

## HOUSE BILL No. 2280

By Committee on Health and Human Services

2-9

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1 AN ACT concerning the state board of pharmacy; relating to powers,  
2 duties and functions thereof; pertaining to confidentiality of  
3 investigations, inspections and audits; licensing; registration and  
4 permitting requirements; exhibition of titles; fees; prescription orders;  
5 defining telepharmacy and requiring rules and regulations be adopted  
6 for oversight and administration thereof; amending K.S.A. 65-636, 65-  
7 1627, 65-1631, 65-1637, 65-1643, 65-1645, 65-1656, 65-1657, 65-  
8 1658, 65-1663 and 65-1676 and K.S.A. 2020 Supp. 65-1626 and  
9 repealing the existing sections.

10

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

12 New Section 1. (a) Any complaint, investigation, report, record or  
13 other information relating to a complaint or investigation that is received,  
14 obtained or maintained by the board shall be confidential and shall not be  
15 disclosed by the board or its employees in a manner that identifies or  
16 enables identification of the person who is the subject or source of the  
17 information, except the information may be disclosed:

18 (1) In any proceeding conducted by the board under the law or in an  
19 appeal of an order of the board entered in a proceeding, or to any party to a  
20 proceeding or appeal or the party's attorney;

21 (2) to the person who is the subject of the information or to any  
22 person or entity when requested by the person who is the subject of the  
23 information, but the board may require disclosure in such a manner that  
24 will prevent identification of any other person who is the subject or source  
25 of the information; or

26 (3) to a state or federal licensing, regulatory or enforcement agency  
27 with jurisdiction over the subject of the information or to an agency with  
28 jurisdiction over acts or conduct similar to acts or conduct that would  
29 constitute grounds for action under this act. Any confidential complaint or  
30 report, record or other information disclosed by the board as authorized by  
31 this section shall not be disclosed by the receiving agency except as  
32 otherwise authorized by law.

33 (b) Except as provided in subsection (a), no applicant, registrant or  
34 individual shall have access to any complaint, investigation, report, record  
35 or information concerning a complaint or investigation in progress until  
36 the investigation and any enforcement action is completed. This section

1 shall not be construed to authorize the release of records, reports or other  
2 information that are subject to other specific state or federal laws  
3 concerning their disclosure.

4 (c) This section shall be a part of and supplemental to the pharmacy  
5 act of the state of Kansas.

6 New Sec. 2. (a) (1) As a condition of probation or other disciplinary  
7 action under K.S.A. 65-1627 or 65-1657, and amendments thereto, the  
8 board may require that a licensee or registrant be subject to additional  
9 compliance inspections or audits and pay the actual costs of such  
10 inspections and audits.

11 (2) If a licensee or registrant fails to comply with a board order  
12 regarding the costs of additional inspections and audits, the board may  
13 impose additional disciplinary action against the licensee or registrant for  
14 failure to comply with a lawful order of the board under K.S.A. 65-1627,  
15 and amendments thereto.

16 (b) Upon the request of a facility that is registered or applying for  
17 registration or renewal with the board, the board may conduct an  
18 inspection of the place of business where any such operation is conducted,  
19 regardless of whether the facility is located in Kansas. The costs of such  
20 inspection shall be paid by the registrant or applicant. The registrant or  
21 applicant shall deposit a reasonable sum, as determined by the board,  
22 necessary to cover the board's estimated cost of performing the inspection  
23 prior to scheduling the inspection. If the actual cost of the inspection  
24 exceeds the amount deposited, the board shall provide to the registrant or  
25 applicant a written invoice for the remaining amount. If the amount  
26 deposited exceeds the actual costs incurred, the board shall remit the  
27 difference to the registrant or applicant.

28 (c) Actual costs under this section include, but are not limited to:

29 (1) Salaries and wages;

30 (2) travel, mileage and lodging;

31 (3) subsistence allowances;

32 (4) document storage, shipping and handling; or

33 (5) other expenses deemed reasonable and necessary by the board.

34 (d) All moneys assessed and collected under this section shall be  
35 remitted to the state treasurer in accordance with the provisions of K.S.A.  
36 75-4215, and amendments thereto, and deposited in the state treasury to  
37 the credit of the state board of pharmacy fee fund.

38 (e) This section shall be a part of and supplemental to the pharmacy  
39 act of the state of Kansas.

40 New Sec. 3. (a) As used in this section:

41 (1) "Telepharmacy" means the practice of pharmacy by a pharmacist  
42 located in Kansas using telecommunications or other automations and  
43 technologies to deliver personalized, electronically documented, real-time

1 pharmaceutical care to patients or their agents, who are located at sites  
2 other than where the pharmacist is located, including prescription  
3 dispensing and counseling and to oversee and supervise telepharmacy  
4 outlet operations.

5 (2) "Telepharmacy outlet" means a pharmacy site located in Kansas  
6 that:

7 (A) Is registered as a pharmacy under the act;

8 (B) is owned by the managing pharmacy;

9 (C) is connected via computer link, video link and audio link or other  
10 functionally equivalent telecommunications equipment with a supervising  
11 pharmacy located in Kansas; and

12 (D) has a pharmacy technician on site who performs activities under  
13 the electronic supervision of a pharmacist located in Kansas.

14 (b) A pharmacist shall be in attendance at the telepharmacy outlet by  
15 connecting to the telepharmacy outlet via computer link, video link and  
16 audio link or other functionally equivalent telecommunications equipment  
17 and shall be available to consult with and assist the pharmacy technician in  
18 performing activities.

19 (c) Not later than January 1, 2023, the board shall adopt rules and  
20 regulations necessary to specify additional criteria for a managing  
21 pharmacy and telepharmacy outlet under this section, including, but not  
22 limited to:

23 (1) Application requirements;

24 (2) structural, security, technology and equipment requirements;

25 (3) staffing, training and electronic supervision requirements;

26 (4) inventory record keeping and storage requirements;

27 (5) labeling requirements;

28 (6) establishment of policies and procedures;

29 (7) the minimum and maximum distances from the nearest pharmacy  
30 where a telepharmacy outlet may be established, if necessary and  
31 applicable, and facilities that may be exempt from this requirement;

32 (8) the number of telepharmacy outlets that may be operated by a  
33 supervising pharmacy;

34 (9) the maximum number of prescriptions that may be dispensed by a  
35 telepharmacy outlet;

36 (10) use of automated dispensing machines; and

37 (11) criteria for requesting exemptions or waivers from the  
38 requirements set forth in rules and regulations adopted under this  
39 subsection.

40 (d) This section shall be a part of and supplemental to the pharmacy  
41 act of the state of Kansas.

42 New Sec. 4. (a) The board shall require an applicant for registration  
43 as a manufacturer or virtual manufacturer under K.S.A. 65-1643, and

1 amendments thereto, or an applicant for renewal of such a registration, to  
2 provide the following information:

3 (1) The name, full business address and telephone number of the  
4 applicant;

5 (2) all trade or business names used by the applicant;

6 (3) all addresses, telephone numbers and the names of contact  
7 individuals for all facilities used by the applicant for the storage, handling  
8 and distribution of prescription drugs or devices;

9 (4) the type of ownership or operation of the applicant;

10 (5) the name of the owner or operator of the applicant, including:

11 (A) If an individual, the name of the individual;

12 (B) if a partnership, the name of each partner and the name of the  
13 partnership;

14 (C) if a corporation, the name and title of each corporate officer and  
15 director of the corporation and the name of the state of incorporation; or

16 (D) if a sole proprietorship, the full name of the sole proprietor and  
17 the name of the business entity; and

18 (6) any other information as the board deems appropriate.

19 Changes in any information in this subsection shall be submitted to the  
20 board in a form and manner prescribed by the board.

21 (b) In reviewing the qualifications for applicants for initial  
22 registration or renewal of registration as a manufacturer or virtual  
23 manufacturer, the board shall consider the following factors:

24 (1) Any convictions of the applicant under any federal, state or local  
25 laws relating to drug samples, manufacture of drugs or devices, wholesale  
26 or retail drug distribution or distribution of controlled substances;

27 (2) any felony convictions of the applicant under federal or state  
28 laws;

29 (3) the applicant's past experience in the manufacture or distribution  
30 of prescription drugs including controlled substances;

31 (4) the furnishing by the applicant of false or fraudulent material in  
32 any application made in connection with drug manufacturing or  
33 distribution;

34 (5) discipline, censure, warning, suspension or revocation by federal,  
35 state or local government of any license or registration currently or  
36 previously held by the applicant for the manufacture or distribution of any  
37 drugs including controlled substances;

38 (6) compliance with registration requirements under previously  
39 granted registrations, if any;

40 (7) compliance with requirements to maintain or make available to  
41 the board or to the federal, state or local law enforcement officials those  
42 records required by the federal food, drug and cosmetic act, and rules and  
43 regulations adopted pursuant thereto; and

1 (8) any other factors or qualifications deemed by the board to be  
2 relevant to and consistent with the public health and safety.

3 (c) After consideration of the qualifications for applicants for  
4 registration as a manufacturer or virtual manufacturer, the board may deny  
5 an initial application for registration or application for renewal of a  
6 registration if the board determines that the granting of such registration  
7 would not be in the public interest. The authority of the board under this  
8 subsection to deny a registration as a manufacturer or virtual manufacturer  
9 shall be in addition to the authority of the board under K.S.A. 65-1627(f)  
10 and 65-1645(e), and amendments thereto.

11 (d) The board by rules and regulations shall require that personnel  
12 employed by persons registered as a manufacturer or virtual manufacturer  
13 have appropriate education or experience to assume responsibility for  
14 positions related to compliance with state registration requirements.

