

Approved: \_\_\_\_\_

3-10-98

Date

## MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 24, 1998 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department  
Robin Kempf, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

### Appointment of Subcommittee on SB 622 - Providing for licensure of physician assistants and SB 655 - Board of Medical Professions

The Chair announced appointment of a subcommittee on SB 622 and SB 655 with Senator Praeger, Chair, and Senator Hardenburger and Senator Jones as members. Meetings of the subcommittee will be held after the "turnaround" in March.

### Action on SB 284 - Communications accommodations under the Developmental Disabilities Reform Act

Staff briefed the Committee on the term, "communications accommodations", which is used in SB 284 as a reference to supporting services such as specific types of sign language, Braille, large print and tape recordings of written materials. During Committee discussion it was noted that the definition, "deaf-blindness" in the original bill was dropped because opponents of the bill felt that it would broaden language under the DD Reform Act. Senator Hardenburger felt that Rules and Regulations may resolve concerns as expressed by the entities involved without changing the statutes. It was suggested that the bill not be passed until such Rules and Regs can be reviewed. Senator Hardenburger made a motion that the Committee recommend the bill be reported adversely, seconded by Senator Bleeker. It was pointed out during Committee discussion that the Deaf-Blind Task Force and Envision could submit testimony to the Joint Committee on Administrative Rules and Regulations, and through that process would receive input. It was also noted that if the Joint Committee on Administrative Rules and Regs did not address their specific concerns, then a new bill could be considered next year. The motion carried.

### Action on SB 485 - Schedule IV controlled substances.

During Committee discussion on SB 485 and SB 595, a copy of the statute was distributed to the Committee showing what the Board of Pharmacy considers when scheduling, rescheduling or deleting a controlled substance. (Attachment 1) It was pointed out that SB 595 would not be considered until the drugs referred to in the bill have been through the review process by the Board of Pharmacy.

Senator Hardenburger made a motion that the Committee recommend SB 485 favorably for passage, seconded by Senator Jones. The motion carried.

### Action on SB 507 - Pharmacy practice act amendments, civil fines, license suspension or revocation

Staff briefed the Committee on a balloon of SB 507 showing proposed amendments relating to application fees and examination fee payments. (Attachment 2)

During Committee discussion concern was expressed relating to raising biennial renewal fees of pharmacists from not more than \$100 to \$200 as shown in the balloon of the bill on page 7, line 17. Senator Hardenburger made a motion that the Committee amend SB 507 as shown in the balloon of the bill except on

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S  
Statehouse, at 10:00 a.m. on February 24, 1998.

page 7, line 17, by reinserting, "\$100" and striking "\$200", seconded by Senator Steineger. The motion carried.

Senator Hardenburger made a motion that the Committee recommend **SB 507 as amended** favorably for passage, seconded by Senator Steineger. The motion carried.

**Action on SB 533 - Sale of nonprescription medicines and drugs through vending machines**

A balloon of **SB 533** was distributed to the Committee showing a proposed amendment that would require vending machines to be in a climate controlled area, and that the drugs offered for sale or sold in such vending machines should not be older than the manufacturer's expiration date. (Attachment 3)

Senator Steineger made a motion that the Committee adopt the balloon amendments to **SB 533**, and that the Committee recommend **SB 533 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

**Adjournment**

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for March 10, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
GUEST LIST

DATE: 2-24-98

NAME	REPRESENTING
KEITH R LANDIS	CHRISTIAN SCIENCE Comm. on PUBLICATION FOR KS
Alison Schmidt	Bethel College, North Newton
Shana Budge	Bethel College, North Newton
Katie Ethenington	Bethel College
Anne Forbaker	Bethel College
Dobi Stone	Bethel College
Monica Glask	" "
<del>John</del>	KCA
John [unclear]	Bethel College
Mark [unclear]	Bethel College
Angela Dreier	Bethel College
Krystal Stucky	Bethel College
Susan Anderson	Heim + Wei
Pres [unclear]	ICDD
Bill Grosz	SLSMHS
Meg Draper	KMS
Brad Swout	HLR
LARRY FROELICH	BOARD OF PHARMACY
David [unclear]	KAOD

