from more than one facility within or into the state of Kansas, the wholesale distributor shall obtain a license for each facility.

(i) Every calendar year, the state board of pharmacy shall send to each wholesale distributor licensed under this section a form setting forth the information that the wholesale distributor provided pursuant to subsection (c) of this section. Within 30 days of receiving such form, the wholesale distributor must identify and state under oath to the state board of pharmacy all changes or corrections to the information that were provided pursuant to subsection (c) of this section. Changes in, or corrections to, any information in subsection (c) of this section shall be submitted to the state board of pharmacy as required by such board. The state board of pharmacy may suspend or revoke the license of a wholesale distributor if such board determines that the wholesale distributor no longer qualifies for the license issued under this section.

(j) Information provided under this section shall not be disclosed to any person or entity other than a state board of pharmacy, government board or government agency provided such board or other state or federal agency needs such information for licensing or monitoring purposes.

~~(b)~~ *(k)* In reviewing the qualifications for applicants for initial ~~registration~~ *licensure* or renewal of ~~registration~~ *licensure* 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 *licensing or* registration requirements under previously granted *licenses or* 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)~~ *(l)* After consideration of the qualifications for applicants for ~~registration~~ *licensure* to distribute at wholesale any drugs, the board may deny an initial application for ~~registration~~ *licensure* or application for renewal of a ~~registration~~ *license* if the board determines that the granting of such ~~registration~~ *license* would not be in the public interest. The authority of the board under this subsection to deny a ~~registration~~ *license* 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)~~ *(m)* The board by rules and regulations shall require that personnel employed by persons ~~registered~~ *licensed* to distribute at wholesale any drugs have appropriate education or experience, or both, to assume responsibility for positions related to compliance with state ~~registration~~ *licensure* requirements.

~~(e)~~ *(n)* 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)~~ *(o)* This section shall be part of and supplemental to the pharmacy

act of the state of Kansas.

Sec. 6. K.S.A. 65-1660 is hereby amended to read as follows: 65-1660. (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~~ *licensed* 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.

Sec. 7. K.S.A. 2005 Supp. 65-4116 is hereby amended to read as follows: 65-4116. (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 *license or* registration issued by the board in accordance with the uniform controlled substances act and with rules and regulations adopted by the board.

(b) Persons *licensed or* 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 *license or* 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 *licensure or* 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 *license or* 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 *licensee,* registrant or applicant for registration in accordance with the board's rules and regulations.

(g) (1) The *license or* 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 *licensee or* registrant who ceases legal existence, discontinues business or professional practice, or changes location as shown on the *license or* certificate of registration, shall notify the board promptly of such fact and forthwith deliver the *license or* 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 *license,* 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.

Sec. 8. K.S.A. 65-4117 is hereby amended to read as follows: 65-4117. (a) The board shall *license or* 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 sec-

tions, unless it determines that the issuance of that *license or* 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) *Licensure or* registration under subsection (a) does not entitle a *licensee or* registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the *license or* 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.

Sec. 9. K.S.A. 65-4118 is hereby amended to read as follows: 65-4118. (a) A *license or* registration under K.S.A. 65-4117 to manufacture, distribute or dispense a controlled substance may be suspended or re-

voked by the board upon a finding that the *licensee or* 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 *license or* registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a *license or* registration, all controlled substances owned or possessed by the *licensee or* 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 *a license or* registration and all forfeitures of controlled substances.

Sec. 10. K.S.A. 65-4119 is hereby amended to read as follows: 65-4119. (a) Before denying, suspending or revoking a *license or* registration or refusing a renewal of *a license or* registration, the board shall serve upon the applicant, *licensee* or registrant an order to show cause why *the license or* 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 *a license or* registration the show cause order shall be served not later than 15 days before the expiration of the *license or* 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 *license or* registration simultaneously with the institution of proceedings under K.S.A. 65-4118 and amendments thereto, or where renewal of *a license or* 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.

Sec. 11. K.S.A. 65-4121 is hereby amended to read as follows: 65-4121. Persons *licensed or* 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.

Sec. 12. K.S.A. 65-4122 is hereby amended to read as follows: 65-4122. Controlled substances in schedules I and II shall be distributed by a *licensee or* registrant to another *licensee or* registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

Sec. 13. K.S.A. 65-4131 is hereby amended to read as follows: 65-4131. 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 *licensee or* 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.

Sec. 14. K.S.A. 65-4137 is hereby amended to read as follows: 65-4137. (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 *be licensed or* 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.

New Sec. 15. The state board of pharmacy shall conduct a study to address pedigrees for prescription drugs and the penalty aspects for violation of the pedigree requirements. The results of such study shall be completed and presented along with a pedigree plan and any recommended pedigree legislation to the legislature no later than January 15, 2007.

Sec. 16. K.S.A. 65-1627, 65-1645, 65-1655, 65-1660, 65-4117, 65-4118, 65-4119, 65-4121, 65-4122, 65-4131 and 65-4137 and K.S.A. 2005 Supp. 65-1626, 65-1643 and 65-4116 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.