15 (e) The board by rules and regulations may implement this section to  
16 conform to any requirements of the federal drug supply chain security act,  
17 21 U.S.C. § 351 et seq., in effect on July 1, 2021.

18 (f) Each facility that manufactures drugs or devices shall undergo an  
19 inspection by the board or a third party recognized by the board prior to  
20 initial registration and periodically thereafter in accordance with a  
21 schedule to be determined by the board but not less than once every three  
22 years. The board shall adopt rules and regulations not later than July 1,  
23 2022, to establish standards and requirements for the issuance and  
24 maintenance of a manufacturer and virtual manufacturer registration,  
25 including inspections.

26 (g) The board may register a manufacturer or virtual manufacturer  
27 that is licensed or registered under the laws of another state if:

28 (1) The requirements of that state are deemed by the board to be  
29 substantially equivalent to the requirements of this state; or

30 (2) the applicant is inspected by a third party recognized and  
31 approved by the board.

32 (h) The board by rule and regulation shall establish standards and  
33 requirements for the issuance and maintenance of a manufacturer and  
34 virtual manufacturer registration, including, but not limited to,  
35 requirements regarding the following:

36 (1) An application and renewal fee;

37 (2) a surety bond;

38 (3) registration and periodic inspections;

39 (4) certification of a designated representative;

40 (5) designation of a registered agent;

41 (6) storage of drugs and devices;

42 (7) handling, transportation and shipment of drugs and devices;

43 (8) security;

1 (9) examination of drugs and devices and treatment of those found to  
2 be unacceptable as defined by the board;

3 (10) due diligence regarding other trading partners;

4 (11) creation and maintenance of records, including transaction  
5 records;

6 (12) procedures for operation; and

7 (13) procedures for compliance with the requirements of the federal  
8 drug supply chain security act, 21 U.S.C. § 351 et seq.

9 (i) This section shall be a part of and supplemental to the pharmacy  
10 act of the state of Kansas.

11 Sec. 5. K.S.A. 65-636 is hereby amended to read as follows: 65-636.  
12 It shall be unlawful for any ~~person~~, *individual* who is not legally licensed  
13 as a pharmacist by the state board of pharmacy; or any ~~person~~ *individual*,  
14 firm or corporation who does not have in continuous employ, at each place  
15 of business, a pharmacist licensed by the state board of pharmacy, to take,  
16 use or exhibit the title "drugstore," "pharmacy" or "apothecary" or any  
17 combination of such titles, or any title or description of like import, or any  
18 other term designed to take the place of such title, *if such title is being*  
19 *used in the context of health, medical or pharmaceutical care and the*  
20 *individual, firm or corporation has not provided a disclaimer sufficient to*  
21 *notify consumers that a pharmacist is not employed.*

22 Sec. 6. K.S.A. 2020 Supp. 65-1626 is hereby amended to read as  
23 follows: 65-1626. ~~For the purposes of this act~~ *As used in the pharmacy act*  
24 *of the state of Kansas:*

25 (a) "Address" means, with respect to prescriptions, the physical  
26 address where a patient resides, including street address, city and state.

27 (b) "Administer" means the direct application of a drug, whether by  
28 injection, inhalation, ingestion or any other means, to the body of a patient  
29 or research subject by:

30 (1) A practitioner or pursuant to the lawful direction of a practitioner;

31 (2) the patient or research subject at the direction and in the presence  
32 of the practitioner; or

33 (3) a pharmacist as authorized in K.S.A. 65-1635a or K.S.A.2020  
34 Supp. 65-16,129, and amendments thereto.

35 ~~(b)~~(c) "Agent" means an authorized person who acts on behalf of or  
36 at the direction of a manufacturer, repackager, wholesale distributor, third-  
37 party logistics provider or dispenser but does not include a common  
38 carrier, public warehouseman or employee of the carrier or warehouseman  
39 when acting in the usual and lawful course of the carrier's or  
40 warehouseman's business.

41 ~~(e) "Application service provider" means an entity that sells~~  
42 ~~electronic prescription or pharmacy prescription applications as a hosted~~  
43 ~~service where the entity controls access to the application and maintains~~

1 ~~the software and records on its server.~~

2 (d) "Automated dispensing system" means a robotic or mechanical  
3 system controlled by a computer that: (1) Performs operations or activities,  
4 other than compounding or administration, relative to the storage,  
5 packaging, labeling, dispensing or distribution of drugs; (2) collects,  
6 controls and maintains all transaction information; and (3) operates in  
7 accordance with the board's rules and regulations.

8 (e) "Biological product" means the same as defined in 42 U.S.C. §  
9 262(i), as in effect on January 1, 2017.

10 (f) "Board" means the state board of pharmacy created by K.S.A. 74-  
11 1603, and amendments thereto.

12 (g) "Brand exchange," in the case of a drug prescribed, means the  
13 dispensing of a different drug product of the same dosage form and  
14 strength and of the same generic name as the brand name drug product  
15 prescribed, and in the case of a biological product prescribed, means the  
16 dispensing of an interchangeable biological product.

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

19 (i) "Co-licensed partner" means a person or pharmaceutical  
20 manufacturer that has entered into an agreement with another  
21 pharmaceutical manufacturer or an affiliate of the manufacturer to engage  
22 in a business activity or occupation related to the manufacture or  
23 distribution of a product.

24 (j) "Common carrier" means any person who undertakes, whether  
25 directly or by any other arrangement, to transport property, including  
26 drugs, for compensation.

27 (k) (1) "Compounding" means the combining of components into a  
28 compounded preparation under either of the following conditions:

29 ~~(1)(A)~~ As the result of a practitioner's prescription drug order or  
30 initiative based on the practitioner-patient-pharmacist relationship in the  
31 course of professional practice to meet the specialized medical need of an  
32 individual patient of the practitioner that cannot be filled by an FDA-  
33 approved drug; or

34 ~~(2)(B)~~ for the purpose of, or incidental to, research, teaching or  
35 chemical analysis, and not for sale or dispensing.

36 (2) Compounding includes the preparation of drugs or devices in  
37 anticipation of receiving prescription drug orders based on routine,  
38 regularly observed prescribing patterns.

39 (3) Compounding does not include reconstituting any ~~oral or topical~~  
40 ~~mixed~~ drug according to the FDA-approved labeling for the drug ~~or~~  
41 ~~preparing any sterile or nonsterile preparation that is essentially a copy of~~  
42 ~~a commercially available product.~~

43 (l) "Current good manufacturing practices" or "CGMP" means the

1 requirements for ensuring that drugs and drug products are consistently  
 2 manufactured, repackaged, produced, stored and dispensed in accordance  
 3 with 21 C.F.R. §§ 207, 210 and 211.

4 (m) "DEA" means the ~~U.S.~~ United States department of justice, drug  
 5 enforcement administration.

6 ~~(m)~~(n) "Deliver" or "delivery" means the actual, constructive or  
 7 attempted transfer from one person to another of any drug whether or not  
 8 an agency relationship exists.

9 (o) "Device" means an instrument, apparatus, implement, machine,  
 10 contrivance, implant, in vitro reagent or other similar or related article,  
 11 including a component part or accessory that:

12 (1) (A) Is recognized in the official national formulary, or the United  
 13 States pharmacopoeia, or any supplement thereof;

14 (B) is intended for use in the diagnosis of disease or other conditions;

15 (C) is used for the cure, mitigation, treatment or prevention of  
 16 disease in human or other animals; or

17 (D) is intended to affect the structure or any function of the body of  
 18 human or other animals; and

19 (2) (A) does not achieve its primary intended purposes through  
 20 chemical action within or on the body of human or other animals; and

21 (B) is not dependent upon being metabolized for the achievement of  
 22 any of its primary intended purposes.

23 ~~(n)~~(p) "Direct supervision" means the process by which the  
 24 responsible pharmacist shall observe and direct the activities of a  
 25 ~~pharmacy student~~ pharmacist intern or pharmacy technician to a sufficient  
 26 degree to assure that all such activities are performed accurately, safely  
 27 and without risk or harm to patients, be readily and immediately available  
 28 at all time activities are performed, provide personal assistance, direction  
 29 and approval throughout the time the activities are performed and  
 30 complete the final check before dispensing. Except as otherwise provided  
 31 by the pharmacy act of the state of Kansas or by rules and regulations of  
 32 the board, "direct supervision" shall be in person.

33 ~~(o)~~(q) "Dispense" or "dispensing" means to deliver prescription  
 34 medication to the ultimate user or research subject by or pursuant to the  
 35 lawful order of a practitioner or pursuant to the prescription of a mid-level  
 36 practitioner.

37 ~~(p)~~(r) "Dispenser" means:

38 (1) A practitioner or pharmacist who dispenses prescription  
 39 medication, drugs or devices or a physician assistant who has authority to  
 40 dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b),  
 41 and amendments thereto; or

42 (2) a retail pharmacy, hospital pharmacy or group of pharmacies  
 43 under common ownership and control that do not act as a wholesale

1 distributor, or affiliated warehouses or distribution centers of such entities  
2 under common ownership and control that do not act as a wholesale  
3 distributor.

4 (q)(s) "Distribute" or "distribution" means to deliver, offer to deliver,  
5 sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store  
6 or receive, other than by administering or dispensing, any product, but  
7 does not include dispensing a product pursuant to a prescription executed  
8 in accordance with 21 U.S.C. § 353 or the dispensing of a product  
9 approved under 21 U.S.C. § 360b.

10 (r)(t) "Distributor" means a person or entity that distributes a drug or  
11 device.

12 (u) "*Diversion*" means the transfer of a controlled substance from a  
13 lawful to an unlawful channel of distribution or use.

