

SENATE BILL No. 694

By Committee on Ways and Means

3-21

9 AN ACT concerning pharmacies; relating to internet pharmacies;
10 amending K.S.A. 65-1657 and repealing the existing section.

11

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

13 Section 1. K.S.A. 65-1657 is hereby amended to read as follows: 65-
14 1657. (a) No nonresident pharmacy *or internet pharmacy* shall ship, mail
15 or deliver, in any manner, prescription drugs to a patient in this state
16 unless registered under this section as a nonresident pharmacy *or internet*
17 *pharmacy*. Applications for a nonresident pharmacy *or internet pharmacy*
18 registration under this section shall be made on a form furnished by the
19 board. A nonresident pharmacy *or internet pharmacy* registration shall
20 be granted for a period of one year upon compliance by the nonresident
21 pharmacy *or internet pharmacy* with the provisions of this section and
22 rules and regulations adopted pursuant to this section and upon payment
23 of the registration fee established under K.S.A. 65-1645, and amendments
24 thereto, for a pharmacy registration. A nonresident pharmacy *or internet*
25 *pharmacy* registration shall be renewed annually on forms provided by
26 the board, upon compliance by the nonresident pharmacy *or internet*
27 *pharmacy* with the provisions of this section and rules and regulations
28 adopted pursuant to this section and upon payment of the renewal fee
29 established under K.S.A. 65-1645, and amendments thereto, for the re-
30 newal of a pharmacy registration.

31 (b) (1) (A) As conditions for the granting of a registration and for
32 the renewal of a registration for a nonresident pharmacy, the nonresident
33 pharmacy shall comply with the following:

34 ~~(1)~~ (i) Provide information to the board to indicate the person or
35 persons applying for the registration, the location of the pharmacy from
36 which the prescription drugs will be dispensed, the names and titles of
37 all principal owners and corporate officers, if any, and the names of all
38 pharmacists dispensing prescription drugs to residents of Kansas;

39 ~~(2)~~ (ii) be registered and in good standing in the state in which such
40 pharmacy is located;

41 ~~(3)~~ (iii) maintain, in readily retrievable form, records of prescription
42 drugs dispensed to Kansas patients;

43 ~~(4)~~ (iv) supply upon request, all information needed by the board to

- 1 carry out the board's responsibilities under this section and rules and
2 regulations adopted pursuant to this section;
- 3 ~~(5)~~ (v) maintain pharmacy hours that permit the timely dispensing of
4 drugs to Kansas patients and provide reasonable access for the patients
5 to consult with a licensed pharmacist about such patients' medications;
- 6 ~~(6)~~ (vi) provide toll-free telephone communication consultation be-
7 tween a Kansas patient and a pharmacist at the pharmacy who has access
8 to the patient's records, and ensure that the telephone number(s) will be
9 placed upon the label affixed to each prescription drug container dis-
10 pensed in Kansas; and
- 11 ~~(7)~~ (vii) provide to the board such other information as the board
12 may reasonably request to administer the provisions of this section.
- 13 (B) *The provisions of paragraph (1)(A) do not apply to internet phar-*
14 *macies required to be registered under paragraph (2).*
- 15 (2)(A) *As conditions for the granting of a registration and for the*
16 *renewal of a registration for an internet pharmacy, the internet pharmacy*
17 *shall comply with the following:*
- 18 (i) *Provide information to the board to indicate the person or persons*
19 *applying for the registration, the name of the licensed pharmacist desig-*
20 *nated as the pharmacist in charge for dispensing prescription drugs to*
21 *residents of Kansas, the location of the pharmacy from which the pre-*
22 *scription drugs will be dispensed, the names and titles of all principal*
23 *owners and corporate officers, if any, and the names of all pharmacists*
24 *dispensing prescription drugs to residents of Kansas;*
- 25 (ii) *maintains at all times a valid, unexpired license, permit or regis-*
26 *tration to operate the pharmacy in compliance with the laws of the state*
27 *in which the dispensing facility is located and from which the prescription*
28 *drugs are dispensed;*
- 29 (iii) *require that the pharmacist in charge maintain at all times a*
30 *valid, unexpired license in the state of location in order to dispense pre-*
31 *scription drugs into Kansas;*
- 32 (iv) *maintain, in readily retrievable form separate from other business*
33 *records and records of prescription drugs dispensed to persons not in*
34 *Kansas, records of prescription drugs dispensed to Kansas patients;*
- 35 (v) *supply upon request, all information needed by the board to carry*
36 *out the board's responsibilities under this section and rules and regula-*
37 *tions adopted pursuant to this section;*
- 38 (vi) *complies with all lawful directions and requests for information*
39 *from the regulatory or licensing agency of all states in which such internet*
40 *pharmacy is licensed;*
- 41 (vii) *maintain pharmacy hours that permit the timely dispensing of*
42 *drugs to Kansas patients and provide reasonable access for the patients*
43 *to consult with a licensed pharmacist about such patients' medications;*