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
GUEST LIST

DATE: 2-24-98

NAME	REPRESENTING
Michael Byington	Envision
Don Cox	Envision
Rick Norris	Envision
Dick Curry	Envision
Bob Anderson	Ks. PHARMACISTS ASSOC.
Bob Williams	Ks. Pharmacists Assoc.
Mike & Arlene Lamoyon	Medi-Kwik
Dan Nelson	Envision
Jim Boswell	Envision
Dave Burn	Envision
Rich Guthrie	Health Midwest
Warren York	Envision
Janeen York	Envision
Ray Smith	KAPA
Betty Crawford	Bethel
Dawn Reed	KSNA
Molly Ferguson	KAPRS
Craig Kahler	KCDID
Vicki Schmidt	Ks. Board of Pharmacy





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

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

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

(bb)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto; and:

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

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

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

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

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

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

**History:** L. 1972, ch. 234, § 1; L. 1974, ch. 258, § 1; L. 1975, ch. 332, § 1; L. 1980, ch. 195, § 1; L. 1985, ch. 214, § 2; L. 1989, ch. 192, § 4;

L. 1990, ch. 100, § 7; L. 1994, ch. 160, § 1; July 1.

#### CASE ANNOTATIONS

24. Release of respondent attorney from court-ordered probation noted for compliance with order regarding use or possession of controlled substances. In re McKenna, 251 K. 615, 840 P.2d 412 (1992).

25. Circumstantial and direct evidence sufficient to prove defendant guilty of cultivation of marijuana. State v. Heiskell, 21 K.A.2d 105, 111, 896 P.2d 1106 (1995).

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

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

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

(c) The board shall not include any nonnarcotic substance within a schedule if such substance may be lawfully sold over the counter with-

out a prescription and cosmetic act.

(d) Authority does not extend to erages or tobacco

(e) Upon receipt of a request for scheduling of a substance, the board shall, on an agency basis pursuant to the scheduling rule. With respect to a substance which is a significant hazard to public health, the board shall consider whether the substance should be scheduled on a temporary basis and may also consider the manufacture or distribution of the substance in subsection (b). Under this subsection, the board may proceed with rulemaking with respect to the substance under this subsection (a) with respect to

**History:** L. 1972, ch. 258, § 2; L. 1982, ch. 195, § 2; July 1.

**65-4105. Schedule I.** (a) The controlled substances in this section are included in the schedule set forth opposite the DEA controlled substance number assigned to it.

(b) Any of the substances in this section, their isomers, esters, salts, and derivatives, accepted, whenever they are used as esters, ethers and other organic chemical derivatives.

- (1) Acetyl-alpha-methyl-2-phenethyl-4-piperidyl-piperonylphenylacetamide
- (2) Acetylmethadol
- (3) Allylprodine
- (4) Alphacetylmethadol (except levo-alpha-acetylmethadol or LAAM)
- (5) Alphameprodine
- (6) Alphamethadol

out a prescription under the federal food, drug and cosmetic act.

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

(e) Upon receipt of notice under K.S.A. 1997 Supp. 65-4105a, the board shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsections (b)(4), (5) and (6), and may also consider clandestine importation, manufacture or distribution, and if available, information concerning the other factors set forth in subsection (b). A rule may not be adopted under this subsection until the board initiates a rulemaking proceeding under subsection (a) with respect to the substance. A rule adopted under this subsection lapses upon the conclusion of the rulemaking proceeding initiated under subsection (a) with respect to the substance.

**History:** L. 1972, ch. 234, § 2; L. 1974, ch. 258, § 2; L. 1982, ch. 269, § 1; L. 1994, ch. 160, § 2; July 1.

**65-4105. Substances included in schedule I.** (a) The controlled substances listed in this section are included in schedule I and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

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

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) .....	9815
(2) Acetylmethadol .....	9601
(3) Allylprodine .....	9602
(4) Alphacetylmethadol .....	9603
(except levo-alpha-acetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM)	
(5) Alphameprodine .....	9604
(6) Alphamethadol .....	9605