14 (s)(v) "Drop shipment" means the sale, by a manufacturer, repackager  
15 or exclusive distributor, of the manufacturer's prescription drug to a  
16 wholesale distributor whereby the wholesale distributor takes title but not  
17 possession of such prescription drug and the wholesale distributor invoices  
18 the dispenser, and the dispenser receives delivery of the prescription drug  
19 directly from the manufacturer, repackager, third-party logistics provider  
20 or exclusive distributor, of such prescription drug.

21 (t)(w) "Drug" means: (1) Articles recognized in the official United  
22 States pharmacopeia, or other such official compendiums of the United  
23 States, or official national formulary, or any supplement to any of them;  
24 (2) articles intended for use in the diagnosis, cure, mitigation, treatment or  
25 prevention of disease in human or other animals; (3) articles, other than  
26 food, intended to affect the structure or any function of the body of human  
27 or other animals; and (4) articles intended for use as a component of any  
28 articles specified in paragraph (1), (2) or (3); but does not include devices  
29 or their components, parts or accessories, except that the term "drug" shall  
30 not include amygdalin (laetrile) or any livestock remedy, if such livestock  
31 remedy had been registered in accordance with the provisions of article 5  
32 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

33 (u)(x) "Durable medical equipment" means equipment that: (1)  
34 Provides therapeutic benefits or enables an individual to perform certain  
35 tasks that the individual is unable to otherwise undertake due to certain  
36 medical conditions or illnesses; (2) is primarily and customarily used to  
37 serve a medical purpose; (3) generally is not useful to a person in the  
38 absence of an illness or injury; (4) can withstand repeated use; (5) is  
39 appropriate for use in the home, long-term care facility or medical care  
40 facility, but may be transported to other locations to allow the individual to  
41 complete instrumental activities of daily living that are more complex  
42 tasks required for independent living; and (6) may include devices and  
43 medical supplies or other similar equipment determined by the board in

1 rules and regulations adopted by the board.

2 ~~(v)~~(y) "Electronic prescription" means an electronically prepared  
3 prescription that is authorized and transmitted from the prescriber to the  
4 pharmacy by means of electronic transmission.

5 ~~(w)~~(z) "Electronic prescription application" means software that is  
6 used to create electronic prescriptions and that is intended to be installed  
7 on the prescriber's computers and servers where access and records are  
8 controlled by the prescriber.

9 ~~(x)~~(aa) "Electronic signature" means a confidential personalized  
10 digital key, code, number or other method for secure electronic data  
11 transmissions that identifies a particular person as the source of the  
12 message, authenticates the signatory of the message and indicates the  
13 person's approval of the information contained in the transmission.

14 ~~(y)~~(bb) "Electronic transmission" means the transmission of an  
15 electronic prescription, formatted as an electronic data file, from a  
16 prescriber's electronic prescription application to a pharmacy's computer,  
17 where the data file is imported into the pharmacy prescription application.

18 ~~(z)~~(cc) "Electronically prepared prescription" means a prescription  
19 that is generated using an electronic prescription application.

20 ~~(aa)~~(dd) "Exclusive distributor" means the wholesale distributor that  
21 directly purchased the product from the manufacturer and is the sole  
22 distributor of that manufacturer's product to a subsequent repackager,  
23 wholesale distributor or dispenser.

24 ~~(bb)~~(ee) "FDA" means the ~~U.S.~~ *United States* department of health  
25 and human services, food and drug administration.

26 ~~(ee)~~(ff) "Facsimile transmission" or "fax transmission" means the  
27 transmission of a digital image of a prescription from the prescriber or the  
28 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but  
29 is not limited to, transmission of a written prescription between the  
30 prescriber's fax machine and the pharmacy's fax machine; transmission of  
31 an electronically prepared prescription from the prescriber's electronic  
32 prescription application to the pharmacy's fax machine, computer or  
33 printer; or transmission of an electronically prepared prescription from the  
34 prescriber's fax machine to the pharmacy's fax machine, computer or  
35 printer.

36 ~~(dd)~~(gg) "Generic name" means the established chemical name or  
37 official name of a drug or drug product.

38 ~~(ee)~~(hh) "Health care entity" means any person that provides  
39 diagnostic, medical, surgical or dental treatment or rehabilitative care but  
40 does not include any retail pharmacy or wholesale distributor.

41 ~~(ff)~~(ii) (1) "Institutional drug room" means any location where  
42 prescription-only drugs are stored and from which prescription-only drugs  
43 are administered or dispensed and that is maintained or operated for the

- 1 purpose of providing the drug needs of:
- 2 (A) Inmates of a jail or correctional institution or facility;
- 3 (B) residents of a *juvenile correctional facility or juvenile detention*
- 4 *facility, as defined by the revised Kansas code for care of children and the*
- 5 *revised Kansas juvenile justice code in K.S.A. 2020 Supp. 38-2302, and*
- 6 *amendments thereto;*
- 7 (C) students of a public or private university or college, a community
- 8 college or any other institution of higher learning that is located in Kansas;
- 9 (D) employees of a business or other employer; or
- 10 (E) persons receiving inpatient hospice services.
- 11 (2) "Institutional drug room" does not include:
- 12 (A) Any registered pharmacy;
- 13 (B) any office of a practitioner; or
- 14 (C) a location where no prescription-only drugs are dispensed and no
- 15 prescription-only drugs other than individual prescriptions are stored or
- 16 administered.
- 17 ~~(gg)~~(ij) "Interchangeable biological product" means a biological
- 18 product that the FDA has:
- 19 ~~(1) Licensed and determined meets identified in the "purple book:~~
- 20 ~~lists of licensed biological products with reference product exclusivity and~~
- 21 ~~biosimilarity or interchangeability evaluations" as meeting the standards~~
- 22 ~~for "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on~~
- 23 ~~January 1, 2017; or~~
- 24 ~~(2) determined to be therapeutically equivalent as set forth in the~~
- 25 ~~latest edition or supplement to the FDA's approved drug products with~~
- 26 ~~therapeutic equivalence evaluations.~~
- 27 ~~(hh) "Intermediary" means any technology system that receives and~~
- 28 ~~transmits an electronic prescription between the prescriber and the~~
- 29 ~~pharmacy.~~
- 30 ~~(ii)~~(kk) "Intracompany transaction" means any transaction or transfer
- 31 between any division, subsidiary, parent or affiliated or related company
- 32 under common ownership or control of a corporate entity, or any
- 33 transaction or transfer between co-licensed partners.
- 34 ~~(jj)~~(ll) "Label" means a display of written, printed or graphic matter
- 35 upon the immediate container of any drug.
- 36 ~~(kk)~~(mm) "Labeling" means the process of preparing and affixing a
- 37 label to any drug container, exclusive of the labeling by a manufacturer,
- 38 packer or distributor of a non-prescription drug or commercially packaged
- 39 legend drug.
- 40 ~~(H)~~(nn) "Long-term care facility" means "nursing facility," as defined
- 41 in K.S.A. 39-923, and amendments thereto.
- 42 ~~(mm)~~(oo) "Medical care facility" means the same as defined in
- 43 K.S.A. 65-425, and amendments thereto, except that the term also includes

1 ~~facilities licensed under the provisions of K.S.A. 2019 Supp. 39-2001 et~~  
 2 ~~seq., and amendments thereto, except community mental health centers~~  
 3 ~~and facilities for people with intellectual disability~~ *psychiatric hospitals*  
 4 *and psychiatric residential treatment facilities as defined by K.S.A. 2020*  
 5 *Supp. 39-3002, and amendments thereto.*

6 ~~(nn)~~(pp) "Manufacture" means the production, preparation,  
 7 propagation, compounding, conversion or processing of a drug either  
 8 directly or indirectly by extraction from substances of natural origin,  
 9 independently by means of chemical or biological synthesis or by a  
 10 combination of extraction and chemical or biological synthesis or the  
 11 packaging or repackaging of the drug or labeling or relabeling of its  
 12 container, except that this term does not include the preparation or  
 13 compounding of a drug by an individual for the individual's own use or the  
 14 preparation, compounding, packaging or labeling of a drug by:

15 (1) A practitioner or a practitioner's authorized agent incident to such  
 16 practitioner's administering or dispensing of a drug in the course of the  
 17 practitioner's professional practice;

18 (2) a practitioner, by a practitioner's authorized agent or under a  
 19 practitioner's supervision for the purpose of, or as an incident to, research,  
 20 teaching or chemical analysis and not for sale; or

21 (3) a pharmacist or the pharmacist's authorized agent acting under the  
 22 direct supervision of the pharmacist for the purpose of, or incident to, the  
 23 dispensing of a drug by the pharmacist.

24 ~~(oo)~~(qq) "Manufacturer" means:

25 (1) A person that holds an application approved under section 505 of  
 26 the federal food, drug and cosmetic act or a license issued under section  
 27 351 of the federal public health service act for such drug or, if such drug is  
 28 not the subject of an approved application or license, the person who  
 29 manufactured the drug;

30 (2) a co-licensed partner of the person described in paragraph (1) that  
 31 obtains the drug directly from a person described in paragraph (1) or (3);  
 32 or

33 (3) an affiliate of a person described in paragraph (1) or (2) that  
 34 receives the product directly from a person described in paragraph (1) or  
 35 (2).

36 ~~(pp)~~(rr) "Medication order" means ~~an order by a prescriber for a~~  
 37 ~~registered patient of a Kansas licensed medical care facility~~ *a written or*  
 38 *oral order by a prescriber or the prescriber's authorized agent for*  
 39 *administration of a drug or device to a patient in a Kansas licensed*  
 40 *medical care facility or in a Kansas licensed nursing facility or nursing*  
 41 *facility for mental health, as defined by K.S.A. 39-923, and amendments*  
 42 *thereto.*

43 ~~(qq)~~(ss) "Mid-level practitioner" means a certified nurse-midwife

1 engaging in the independent practice of midwifery under the independent  
2 practice of midwifery act, an advanced practice registered nurse issued a  
3 license pursuant to K.S.A. 65-1131, and amendments thereto, who has  
4 authority to prescribe drugs pursuant to a written protocol with a  
5 responsible physician under K.S.A. 65-1130, and amendments thereto, or a  
6 physician assistant licensed pursuant to the physician assistant licensure  
7 act who has authority to prescribe drugs pursuant to a written agreement  
8 with a supervising physician under K.S.A. 65-28a08, and amendments  
9 thereto.

