

House Committee on Insurance
Presented by Alexandra Blasi, Executive Secretary
On behalf of
The Kansas State Board of Pharmacy
February 10, 2025

Chairman Sutton and Members of the Committee:

The Kansas State Board of Pharmacy respectfully submits this neutral testimony concerning HB 2244.

Since telepharmacy language was added to Kansas law in 2021, the Board has been working diligently to promulgate regulations that meet the requirements of the law, protect public health and safety, and balance the multitude of public comments regarding the practice. Current and previous Board members have worked tirelessly to carry out the Board's mission of protecting the public in the pharmacy regulatory environment, including its more than five years of work on the topic of telepharmacy. After several drafts and external setbacks, the Board noticed regulations for public comment last summer. During their review, the Joint Committee on Administrative Rules and Regulations requested that the Board not adopt the regulations to allow the Legislature the opportunity to address telepharmacy in its 2025 session. **The Board heard the Committee's concerns, complied, and agreed to await further legislation.**

The Board recognizes that HB 2244 provides new limiting language for the Board's rulemaking authority, but worries it does not address the underlying issue of how telepharmacy should operate in Kansas. Telepharmacy is contentious and polarizing among Kansas pharmacists and consumers; reasons include the risk to patient health and safety from removing pharmacists from pharmacies and losing rural pharmacy services. The Board also received over 60 pages of written public comments, some of which expressed concern that independent pharmacies would close if telepharmacy was implemented without limitation in Kansas. While that concern is not within the Board's jurisdiction to consider, it may be relevant to this Committee. Therefore, the Board respectfully asks the Legislature to flesh out the practice in statute more thoroughly instead of leaving this issue to the Board to navigate. If requested, the Board would be happy to participate, provide input in this process, and provide copies of the public comments received. In addition, the Board may now be precluded from adopting regulations because economic impact costs will outweigh the new threshold set by K.S.A. 77-420, effective July 1, 2024. For each location, telepharmacy implementation costs run \$25,000 - \$45,000 and maintenance costs run \$1,500 - \$3,600 per month. If more than 8 telepharmacy outlets are opened even at the lowest costs, the \$1 million threshold would be exceeded.

The Board is waiting for the Legislature to determine how telepharmacy will operate in Kansas. Whenever that determination may come, the Board stands ready and willing to implement the revised law. The Board is committed to compliance with the law and the will of the Legislature in its discussion and decision-making. The Board is listening and has made changes at the request of the Legislature. The Board also continues to adjust course, conduct additional research and regulatory comparison, and reach out to stakeholders to gain feedback and insight, all while considering the protection of patients.

The current composition of the Board strikes a delicate balance between practicing pharmacists in a multitude of clinical settings and protecting patients. The rotation of Board members over the past decades have served by providing subject-matter expertise and insight to make difficult decisions in enforcing the Kansas Pharmacy

Act. Removing and replacing all current Board members on January 1, 2026, may substantially impair the agency's ability to operate in a consistent, cohesive manner. This could also become an ongoing problem as no staggered terms are contemplated by the bill, which could result in an entirely new set of Board members every 4 years (or 8 if members are appointed to a second term). This would run counter to the need for continuity of state government operations and sharing of institutional knowledge. Furthermore, eliminating the only public member of the Board, the consumer/patient voice, risks the Board only being concerned with the business of pharmacy and practice issues and not its impact on public health and patient needs.

In review of Section 2, the Board was also confused by repeated references to insurance. By statute, the Board does not have jurisdiction over prescription drug insurance, coverage, payors, or purchasing costs. Therefore, the Board does not understand the intent of moving certain Board member appointments to the Insurance Department and/or appointing a pharmacist employed by an insurer to the Board.

In addition to the above, the Board asks the Committee to consider the following questions that may not be addressed or are unclear in the bill, as written:

- In Section 1 (d), what is meant by "network adequacy?" The Board does not find a definition in the Kansas Pharmacy Act.
- In Section 2 (b)(2)(d), does a "prescription drug purchaser" refer to a business-to-business purchaser?

The Board appreciates the opportunity to provide neutral testimony and appreciates the Committee's consideration.

Respectfully submitted.