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine) .....	9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide) .....	9832
(9) Benzethidine .....	9606
(10) Betacetylmethadol .....	9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide) .....	9830
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide) .....	9831
(13) Betameprodine .....	9608
(14) Betamethadol .....	9609
(15) Betaprodine .....	9611
(16) Clonitazene .....	9612
(17) Dextromoramide .....	9613
(18) Diampromide .....	9615
(19) Diethylthiambutene .....	9616
(20) Difenoazin .....	9168
(21) Dimenoxadol .....	9617
(22) Dimepheptanol .....	9618
(23) Dimethylthiambutene .....	9619
(24) Dioxaphetyl butyrate .....	9621
(25) Dipipanone .....	9622
(26) Ethylmethylthiambutene .....	9623
(27) Etonitazene .....	9624
(28) Etoperidine .....	9625
(29) Furethidine .....	9626
(30) Hydroxypethidine .....	9627
(31) Ketobemidone .....	9628
(32) Levomoramide .....	9629
(33) Levophenacetylmorphan .....	9631
(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide) .....	9813
(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide) .....	9833
(36) Morpheridine .....	9632
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) .....	9661
(38) Noracymethadol .....	9633
(39) Norlevorphanol .....	9634
(40) Normethadone .....	9635
(41) Norpipanone .....	9636
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide) .....	9812
(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine) .....	9663
(44) Phenadoxone .....	9637
(45) Phenampromide .....	9638
(46) Phenomorphan .....	9647
(47) Phenoperidine .....	9641
(48) Piritramide .....	9642
(49) Proheptazine .....	9643
(50) Propenidine .....	9644
(51) Propiram .....	9649
(52) Racemoramide .....	9645
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) .....	9835
(54) Tilidine .....	9750
(55) Trimeperidine .....	9646

# SENATE BILL No. 507

By Committee on Public Health and Welfare

1-27

9 AN ACT concerning the state board of pharmacy; relating to grounds for  
10 disciplinary actions; concerning civil fines; licensure; amending K.S.A.  
11 65-1627f, 65-1632 and 65-1645 and K.S.A. 1997 Supp. 65-1627 and  
12 65-1658 and repealing the existing sections.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. K.S.A. 1997 Supp. 65-1627 is hereby amended to  
16 read as follows: 65-1627. (a) The board may revoke, suspend, place in a  
17 probationary status or deny a renewal of any license of any pharmacist  
18 upon a finding that:

- 19 (1) The license was obtained by fraudulent means;
- 20 (2) the licensee has been convicted of a felony and the licensee fails  
21 to show that the licensee has been sufficiently rehabilitated to warrant  
22 the public trust;
- 23 (3) the licensee is found by the board to be guilty of unprofessional  
24 conduct or professional incompetency;
- 25 (4) the licensee is addicted to the liquor or drug habit to such a degree  
26 as to render the licensee unfit to practice the profession of pharmacy;
- 27 (5) the licensee has violated a provision of the federal or state food,  
28 drug and cosmetic act, the uniform controlled substances act of the state  
29 of Kansas, or any rule and regulation adopted under any such act;
- 30 (6) the licensee is found by the board to have filled a prescription not  
31 in strict accordance with the directions of the practitioner;
- 32 (7) the licensee is found to be mentally or physically incapacitated to  
33 such a degree as to render the licensee unfit to practice the profession  
34 of pharmacy;
- 35 (8) the licensee has violated any of the provisions of the pharmacy  
36 act of the state of Kansas or any rule and regulation adopted by the board  
37 pursuant to the provisions of such pharmacy act;
- 38 (9) the licensee has failed to comply with the requirements of the  
39 board relating to the continuing education of pharmacists;
- 40 (10) the licensee as a pharmacist in charge or consultant pharmacist  
41 under the provisions of subsection (c) or (d) of K.S.A. 65-1648 and  
42 amendments thereto has failed to comply with the requirements of sub-  
43 section (c) or (d) of K.S.A. 65-1648 and amendments thereto;

Proposed Amendments Mark-up  
Application fee?  
Examination fee payment?

Senate Public Health and Welfare  
Date: 2-28-98  
Attachment No. 2



2-2

1 (11) the licensee has knowingly submitted a misleading, deceptive,  
2 untrue or fraudulent misrepresentation on a claim form, bill or statement;

3 (12) the licensee has had a license to practice pharmacy revoked,  
4 suspended or limited, has been censured or has had other disciplinary  
5 action taken, or voluntarily surrendered the license after formal proceed-  
6 ings have been commenced, or has had an application for license denied,  
7 by the proper licensing authority of another state, territory, District of  
8 Columbia or other country, a certified copy of the record of the action  
9 of the other jurisdiction being conclusive evidence thereof; or

10 (13) the licensee has self-administered any controlled substance with-  
11 out a practitioner's prescription order.