10 ~~(tt)~~(tt) "Nonresident pharmacy" means a pharmacy located outside of  
11 Kansas.

12 ~~(ss)~~(uu) "Outsourcing facility" ~~or "virtual outsourcing facility"~~ means  
13 a facility at one geographic location or address that is engaged in the  
14 compounding of sterile drugs and has registered with the FDA as an  
15 outsourcing facility pursuant to 21 U.S.C. § 353b.

16 ~~(tt)~~(vv) "Person" means individual, corporation, government,  
17 governmental subdivision or agency, partnership, association or any other  
18 legal entity.

19 ~~(uu)~~(ww) "Pharmacist" means any natural person licensed under this  
20 act to practice pharmacy.

21 ~~(vv)~~(xx) "Pharmacist-in-charge" means the pharmacist who is  
22 responsible to the board for a registered establishment's compliance with  
23 the laws and regulations of this state pertaining to the practice of  
24 pharmacy, manufacturing of drugs and the distribution of drugs. The  
25 pharmacist-in-charge shall supervise such establishment on a full-time or a  
26 part-time basis and perform such other duties relating to supervision of a  
27 registered establishment as may be prescribed by the board by rules and  
28 regulations. Nothing in this definition shall relieve other pharmacists or  
29 persons from their responsibility to comply with state and federal laws and  
30 regulations.

31 ~~(ww)~~(yy) "Pharmacist intern" *or "intern"* means: (1) A student  
32 currently enrolled in *and in good standing with* an accredited pharmacy  
33 program; (2) a graduate of an accredited pharmacy program serving an  
34 internship; or (3) a graduate of a pharmacy program located outside of the  
35 United States that is not accredited and who has successfully passed  
36 equivalency examinations approved by the board.

37 ~~(xx)~~(zz) "Pharmacy," "drugstore" or "apothecary" means premises,  
38 laboratory, area or other place, *including any electronic medium*: (1)  
39 Where drugs are offered for sale where the profession of pharmacy is  
40 practiced and where prescriptions are compounded and dispensed; (2) that  
41 has displayed upon it or within it the words "pharmacist," "pharmaceutical  
42 chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs,"  
43 "drug sundries" or any of these words or combinations of these words or

1 words of similar import—~~either in English or in any language or on any~~  
 2 sign containing any of these words *as used in the context of health,*  
 3 *medical or pharmaceutical care or services;* or (3) where the characteristic  
 4 symbols of pharmacy or the characteristic prescription sign "Rx" may be  
 5 exhibited *in the context of health, medical or pharmaceutical care or*  
 6 *services.* As used in this subsection, premises refers only to the portion of  
 7 any building or structure leased, used or controlled by the licensee in the  
 8 conduct of the business registered by the board at the address for which the  
 9 registration was issued.

10 ~~(yy)~~(aaa) "Pharmacy prescription application" means software that is  
 11 used to process prescription information,~~is and is either~~ installed on a  
 12 pharmacy's computers or servers and is controlled by the pharmacy *or is*  
 13 *maintained on the servers of an entity that sells electronic pharmacy*  
 14 *prescription applications as a hosted service where the entity controls*  
 15 *access to the application and maintains the software and records on its*  
 16 *server.*

17 ~~(zz)~~(bbb) "Pharmacy technician" means an individual who, under the  
 18 direct supervision and control of a pharmacist, may perform packaging,  
 19 manipulative, repetitive or other nondiscretionary tasks related to the  
 20 processing of a prescription or medication order and who assists the  
 21 pharmacist in the performance of pharmacy-related duties, but who does  
 22 not perform duties restricted to a pharmacist.

23 ~~(aaa)~~(ccc) "Practitioner" means a person licensed to practice medicine  
 24 and surgery, dentist, podiatrist, veterinarian, optometrist or scientific  
 25 investigator or other person authorized by law to use a prescription-only  
 26 drug in teaching or chemical analysis or to conduct research with respect  
 27 to a prescription-only drug.

28 ~~(bbb)~~(ddd) "Preceptor" means a licensed pharmacist who possesses at  
 29 least two years' experience as a pharmacist and who supervises ~~students~~  
 30 ~~obtaining the pharmaceutical experience required by law as a condition to~~  
 31 ~~taking the examination for licensure as a pharmacist and is responsible for~~  
 32 *the actions of pharmacist interns obtaining pharmaceutical experience.*

33 ~~(eee)~~(eee) "Prescriber" means a practitioner or a mid-level  
 34 practitioner.

35 ~~(ddd)~~(fff) "Prescription" or "prescription order" means: ~~(1) An order~~  
 36 ~~to be filled by a pharmacist for prescription medication issued and signed~~  
 37 ~~by a prescriber in the authorized course of such prescriber's professional~~  
 38 ~~practice; or (2) an order transmitted to a pharmacist through word of~~  
 39 ~~mouth, note, telephone or other means of communication directed by such~~  
 40 ~~prescriber, regardless of whether the communication is oral, electronic,~~  
 41 ~~facsimile or in printed form~~ *the front and back of a lawful written,*  
 42 *electronic or facsimile order from a prescriber or an oral order from a*  
 43 *prescriber or the prescriber's authorized agent that communicates the*

- 1 *prescriber's instructions for a prescription drug or device to be dispensed.*  
2 ~~(eee)~~(ggg) "Prescription medication" means any drug, including label  
3 and container according to context, that is dispensed pursuant to a  
4 prescription order.
- 5 ~~(fff)~~(hhh) "Prescription-only drug" means any drug whether intended  
6 for use by human or animal, required by federal or state law, including 21  
7 U.S.C. § 353, to be dispensed only pursuant to a written or oral  
8 prescription or order of a practitioner or is restricted to use by practitioners  
9 only.
- 10 ~~(ggg)~~(iii) "Probation" means the practice or operation under a  
11 temporary license, registration or permit or a conditional license,  
12 registration or permit of a business or profession for which a license,  
13 registration or permit is granted by the board under the provisions of the  
14 pharmacy act of the state of Kansas requiring certain actions to be  
15 accomplished or certain actions not to occur before a regular license,  
16 registration or permit is issued.
- 17 ~~(hhh)~~(jjj) "Product" means the same as defined by part H of the  
18 federal drug supply chain security act, 21 U.S.C. § 351 et seq. and 21  
19 U.S.C. § 360eee.
- 20 ~~(iii)~~(lll) "Professional incompetency" means:  
21 (1) One or more instances involving failure to adhere to the  
22 applicable standard of pharmaceutical care to a degree that constitutes  
23 gross negligence, as determined by the board;  
24 (2) repeated instances involving failure to adhere to the applicable  
25 standard of pharmaceutical care to a degree that constitutes ordinary  
26 negligence, as determined by the board; or  
27 (3) a pattern of pharmacy practice or other behavior that demonstrates  
28 a manifest incapacity or incompetence to practice pharmacy.
- 29 ~~(jjj)~~(mmm) "Readily retrievable" or "*readily available*" means that  
30 records kept *in hard copy* or by automatic data processing applications or  
31 other electronic or mechanized record-keeping systems can be separated  
32 out from all other records *quickly and easily during an inspection or*  
33 *investigation, or* within a reasonable time not to exceed 48 hours of a  
34 *written* request from the board or other authorized agent ~~or that hard-copy~~  
35 ~~records are kept on which certain items are asterisked, redlined or in some~~  
36 ~~other manner visually identifiable apart from other items appearing on the~~  
37 ~~records.~~
- 38 ~~(Hh)~~(nnn) "Repackage" means changing the container, wrapper,  
39 quantity or label of a drug to further the distribution of the drug.
- 40 ~~(mmm)~~(ooo) "Repackager" means a person who owns or operates a  
41 facility that repackages.
- 42 ~~(nnn)~~(ppp) "Retail dealer" means a person selling at retail  
43 nonprescription drugs that are prepackaged, fully prepared by the

1 manufacturer or distributor for use by the consumer and labeled in  
 2 accordance with the requirements of the state and federal food, drug and  
 3 cosmetic acts. Such nonprescription drugs shall not include: (1) A  
 4 controlled substance; (2) a prescription-only drug; or (3) a drug intended  
 5 for human use by hypodermic injection.

6 ~~(ooo)~~—"Return" means providing product to the authorized immediate  
 7 trading partner from whom such product was purchased or received, or to  
 8 a returns processor or reverse logistics provider for handling of such  
 9 product.

10 ~~(ppp)~~(qqq) "Returns processor" or "reverse logistics provider"  
 11 *distributor*" means a person who owns or operates an establishment that  
 12 disposes of or otherwise processes saleable or nonsaleable products  
 13 received from an authorized trading partner such that the product may be  
 14 processed for credit to the purchaser, manufacturer or seller or disposed of  
 15 for no further distribution.

16 ~~(qqq)~~(rrr) "Secretary" means the executive secretary of the board.

17 ~~(rrr)~~(sss) "Third-party logistics provider" means an entity that  
 18 provides or coordinates warehousing or other logistic services of a product  
 19 in interstate commerce on behalf of a manufacturer, wholesale distributor  
 20 or dispenser, but does not take ownership of the product or have  
 21 responsibility to direct the sale or disposition of the product.