- 1 (viii) *provide during its regular hours of operation but not less than*
2 *6 days per week, for a minimum of 40 hours per week, toll-free telephone*
3 *communication consultation between a Kansas patient and a pharmacist*
4 *at the pharmacy who has access to the patient's records, and ensure that*
5 *the telephone number(s) will be placed upon the label affixed to each*
6 *prescription drug container dispensed in Kansas;*
- 7 (ix) *require that the pharmacist in charge is responsible for main-*
8 *taining all drug records and for providing for the security of the area in*
9 *the facility in which the compounding, storing and dispensing of prescrip-*
10 *tion drugs to residents of Kansas occurs;*
- 11 (x) *require that the pharmacist in charge notify the board within 30*
12 *days of any change concerning information required to be reported to the*
13 *board;*
- 14 (xi) *require that any internet pharmacy who employs or otherwise*
15 *utilizes pharmacy technicians shall have a written policy and procedures*
16 *manual specifying those duties, tasks and functions which a pharmacy*
17 *technician is allowed to perform. Such policies and procedures shall be*
18 *in compliance with all statutory and regulatory requirements of Kansas*
19 *for controlled substances, including those that are different from federal*
20 *law;*
- 21 (xii) *provide pharmacy services at a high level of protection and com-*
22 *petence as determined by the board;*
- 23 (xiii) *respond directly to all communications from the board concern-*
24 *ing emergency circumstances arising from errors in the dispensing of pre-*
25 *scription drugs to residents of Kansas; and*
- 26 (xiv) *provide to the board such other information as the board may*
27 *reasonably request to administer the provisions of this section.*
- 28 (B) *As used in this paragraph, "internet pharmacy" means locations*
29 *not otherwise licensed, registered or issued a permit under the pharmacy*
30 *act of the state of Kansas, within or outside this state, which use the*
31 *internet to communicate with or obtain information from residents in*
32 *Kansas and use such communication or information to fill or refill pre-*
33 *scriptions or to dispense, distribute or otherwise engage in the practice of*
34 *pharmacy in this state.*
- 35 (c) *Each nonresident pharmacy or internet pharmacy shall comply*
36 *with the following unless compliance would be in conflict with specific*
37 *laws or rules and regulations of the state in which the pharmacy is located:*
- 38 (1) *All statutory and regulatory requirements of Kansas for controlled*
39 *substances, including those that are different from federal law;*
- 40 (2) *labeling of all prescriptions dispensed, to include but not be lim-*
41 *ited to, identification of the product and quantity dispensed;*
- 42 (3) *all the statutory and regulatory requirements of Kansas for dis-*
43 *persing prescriptions in accordance with the quantities indicated by the*

1 prescriber; and

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

4 (d) In addition to subsection (c) requirements, each nonresident
5 pharmacy *or internet pharmacy* shall comply with all the statutory and
6 regulatory requirements of Kansas regarding drug product selection laws
7 whether or not such compliance would be in conflict with specific laws
8 or rules and regulations of the state in which the pharmacy is located,
9 except that compliance which constitutes only a minor conflict with spe-
10 cific laws or rules and regulations of the state in which the pharmacy is
11 located would not be required under this subsection.