12 (b) In determining whether or not the licensee has violated subsec-  
13 tion (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion  
14 of such violation has authority to compel a licensee to submit to mental  
15 or physical examination or drug screen, or any combination thereof, by  
16 such persons as the board may designate. To determine whether reason-  
17 able suspicion of such violation exists, the investigative information shall  
18 be presented to the board as a whole. Information submitted to the board  
19 as a whole and all reports, findings and other records shall be confidential  
20 and not subject to discovery by or release to any person or entity. The  
21 licensee shall submit to the board a release of information authorizing  
22 the board to obtain a report of such examination or drug screen, or both.  
23 A person affected by this subsection shall be offered, at reasonable in-  
24 tervals, an opportunity to demonstrate that such person can resume the  
25 competent practice of pharmacy with reasonable skill and safety to pa-  
26 tients. For the purpose of this subsection, every person licensed to prac-  
27 tice pharmacy and who shall accept the privilege to practice pharmacy in  
28 this state by so practicing or by the making and filing of an annual biennial  
29 renewal to practice pharmacy in this state shall be deemed to have con-  
30 sented to submit to a mental or physical examination or a drug screen, or  
31 any combination thereof, when directed in writing by the board and fur-  
32 ther to have waived all objections to the admissibility of the testimony,  
33 drug screen or examination report of the person conducting such exam-  
34 ination or drug screen, or both, at any proceeding or hearing before the  
35 board on the ground that such testimony or examination or drug screen  
36 report constitutes a privileged communication. In any proceeding by the  
37 board pursuant to the provisions of this subsection, the record of such  
38 board proceedings involving the mental and physical examination or drug  
39 screen, or any combination thereof, shall not be used in any other ad-  
40 ministrative or judicial proceeding.

41 (c) The board may suspend, revoke, place in a probationary status or  
42 ny a renewal of any retail dealer's permit issued by the board when  
43 information in possession of the board discloses that such operations for

a

application

which the permit was issued are not being conducted according to law or the rules and regulations of the board.

(d) 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; ~~or~~ (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.*

(e) A registration to manufacture or to distribute at wholesale a drug or a registration for the place of business where any such operation is conducted may be suspended, revoked, placed in a probationary status or the renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent: (1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas; (2) has been convicted of a felony under any federal or state law relating to the manufacture or distribution of drugs; (3) has had any federal registration for the manufacture or distribution of drugs suspended or revoked; (4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629 and amendments thereto; (5) has failed to keep, or has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations; or (6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas or has violated the uniform controlled substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act.

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

Sec. 2. K.S.A 65-1627f is hereby amended to read as follows: 65-1627f. (a) Depositions may be used by either party. Upon the completion

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or hearing held hereunder, the board shall have the power to enter an order of revocation, suspension, probation or denial of the renewal of a license, registration or permit. The license, registrant or permit holder shall not engage in the activity authorized by such license, registration or permit after a license, registration or permit is revoked or the renewal thereof denied or during the time for which it is suspended. If a license, registration or permit is suspended or placed on probation, the suspension or probation shall be for a definite period of time to be fixed by the board, and the license, registration or permit shall be reinstated and any limitations or conditions thereon removed upon the expiration of such period if all ~~annual~~ ~~biennial~~ renewal fees have been paid. If such license, registration or permit is revoked, such revocation shall be for all time, except that at any time after the expiration of one year, application may be made for reinstatement of any license, registrant or permit holder whose license, registration or permit shall have been revoked, and such application shall be addressed to the executive secretary of the board. Such application shall be processed in accordance with the provisions of the Kansas administrative procedure act.

(b) All final orders entered in any proceeding shall be the action of the board with a quorum present at such meeting.

Sec. 3. K.S.A. 65-1632 is hereby amended to read as follows: 65-1632. (a) Each license of to practice as a pharmacist issued by the board shall expire ~~for the period ending on June 30~~ following the date of issuance. ~~[1996]~~ shall be renewed 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 ~~annually~~ ~~biennially~~ a renewal fee fixed by the board as provided in K.S.A. 65-1645 and amendments thereto. ~~The renewal fee fixed by the board under this section immediately prior to the effective date of the act of which this section is amendatory shall continue in effect until a different renewal fee is fixed by the board by rules and regulations adopted in K.S.A. 65-1645 and amendments thereto.~~

shall expire on June 30 of the year specified by the board for the expiration of the license and

on a biennial basis

~~[Commencing on June 30, 1998, each holder of a pharmacist license, which is numbered with an even number, who is qualified under~~