22 ~~(sss)~~(ttt) "Trading partner" means:

23 (1) A manufacturer, repackager, wholesale distributor or dispenser  
 24 from whom a manufacturer, repackager, wholesale distributor or dispenser  
 25 accepts direct ownership of a product or to whom a manufacturer,  
 26 repackager, wholesale distributor or dispenser transfers direct ownership of  
 27 a product; or

28 (2) a third-party logistics provider from whom a manufacturer,  
 29 repackager, wholesale distributor or dispenser accepts direct possession of  
 30 a product or to whom a manufacturer, repackager, wholesale distributor or  
 31 dispenser transfers direct possession of a product.

32 ~~(ttt)~~(uuu) "Transaction" means the transfer of product between  
 33 persons in which a change of ownership occurs.

34 ~~(uuu)~~(vvv) "Unprofessional conduct" means:

- 35 (1) Fraud in securing a registration or permit;
- 36 (2) intentional adulteration or mislabeling of any drug, medicine,  
 37 chemical or poison;
- 38 (3) causing any drug, medicine, chemical or poison to be adulterated  
 39 or mislabeled, knowing the same to be adulterated or mislabeled;
- 40 (4) intentionally falsifying or altering records or prescriptions;
- 41 (5) unlawful possession of drugs and unlawful diversion of drugs to  
 42 others;
- 43 (6) willful betrayal of confidential information under K.S.A. 65-1654,

1 and amendments thereto;

2 (7) conduct likely to deceive, defraud or harm the public;

3 (8) making a false or misleading statement regarding the licensee's  
4 professional practice or the efficacy or value of a drug;

5 (9) commission of any act of sexual abuse, misconduct or  
6 exploitation related to the licensee's professional practice; or

7 (10) performing unnecessary tests, examinations or services that have  
8 no legitimate pharmaceutical purpose.

9 ~~(vvv)~~(www) "Vaccination protocol" means a written protocol, agreed  
10 to *and signed* by a pharmacist and a person licensed to practice medicine  
11 and surgery by the state board of healing arts, that establishes procedures  
12 and recordkeeping and reporting requirements for administering a vaccine  
13 by the pharmacist for a period of time specified therein, not to exceed two  
14 years.

15 ~~(www)~~(xxx) "Valid prescription order" means a prescription that is  
16 issued for a legitimate medical purpose by an individual prescriber  
17 licensed by law to administer and prescribe drugs and acting in the usual  
18 course of such prescriber's professional practice. A prescription issued  
19 solely on the basis of an internet-based questionnaire or consultation  
20 without an appropriate prescriber-patient relationship is not a valid  
21 prescription order.

22 ~~(xxx)~~(yyy) "Veterinary medical teaching hospital pharmacy" means  
23 any location where prescription-only drugs are stored as part of an  
24 accredited college of veterinary medicine and from which prescription-  
25 only drugs are distributed for use in treatment of or administration to a  
26 nonhuman.

27 (zzz) "*Virtual manufacturer*" means an entity that engages in the  
28 manufacture of a drug or device for which it:

29 (1) Owns the new drug application or abbreviated new drug  
30 application number; if a prescription drug;

31 (2) owns the unique device identification number, as available, for a  
32 prescription device;

33 (3) contracts with a contract manufacturing organization for the  
34 physical manufacture of the drug or device;

35 (4) is not involved in the physical manufacture of the drug or device;  
36 and

37 (5) does not store or take physical possession of the drug or device.

38 (aaa) "Virtual wholesale distributor" means a wholesale distributor  
39 that sells, brokers or transfers a drug or device but never physically  
40 possesses the product.

41 ~~(yyy)~~(bbb) "Wholesale distributor" means any person engaged in  
42 wholesale distribution or reverse distribution of ~~prescription~~ drugs or  
43 devices, other than a manufacturer, co-licensed partner; or third-party

1 logistics provider or repackager.

2 ~~(zzz)(cccc)~~ "Wholesale distribution" means the distribution or receipt  
3 of ~~prescription~~ drugs or devices to or by persons other than consumers or  
4 patients, in which a change of ownership occurs. "Wholesale distribution"  
5 does not include:

6 (1) The dispensing of a ~~prescription~~ drug or device pursuant to a  
7 prescription;

8 (2) the distribution of a ~~prescription~~ drug or device or an offer to  
9 distribute a ~~prescription~~ drug or device for emergency medical reasons,  
10 including a public health emergency declaration pursuant to section 319 of  
11 the public health service act, except that, for purposes of this paragraph, a  
12 drug or device shortage not caused by a public health emergency shall not  
13 constitute an emergency medical reason;

14 (3) intracompany distribution of any drug between members of an  
15 affiliate or within a manufacturer;

16 (4) the distribution of a ~~prescription~~ drug or device, or an offer to  
17 distribute a ~~prescription~~ drug or device, among hospitals or other health  
18 care entities under common control;

19 (5) the distribution of a ~~prescription~~ drug or device, or the offer to  
20 distribute a ~~prescription~~ drug or device, by a charitable organization  
21 described in ~~503~~ section 501(c)(3) of the internal revenue code of ~~1954~~  
22 ~~1986~~ to a nonprofit affiliate of the organization to the extent otherwise  
23 permitted by law;

24 (6) the purchase or other acquisition by a dispenser, hospital or other  
25 health care entity for use by such dispenser, hospital or other health care  
26 entity;

27 (7) the distribution of a drug by the manufacturer of such drug;

28 (8) the receipt or transfer of a drug by an authorized third-party  
29 logistics provider, provided that such third-party logistics provider does  
30 not take ownership of the drug;

31 (9) the transport of a drug by a common carrier, provided that the  
32 common carrier does not take ownership of the drug;

33 (10) the distribution of a drug or an offer to distribute a drug by an  
34 authorized repackager that has taken ownership or possession of the drug  
35 and repacks it in accordance with section 582(e) of the federal food, drug  
36 and cosmetic act;

37 (11) saleable drug returns when conducted by a dispenser;

38 (12) the distribution of minimal quantities of drugs by licensed retail  
39 pharmacies to licensed practitioners for office use;

40 (13) the distribution of a collection of finished medical devices,  
41 including a product or biological product in accordance with 21 U.S.C. §  
42 353(e)(4)(M);

43 (14) the distribution of an intravenous drug that, by its formulation, is

1 ~~intended for the replenishment of fluids and electrolytes, including~~  
 2 ~~sodium, chloride and potassium, or calories, including dextrose and amino~~  
 3 ~~acids;~~

4 ~~(15) the distribution of an intravenous drug used to maintain the~~  
 5 ~~equilibrium of water and minerals in the body, such as dialysis solutions;~~  
 6 ~~or~~

7 ~~(16) the distribution of a drug that is intended for irrigation, or sterile~~  
 8 ~~water, whether intended for such purposes or for injection;~~

9 ~~(17) the distribution of medical gas;~~

10 ~~(18) facilitating the distribution of a product by providing solely~~  
 11 ~~administrative services, including processing of orders and payments;~~

12 ~~(19) the transfer of a product by a hospital or other health care entity,~~  
 13 ~~or by a wholesale distributor or manufacturer operating under the direction~~  
 14 ~~of a hospital or other health care entity, to a repackager described in~~  
 15 ~~section 581(16)(B) and registered under section 510 of the food, drug and~~  
 16 ~~cosmetic act for the purpose of repackaging the drug for use by that~~  
 17 ~~hospital or other health care entity, or other health care entities under~~  
 18 ~~common control, if ownership of the drug remains with the hospital or~~  
 19 ~~other health care entity at all times; or~~

20 ~~(20)(7) the sale or transfer from a retail pharmacy of expired,~~  
 21 ~~damaged, returned or recalled prescription drugs to the original~~  
 22 ~~manufacturer, originating wholesale distributor or to a third-party returns~~  
 23 ~~processor reverse distributor registered in accordance with the board's~~  
 24 ~~rules and regulations.~~

25 Sec. 7. K.S.A. 65-1627 is hereby amended to read as follows: 65-  
 26 1627. (a) The board may *deny an application or renewal, limit, condition,*  
 27 *revoke, suspend, place in a probationary status or deny an application or*  
 28 *renewal of any publicly or privately censure the* license of any pharmacist  
 29 upon a finding that:

30 (1) The licensee has obtained, renewed or reinstated, or attempted to  
 31 obtain, renew or reinstate, a license by false or fraudulent means, including  
 32 misrepresentation of a material fact;

33 (2) the licensee has been convicted of a misdemeanor involving moral  
 34 turpitude or gross immorality or any felony and the licensee fails to show  
 35 that the licensee has been sufficiently rehabilitated to warrant the public  
 36 trust;

37 (3) the licensee is found by the board to be guilty of unprofessional  
 38 conduct or professional incompetency;

39 (4) the licensee is addicted to the liquor or drug habit to such a degree  
 40 as to render the licensee unfit to practice the profession of pharmacy;

41 (5) the licensee has violated a provision of the federal or state food,  
 42 drug and cosmetic act, the *federal or state* uniform controlled substances  
 43 ~~act of the state of Kansas~~, or any rule and regulation adopted under any

1 such act;

2 (6) the licensee is found by the board to have filled a prescription not  
3 in strict accordance with the directions of the practitioner or a mid-level  
4 practitioner;

5 (7) the licensee is found to be mentally or physically incapacitated to  
6 such a degree as to render the licensee unfit to practice the profession of  
7 pharmacy;

8 (8) the licensee has violated any of the provisions of the pharmacy act  
9 of the state of Kansas or any rule and regulation adopted by the board  
10 pursuant to the provisions of such pharmacy act;

11 (9) the licensee has failed to comply with the continuing education  
12 requirements of the board for license renewal;