12 (e) Each nonresident pharmacy *or internet pharmacy* shall develop
13 and provide the board with a policy and procedure manual that sets forth:

14 (1) Normal delivery protocols and times;

15 (2) the procedure to be followed if the patient's medication is not
16 available at the nonresident pharmacy *or internet pharmacy*, or if delivery
17 will be delayed beyond the normal delivery time;

18 (3) the procedure to be followed upon receipt of a prescription for
19 an acute illness, which policy shall include a procedure for delivery of the
20 medication to the patient from the nonresident pharmacy *or internet*
21 *pharmacy* at the earliest possible time, or an alternative that assures the
22 patient the opportunity to obtain the medication at the earliest possible
23 time; and

24 (4) the procedure to be followed when the nonresident pharmacy *or*
25 *internet pharmacy* is advised that the patient's medication has not been
26 received within the normal delivery time and that the patient is out of
27 medication and requires interim dosage until mailed prescription drugs
28 become available.

29 (f) Except in emergencies that constitute an immediate threat to the
30 public health and require prompt action by the board, the board may file
31 a complaint against any nonresident pharmacy *or internet pharmacy* that
32 violates any provision of this section. This complaint shall be filed with
33 the regulatory or licensing agency of the state in which the nonresident
34 pharmacy *or internet pharmacy* is located. If the regulatory or licensing
35 agency of the state in which the nonresident pharmacy *or internet phar-*
36 *macy* is located fails to resolve the violation complained of within a rea-
37 sonable time, not less than 180 days from the date that the complaint is
38 filed, disciplinary proceedings may be initiated by the board. The board
39 also may initiate disciplinary actions against a nonresident pharmacy *or*
40 *internet pharmacy* if the regulatory or licensing agency of the state in
41 which the nonresident pharmacy *or internet pharmacy* is located lacks or
42 fails to exercise jurisdiction.

43 (g) The board shall adopt rules and regulations that make exceptions

1 to the requirement of registration by a nonresident pharmacy *or internet*
2 *pharmacy* when the out-of-state pharmacy supplies lawful refills to a pa-
3 tient from a prescription that was originally filled and delivered to a pa-
4 tient within the state in which the nonresident pharmacy *or internet phar-*
5 *macy* is located, or when the prescriptions being mailed into the state of
6 Kansas by a nonresident pharmacy *or internet pharmacy* occurs only in
7 isolated transactions. In determining whether the prescriptions being
8 mailed into the state of Kansas by a nonresident pharmacy *or internet*
9 *pharmacy* are isolated transactions, the board shall consider whether the
10 pharmacy has promoted its services in this state and whether the phar-
11 macy has a contract with any employer or organization to provide phar-
12 macy services to employees or other beneficiaries in this state.

13 (h) It is unlawful for any nonresident pharmacy *or internet pharmacy*
14 which is not registered under this act to advertise its services in this state,
15 or for any person who is a resident of this state to advertise the pharmacy
16 services of a nonresident pharmacy *or internet pharmacy* which has not
17 registered with the board, with the knowledge that the advertisement will
18 or is likely to induce members of the public in this state to use the phar-
19 macy to fill prescriptions. A violation of this section is a class C
20 misdemeanor.

21 (i) Upon request of the board, the attorney general may bring an
22 action in a court of competent jurisdiction for injunctive relief to restrain
23 a violation of the provisions of this section or any rules and regulations
24 adopted by the board under authority of this section. The remedy pro-
25 vided under this subsection shall be in addition to any other remedy
26 provided under this section or under the pharmacy act of the state of
27 Kansas.

28 (j) The board may adopt rules and regulations as necessary and as are
29 consistent with this section to carry out the provisions of this section.

30 (k) The executive secretary of the board shall remit all moneys re-
31 ceived from fees under this section to the state treasurer in accordance
32 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
33 receipt of each such remittance, the state treasurer shall deposit the entire
34 amount in the manner specified under K.S.A. 74-1609, and amendments
35 thereto.

36 (l) This section shall be part of and supplemental to the pharmacy
37 act of the state of Kansas.

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

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