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~~K.S.A. 65-1631, and amendments thereto, shall have such license to practice issued or renewed for a period which shall expire on June 30, 2000. Commencing on June 30, 2000, in order to issue or renew such holder's license to practice on a biennial basis, each such even-numbered license shall be issued or renewed for a period ending on the June 30 which occurs in the next even-numbered year.~~

~~(c) Commencing on June 30, 1998, each holder of a license to practice as a pharmacist, which is numbered with an odd number, who is qualified under 65-1631, and amendments thereto, shall have such license issued or renewed for a period which shall expire on June 30, 1999. Commencing on June 30, 1999, in order to issue or renew licenses to practice for such holders on a biennial basis, each such odd-numbered license shall be issued or renewed for a period ending on the June 30 which occurs in the next odd-numbered year.~~

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.

~~(d) 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.~~

Continuing education hours may be prorated for licensure periods which are less than biennial in accordance with rules and regulations of the board.

~~(e) 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 annually biennially of a program of continuing education approved by 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~~

Policy: CE hours for cancellation of inactive status licensure and renewal of license.

~~(f) or reinstatement of license because of nonpayment of fees under subsection (g) shall not exceed 60.~~

~~(f) 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~~



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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.

~~(e)~~ **(f)** If the renewal fee for any pharmacist's license has not been paid by August 1 of any 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 fee.

Renewal applications for pharmacist, 65-1632

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 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

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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.

under the pharmacy act of the state of Kansas

(b) The fees required for the issuing of the licenses, registrations or permits ~~required by K.S.A. 65-1643 and amendments thereto~~ shall be fixed by the board as herein provided, subject to the following:

Pharmacist license application fee?

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

(2) pharmacist, examination fee not more than \$350;

(3) pharmacist, examination fee for previously licensed pharmacist not more than \$250;

biennial

(4) pharmacist, renewal fee not more than ~~\$100~~ \$200;

(5) pharmacist, evaluation fee not more than \$250;

stay

(6) pharmacist, reciprocal licensure fee not more than \$250;

Policy: Penalty fee charge. Current penalty fee fixed at \$150. 68-11-1.

(7) pharmacist, penalty fee, not more than ~~\$250~~ \$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; or

(14) certification of grades for each applicant for examination and registration not more than \$25.

(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

2-8

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.

Sec. 5. K.S.A. 1997 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 ~~\$500~~ \$5,000 for each violation. All fines assessed and collected under this section shall be remitted to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state general fund.

Sec. 6. K.S.A. 65-1627f, 65-1632 and 65-1645 and K.S.A. 1997 Supp. 65-1627 and 65-1658 are hereby repealed.

(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.

Policy: Increase in maximum civil fine amount. ✓

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

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# SENATE BILL No. 533

By Committee on Public Health and Welfare

1-28

9 AN ACT concerning the sale of medicines and drugs through vending  
10 machines; amending K.S.A. 65-650 and repealing the existing section.

11

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

13 Section 1. K.S.A. 65-650 is hereby amended to read as follows: 65-

14 650. ~~Any person, firm or corporation who shall offer for sale or sell or~~  
15 ~~distribute any prescription medicine, prescription-only drug or poison~~  
16 ~~through or by means of any vending machine or other mechanical device,~~  
17 ~~or who shall use any vending machine in or for the sale or distribution of~~  
18 ~~any prescription medicine, prescription-only drug or poison, shall be~~  
19 ~~deemed guilty of a class C nonperson misdemeanor and upon conviction~~  
20 ~~shall be fined not less than twenty five dollars (\$25) \$25 nor more than~~  
21 ~~five hundred dollars (\$500) \$500. No nonprescription drugs shall be sold~~  
22 ~~through a vending machine in anything other than the manufacturer's~~  
23 ~~original, tamper evident and expiration-dated packet.~~

(a)

24 Sec. 2. K.S.A. 65-650 is hereby repealed.

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

Φ

(b)

Any vending machine in which nonprescription drugs are offered for sale or sold shall be located in a climate controlled area, and the drugs offered for sale or sold in such vending machine shall not be older than the manufacturer's expiration date. A violation of this subsection (b) is a class C nonperson misdemeanor and upon conviction the violator shall be fined not less than \$25 nor more than \$500.

Senate Public Health & Welfare  
Date: 2-24-98  
Attachment No. 3