13 (10) the licensee as a ~~pharmacist in charge~~ "*pharmacist-in-charge*" or  
14 consultant pharmacist under the provisions of K.S.A. 65-1648(c) or (d),  
15 and amendments thereto, has failed to comply with the requirements of  
16 K.S.A. 65-1648(c) or (d), and amendments thereto;

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

19 (12) the licensee has had a license to practice pharmacy revoked,  
20 suspended or limited, has been censured or has had other disciplinary  
21 action taken, or voluntarily surrendered the license after formal  
22 proceedings have been commenced, or has had an application for license  
23 denied, by the proper licensing authority of another state, territory, District  
24 of Columbia or other country, a certified copy of the record of the action of  
25 the other jurisdiction being conclusive evidence thereof;

26 (13) the licensee has self-administered any controlled substance  
27 without a practitioner's prescription order or a mid-level practitioner's  
28 prescription order; ~~or~~

29 (14) the licensee has assisted suicide in violation of K.S.A. 21-3406,  
30 prior to its repeal, or K.S.A. 2019 Supp. 21-5407, and amendments  
31 thereto, as established by any of the following:

32 (A) A copy of the record of criminal conviction or plea of guilty for a  
33 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019  
34 Supp. 21-5407, and amendments thereto;:

35 (B) a copy of the record of a judgment of contempt of court for  
36 violating an injunction issued under K.S.A. 60-4404, and amendments  
37 thereto; *or*

38 (C) a copy of the record of a judgment assessing damages under  
39 K.S.A. 60-4405, and amendments thereto;

40 (15) the licensee has failed to furnish the board, its investigators or its  
41 representatives any information legally requested by the board;

42 (16) the licensee has violated or failed to comply with any lawful  
43 order or directive of the board; ~~or~~

1 (17) the licensee has violated any of the provisions of the prescription  
2 monitoring program act of the state of Kansas or any rule and regulation of  
3 the board pursuant to the provisions of the prescription monitoring  
4 program act; or

5 (18) *the licensee has failed to keep, has failed to file with the board*  
6 *or has falsified records required to be kept or filed by the provisions of the*  
7 *pharmacy act of the state of Kansas, the federal or state uniform*  
8 *controlled substances act or rules and regulations adopted by the board.*

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

38 (c) The board may temporarily suspend or temporarily limit the  
39 license of any licensee in accordance with the emergency adjudicative  
40 proceedings under the Kansas administrative procedure act if the board  
41 determines that there is cause to believe that grounds exist for disciplinary  
42 action under subsection (a) against the licensee and that the licensee's  
43 continuation in practice would constitute an imminent danger to the public

1 health and safety.

2 (d) The board may suspend, revoke, place in a probationary status or  
3 deny ~~a~~ *an application or renewal* of any retail dealer's permit issued by the  
4 board when information in possession of the board discloses that such  
5 operations for which the permit was *or may be* issued are not being  
6 conducted according to law or the rules and regulations of the board.  
7 When the board determines that action under this subsection requires the  
8 immediate protection of the public interest, the board shall conduct an  
9 emergency proceeding in accordance with K.S.A. 77-536, and  
10 amendments thereto, under the Kansas administrative procedure act.

11 (e) The board may *deny an application or renewal, limit, condition,*  
12 *revoke, suspend, place in a probationary status or* ~~deny a renewal of~~  
13 *publicly or privately censure* the registration of ~~a~~ *any pharmacy* upon a  
14 finding that:

15 (1) Such pharmacy has been operated in such manner that violations  
16 of the provisions of the pharmacy act of the state of Kansas or of the rules  
17 and regulations of the board have occurred in connection therewith;

18 (2) the owner, *pharmacy* or any pharmacist employed at such  
19 pharmacy is convicted, subsequent to such owner's acquisition of or such  
20 employee's employment at such pharmacy, of a violation of the pharmacy  
21 ~~act or uniform controlled substances act~~ of the state of Kansas, *the federal*  
22 *or state uniform controlled substances act* or the federal or state food, drug  
23 and cosmetic act;

24 (3) the owner, *pharmacy* or any pharmacist employed by such  
25 pharmacy has fraudulently claimed money for pharmaceutical services; ~~or~~

26 (4) the registrant has had a registration revoked, suspended or limited,  
27 has been censured or has had other disciplinary action taken, or an  
28 application for registration denied, by the proper registering authority of  
29 another state, territory, District of Columbia or other country, a certified  
30 copy of the record of the action of the other jurisdiction being conclusive  
31 evidence thereof. When the board determines that action under this  
32 subsection requires the immediate protection of the public interest, the  
33 board shall conduct an emergency proceeding in accordance with K.S.A.  
34 77-536, and amendments thereto, under the Kansas administrative  
35 procedure act;

36 (5) *the registrant has obtained, renewed or attempted to obtain or*  
37 *renew a registration by false or fraudulent means, including*  
38 *misrepresentation of a material fact or falsification of any application;*

39 (6) *the registrant has refused to permit the board or its duly*  
40 *authorized agents to inspect the registrant's establishment in accordance*  
41 *with the provisions of the pharmacy act of the state of Kansas, federal or*  
42 *state uniform controlled substances act or the federal or state food, drug*  
43 *and cosmetic act;*

1 (7) *the registrant has failed to keep, has failed to file with the board*  
2 *or has falsified records required to be kept or filed by the provisions of the*  
3 *pharmacy act of the state of Kansas, the federal or state uniform*  
4 *controlled substances act or rules and regulations adopted by the board;*

5 (8) *such pharmacy has been operated in such manner that violations*  
6 *of the provisions of the federal or state food, drug and cosmetic act, the*  
7 *federal or state uniform controlled substances act, or any rule and*  
8 *regulation adopted under any such act have occurred in connection*  
9 *therewith;*

10 (9) *such pharmacy has been operated in such manner that the*  
11 *violations of the provisions of the prescription monitoring program act of*  
12 *the state of Kansas or any rule and regulation of the board have occurred*  
13 *in connection therewith;*

14 (10) *the registrant has failed to furnish the board, its investigators or*  
15 *its representatives any information legally requested by the board; or*

16 (11) *the registrant has violated or failed to comply with any lawful*  
17 *order or directive of the board.*

18 (f) A registration to manufacture or repackage drugs or devices, to  
19 operate as a wholesale distributor, ~~to sell durable medical equipment or to~~  
20 ~~operate as a third-party logistics provider, outsourcing facility, institutional~~  
21 ~~drug room or automated dispensing system, or to sell durable medical~~  
22 ~~equipment,~~ or a registration for the place of business where any such  
23 operation is conducted, may be *limited, conditioned,* suspended, revoked,  
24 placed in a probationary status, *publicly or privately censured* or the  
25 *application for or renewal* of such registration may be denied by the board  
26 upon a finding that the registrant or the registrant's agent:

27 ~~(1) Has materially falsified any application filed pursuant to or~~  
28 ~~required by the pharmacy act of the state of Kansas obtained, renewed or~~  
29 ~~attempted to obtain or renew a registration by false or fraudulent means,~~  
30 ~~including misrepresentation of a material fact or falsification of any~~  
31 ~~application;~~

32 (2) has been convicted of a felony under any federal or state law  
33 relating to the manufacture, *compounding, dispensing* or distribution of  
34 *drugs or devices;*

35 (3) has had any federal registration for the manufacture,  
36 *compounding, dispensing* or distribution of *drugs or devices* suspended,  
37 *limited, denied, disciplined, censured* or revoked;

38 (4) has refused to permit the board or its duly authorized agents to  
39 inspect the registrant's establishment in accordance with the provisions of  
40 ~~K.S.A. 65-1629, and amendments thereto~~ *the pharmacy act of the state of*  
41 *Kansas, the federal or state uniform controlled substances act or the*  
42 *federal or state food, drug and cosmetic act;*

43 (5) has failed to keep, has failed to file with the board or has falsified

1 records required to be kept or filed by the provisions of the pharmacy act  
2 of the state of Kansas ~~or by the board's rules and regulations; or, the~~  
3 *federal or state uniform controlled substances act or rules and regulations*  
4 *adopted by the board;*

5 (6) has violated the pharmacy act of the state of Kansas or rules and  
6 regulations adopted by the state board of pharmacy under the pharmacy act  
7 of the state of Kansas, has violated the uniform controlled substances act  
8 or rules and regulations adopted by the state board of pharmacy under the  
9 uniform controlled substances act, *has violated the federal uniform*  
10 *controlled substances act, has violated the federal or state food, drug and*  
11 *cosmetic act or any rules and regulations adopted under any such act, or*  
12 *has violated a provision of the federal drug supply chain security act or*  
13 *any rule or regulation adopted under such act. When the board determines*  
14 *that action under this subsection requires the immediate protection of the*  
15 *public interest, the board shall conduct an emergency proceeding in*  
16 *accordance with K.S.A. 77-536, and amendments thereto, under the*  
17 *Kansas administrative procedure act;*

18 (7) *the registrant has had a registration revoked, suspended or*  
19 *limited, has been censured or has had other disciplinary action taken, or*  
20 *an application for registration denied, by the proper registering authority*  
21 *of another state, territory, District of Columbia or other country, a*  
22 *certified copy of the record of the action of the other jurisdiction being*  
23 *conclusive evidence thereof. When the board determines that action under*  
24 *this subsection requires the immediate protection of the public interest, the*  
25 *board shall conduct an emergency proceeding in accordance with K.S.A.*  
26 *77-536, and amendments thereto, under the Kansas administrative*  
27 *procedure act;*

28 (8) *has failed to furnish the board, its investigators or its*  
29 *representatives any information legally requested by the board; or*

30 (9) *the registrant has violated or failed to comply with any lawful*  
31 *order or directive of the board.*

32 (g) *Any licensee, permit holder or registrant who is disciplined under*  
33 *this section, K.S.A. 65-1657, 65-1663 or 65-1676, and amendments*  
34 *thereto, for a minor violation may request in writing that the board*  
35 *expunge the minor violation from the licensee's, permit holder's or*  
36 *registrant's permanent record. The board shall adopt rules and regulations*  
37 *to establish violations that are minor violations under this section. A*  
38 *violation shall be deemed a minor violation if it does not demonstrate a*  
39 *serious inability to practice the profession; assist in the practice of*  
40 *pharmacy; provide home medical equipment and services; adversely affect*  
41 *the public health, safety or welfare; result in economic or physical harm to*  
42 *an individual; or create a significant threat of such harm.*

43 (1) *The request for expungement may be filed no sooner than five*

1 *years after the date on which the licensee, permit holder or registrant has*  
2 *completed disciplinary sanctions imposed and if the licensee, permit*  
3 *holder or registrant has not been disciplined for any subsequent violation*  
4 *within this period of time.*

5 (2) *No individual may have such individual's record expunged under*  
6 *this section more than once.*

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

9 Sec. 8. K.S.A. 65-1631 is hereby amended to read as follows: 65-  
10 1631. (a) It shall be unlawful for any ~~person~~ *individual* to practice as a  
11 pharmacist in this state unless such ~~person~~ *individual* is licensed by the  
12 board as a pharmacist. Except as otherwise provided in subsection (d),  
13 every applicant for licensure as a pharmacist shall be at least 18 years of  
14 age, shall be a graduate of a school or college of pharmacy or department  
15 of a university recognized and approved by the board, shall file proof  
16 satisfactory to the board, substantiated by proper affidavits, of a minimum  
17 of one year of pharmaceutical experience, acceptable to the board, under  
18 the supervision of a preceptor and shall pass an examination approved by  
19 the board. Pharmaceutical experience as required in this section shall be  
20 under the supervision of a preceptor and shall be predominantly related to  
21 the dispensing of prescription medication, compounding prescriptions,  
22 preparing pharmaceutical preparations and keeping records and making  
23 reports required under state and federal statutes. A school or college of  
24 pharmacy or department of a university recognized and approved by the  
25 board under this subsection ~~(a)~~ shall have a standard of education not  
26 below that of the university of Kansas school of pharmacy. The board shall  
27 adopt rules and regulations establishing the criteria ~~which~~ *that* a school or  
28 college of pharmacy or department of a university shall satisfy in meeting  
29 the standard of education established under this subsection ~~(a)~~. *The board*  
30 *is authorized to adopt rules and regulations necessary to establish the*  
31 *criteria for a pharmacist to be designated by the board and act as a*  
32 *preceptor.*

33 (b) All applications for licensure by examination shall be made on a  
34 form to be prescribed and furnished by the board. Each application for a  
35 new license by examination shall be accompanied by a license fee fixed by  
36 the board as provided in K.S.A. 65-1645, and amendments thereto.

37 (c) The board is authorized to adopt rules and regulations relating to  
38 ~~the grades which~~ *score that* an applicant must receive in order to pass the  
39 ~~examination~~ *examinations required for licensure and the maximum*  
40 *number of times an applicant may take each examination.*

41 (d) Notwithstanding the preceding provisions of this section, the  
42 board may in its discretion license as a pharmacist, without examination,  
43 any ~~person~~ *individual* who is duly registered or licensed by examination in

1 some other state, except that the board may require that such ~~person~~  
2 *individual* take the ~~law examination~~ *multi-state jurisprudence examination*  
3 approved by the board. *The board is authorized to adopt rules and*  
4 *regulations relating to the score that such individual shall be required to*  
5 *receive in order to pass the multi-state jurisprudence examination and the*  
6 *maximum number of times such individual may take the examination as*  
7 *well as the maximum number of times that such individual may have*  
8 *attempted the North American pharmacist licensure examination,*  
9 *regardless of the score achieved.* Such ~~person~~ *individual* shall file proof  
10 satisfactory to the board of having the education and training required of  
11 applicants for licensure under the provisions of the pharmacy act of this  
12 state. ~~Persons~~ *Individuals* who are registered or licensed as pharmacists by  
13 examination in other states shall be required to satisfy only the  
14 requirements ~~which~~ *that* existed in this state at the time they become  
15 registered or licensed in such other states. The provisions of this  
16 subsection shall apply only if the state in which the ~~person~~ *individual* is  
17 registered or licensed grants, under like conditions, reciprocal registrations  
18 or licenses as pharmacists, without examination, to pharmacists duly  
19 licensed by examination in this state. Reciprocal licensure shall not be  
20 denied to any applicant otherwise qualified for reciprocal licensure under  
21 this section who has met the internship requirements of the state from  
22 which the applicant is reciprocating or who has at least one year of  
23 practice as a licensed pharmacist. A reciprocal licensure may be denied for  
24 *failure to satisfy the rules and regulations adopted by the board or for any*  
25 *of the reasons set forth in subsections (a)(1) through (a)(13) of K.S.A. 65-*  
26 *1627(a)(1) through (a)(13), and amendments thereto.*

27 (e) In the event that an applicant for reciprocal licensure has not been  
28 subject to laws requiring continuing education as a condition for renewal  
29 of a registration or license, such applicant shall be required to satisfy the  
30 board through a competency examination that the applicant has the  
31 knowledge and ability to meet Kansas standards for licensure as a  
32 pharmacist.

33 (f) ~~No applicant who has taken the examination for licensure~~  
34 ~~approved by the board and has failed to complete it successfully shall be~~  
35 ~~considered for licensure by reciprocity within one year from the date such~~  
36 ~~applicant sat for the examination.~~

37 (g) ~~All applicants for reciprocal licensure shall file their applications~~  
38 ~~on a form to be prescribed and furnished by the board and such application~~  
39 ~~shall be accompanied by a reciprocal licensure fee fixed by the board as~~  
40 ~~provided in K.S.A. 65-1645, and amendments thereto. The reciprocal~~  
41 ~~licensure fee established by this section immediately prior to the effective~~  
42 ~~date of this act shall continue in effect until a different reciprocal licensure~~  
43 ~~fee is fixed by the board by rules and regulations as provided in K.S.A. 65-~~

1 1645, and amendments thereto.

2 ~~(h)~~(g) The board shall take into consideration any felony conviction  
3 of such ~~person~~ *individual*, but such conviction shall not automatically  
4 operate as a bar to licensure.

5 ~~(h)~~(h) All applicants for licensure who graduate from a school or  
6 college of pharmacy outside the United States or who graduate from a  
7 school or college of pharmacy not approved by the board shall submit  
8 information to the board, as specified by rules and regulations, and this  
9 information shall be accompanied by an evaluation fee fixed by the board  
10 as provided in K.S.A. 65-1645, and amendments thereto, ~~which evaluation~~  
11 ~~fee that~~ shall be in addition to any other fee paid by the applicant under the  
12 pharmacy act of the state of Kansas. The evaluation fee fixed by the board  
13 under this section immediately prior to the effective date of this act shall  
14 continue in effect until a different evaluation fee is fixed by the board by  
15 rules and regulations as provided in K.S.A. 65-1645, and amendments  
16 thereto. The board may contract with investigative agencies, commissions  
17 or consultants to assist the board in obtaining information about such  
18 schools or colleges of pharmacy. In entering such contracts the authority to  
19 approve schools or colleges of pharmacy shall remain solely with the  
20 board.

21 ~~(h)~~(i) All applicants for licensure who graduate from a school or  
22 college of pharmacy outside the United States or who are not citizens of  
23 the United States shall provide proof to the board that the applicant has a  
24 reasonable ability to communicate with the general public in English. The  
25 board may require such applicant to take the test of English as a foreign  
26 language and to attain the grade for passing such test as established by the  
27 board by rules and regulations.

28 ~~(h)~~(j) Every registered pharmacist holding a valid registration as a  
29 pharmacist in effect on the day preceding the effective date of this act shall  
30 be deemed to be a licensed pharmacist under this act, and such ~~person~~  
31 *individual* shall not be required to file an original application hereunder for  
32 a license.

33 Sec. 9. K.S.A. 65-1637 is hereby amended to read as follows: 65-  
34 1637. (a) The pharmacist shall exercise professional judgment regarding  
35 the accuracy, validity and authenticity of any prescription order consistent  
36 with federal and state laws and rules and regulations. Except as provided  
37 in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be  
38 provided by law, a pharmacist shall not dispense a prescription drug if the  
39 pharmacist, in the exercise of professional judgment, determines that the  
40 prescription is not a valid prescription order.

41 (b) The prescriber may authorize an agent to transmit to the pharmacy  
42 a prescription order orally, by facsimile transmission or by electronic  
43 transmission, provided that the first and last names of the transmitting

1 agent are included in the order.

2 (c) (1) A new written or electronically prepared and transmitted  
3 prescription order shall be manually or electronically signed by the  
4 prescriber. If transmitted by the prescriber's agent, the first and last names  
5 of the transmitting agent shall be included in the order.

6 (2) If the prescription is for a controlled substance and is written or  
7 printed from an electronic prescription application, the prescription shall  
8 be manually signed by the prescriber prior to delivery of the prescription  
9 to the patient or prior to facsimile transmission of the prescription to the  
10 pharmacy.

11 (3) An electronically prepared prescription shall not be electronically  
12 transmitted to the pharmacy if the prescription has been printed prior to  
13 electronic transmission. An electronically prepared and transmitted  
14 prescription that is printed following electronic transmission shall be  
15 clearly labeled as a copy, not valid for dispensing.

16 (4) The board is hereby authorized to conduct pilot projects related to  
17 any new technology implementation when deemed necessary and  
18 practicable, except that no state moneys shall be expended for such  
19 purpose.

20 (d) An authorization to refill a prescription order or to renew or  
21 continue an existing drug therapy may be transmitted to a pharmacist  
22 through oral communication, in writing, by facsimile transmission or by  
23 electronic transmission initiated by or directed by the prescriber.

24 (1) If the transmission is completed by the prescriber's agent, and the  
25 first and last names of the transmitting agent are included in the order, the  
26 prescriber's signature is not required on the fax or alternate electronic  
27 transmission.

28 (2) If the refill order or renewal order differs in any manner from the  
29 original order, such as a change of the drug strength, dosage form or  
30 directions for use, the prescriber shall sign the order as provided by  
31 subsection (c)(1).

32 (e) Regardless of the means of transmission to a pharmacy, ~~only~~ a  
33 pharmacist or a pharmacist intern shall be authorized to receive a new  
34 prescription order *or a refill or renewal order* from a prescriber or  
35 transmitting agent. ~~A pharmacist, a pharmacist intern or a registered~~  
36 ~~pharmacy technician may receive a refill~~ ~~or, renewal~~ *or order for*  
37 *continuation of therapy that contains no changes from the original*  
38 *prescription* from a prescriber or transmitting agent if such registered  
39 pharmacy technician's supervising pharmacist has authorized that function.

40 (f) A refill is one or more dispensings of a prescription drug or device  
41 that results in the patient's receipt of the quantity authorized by the  
42 prescriber for a single fill as indicated on the prescription order.

43 A prescription for a schedule III, IV or V controlled substance may

1 authorize no more than five refills within six months following the date on  
2 which the prescription is issued.

3 (g) All prescriptions shall be filled or refilled in strict conformity with  
4 any directions of the prescriber, except that:

5 (1) A pharmacist who receives a prescription order for a brand name  
6 drug product, ~~excluding a biological product~~, may exercise brand  
7 exchange with a view toward achieving a lesser cost to the purchaser  
8 unless:

9 (A) ~~The prescriber, in the case of a prescription electronically signed~~  
10 ~~by the prescriber, includes the statement~~ *indicates* "dispense as written" on  
11 the prescription;

12 (B) ~~the prescriber, in the case of a written prescription signed by the~~  
13 ~~prescriber, writes in the prescriber's own handwriting~~ "dispense as written"  
14 ~~on the prescription;~~

15 ~~(C) the prescriber, in the case of a prescription other than one in~~  
16 ~~writing signed by the prescriber, expressly indicates the prescription is to~~  
17 ~~be dispensed as communicated~~ *the FDA has determined that a biological*  
18 *product is not an interchangeable biological product for the prescribed*  
19 *biological product; or*

20 ~~(D)~~ *(C) the federal food and drug administration* *FDA* has determined  
21 that a drug product of the same generic name is not bioequivalent to the  
22 prescribed brand name prescription medication;

23 (2) a pharmacist may provide up to a three-month supply of a  
24 prescription drug that is not a controlled substance or psychotherapeutic  
25 drug when a practitioner has written a drug order to be filled with a  
26 smaller supply but included sufficient numbers of refills for a three-month  
27 supply; or

28 (3) ~~a pharmacist who receives a prescription order for a biological~~  
29 ~~product may exercise brand exchange with a view toward achieving a~~  
30 ~~lesser cost to the purchaser unless:~~

31 ~~(A) The prescriber, in the case of a prescription signed by a prescriber~~  
32 ~~and written on a blank form containing two signature lines, signs the~~  
33 ~~signature line following the statement~~ "dispense as written";

34 ~~(B) the prescriber, in the case of a prescription signed by the~~  
35 ~~prescriber, writes in the prescriber's own handwriting~~ "dispense as written"  
36 ~~on the prescription;~~

37 ~~(C) the prescriber, in the case of a prescription other than the one in~~  
38 ~~writing signed by the prescriber, expressly indicates the prescription is to~~  
39 ~~be dispensed as communicated; or~~

40 ~~(D) the biological product is not an interchangeable biological~~  
41 ~~product for the prescribed biological product~~ *except for a prescription for a*  
42 *controlled substance, a pharmacist may use professional judgment to*  
43 *make the following adaptations to a prescription order if a patient*

1 *consents, the prescriber has not indicated "dispense as written" on the*  
2 *prescription, the pharmacist documents the adaptation on the patient's*  
3 *prescription record and the pharmacist notifies the prescriber:*

4 (A) *Change the prescribed quantity if:*

5 (i) *The prescribed quantity or package size is not commercially*  
6 *available;*

7 (ii) *the change in quantity is related to a change in dosage form; or*

8 (iii) *the change extends a maintenance drug for the limited quantity*  
9 *necessary to coordinate a patient's refills in a medication synchronization*  
10 *program;*

11 (B) *change the prescribed dosage form, strength or directions for use*  
12 *if it is in the best interest of the patient and the change achieves the intent*  
13 *of the prescriber; or*

14 (C) *complete missing information on the prescription order if there is*  
15 *evidence to support the change.*

16 (h) A pharmacist who selects an interchangeable biological product  
17 shall inform the patient or the patient's representative that an  
18 interchangeable biological product has been substituted for the prescribed  
19 biological product.

20 (i) If a prescription order contains a statement that during any  
21 particular time the prescription may be refilled at will, there shall be no  
22 limitation as to the number of times that such prescription may be refilled,  
23 except that it may not be refilled after the expiration of the time specified  
24 or one year after the prescription was originally issued, whichever occurs  
25 first.

26 (j) Prescription orders shall be recorded in writing by the pharmacist  
27 and the record so made by the pharmacist shall constitute the original  
28 prescription to be dispensed by the pharmacist. This record, if telephoned  
29 by other than the prescriber, shall bear the full name of the ~~person~~  
30 *individual* so telephoning. Nothing in this section shall be construed as  
31 altering or affecting in any way laws of this state or any federal act  
32 requiring a written prescription order.

33 (k) (1) Except as provided in paragraph (2), no prescription shall be  
34 refilled unless authorized by the prescriber either in the original  
35 prescription or by oral order that is reduced promptly to writing and filled  
36 by the pharmacist.

37 (2) A pharmacist may refill a prescription order issued on or after the  
38 effective date of this act for any prescription drug, except a drug listed on  
39 schedule II of the uniform controlled substances act or a narcotic drug  
40 listed on any schedule of the uniform controlled substances act, without  
41 the prescriber's authorization when all reasonable efforts to contact the  
42 prescriber have failed and when, in the pharmacist's professional  
43 judgment, continuation of the medication is necessary for the patient's

1 health, safety and welfare. Such prescription refill shall only be in an  
2 amount judged by the pharmacist to be sufficient to maintain the patient  
3 until the prescriber can be contacted, but in no event shall a refill under  
4 this paragraph be more than a ~~seven-day~~ 30-day supply or one package of  
5 the drug. However, if the prescriber states on a prescription that there shall  
6 be no emergency refilling of that prescription, then the pharmacist shall  
7 not dispense any emergency medication pursuant to that prescription. A  
8 pharmacist who refills a prescription order under this paragraph shall  
9 contact the prescriber of the prescription order on the next business day  
10 subsequent to the refill or as soon thereafter as possible. No pharmacist  
11 shall be required to refill any prescription order under this paragraph. A  
12 prescriber shall not be subject to liability for any damages resulting from  
13 the refilling of a prescription order by a pharmacist under this paragraph  
14 unless such damages are occasioned by the gross negligence or willful or  
15 wanton acts or omissions by the prescriber.

16 (l) If any prescription order contains a provision that the prescription  
17 may be refilled a specific number of times within or during any particular  
18 period, such prescription shall not be refilled except in strict conformity  
19 with such requirements.

20 (m) Any pharmacist who exercises brand exchange and dispenses a  
21 less expensive drug product shall not charge the purchaser more than the  
22 regular and customary retail price for the dispensed drug.

23 (n) Except as provided in K.S.A. 65-1635(e), and amendments  
24 thereto, and as may otherwise be provided by law, nothing contained in  
25 this section shall be construed as preventing a pharmacist from refusing to  
26 fill or refill any prescription if, in the pharmacist's professional judgment  
27 and discretion, such pharmacist is of the opinion that it should not be filled  
28 or refilled.

29 (o) Within five business days following the dispensing of a biological  
30 product, the dispensing pharmacist or the pharmacist's designee shall make  
31 an entry of the specific product provided to the patient, including the name  
32 of the product and the manufacturer. The communication shall be  
33 conveyed by making an entry that is electronically accessible to the  
34 prescriber through:

- 35 (1) An inter-operable electronic medical records system;
- 36 (2) an electronic prescribing technology;
- 37 (3) a pharmacy benefits management system; or
- 38 (4) a pharmacy record.

39 (p) Entry into an electronic records system as described in subsection  
40 (o) shall be presumed to provide notice to the prescriber. Otherwise, the  
41 pharmacist shall communicate the biological product dispensed to the  
42 prescriber using facsimile, telephone, electronic transmission or other  
43 prevailing means, provided that communication shall not be required

1 where:

2 (1) There is no FDA-approved interchangeable biological product for  
3 the product prescribed; or

4 (2) a refill prescription is not changed from the product dispensed on  
5 the prior filling of the prescription.

6 (q) A pharmacist shall maintain a record of any biological product  
7 dispensed for at least five years.

8 (r) The board shall maintain a link on its website to the current lists of  
9 all biological products that the FDA has determined to be interchangeable  
10 biological products.

11 Sec. 10. K.S.A. 65-1643 is hereby amended to read as follows: 65-  
12 1643. It shall be unlawful:

13 (a) For any person to operate, maintain, open or establish any  
14 pharmacy within this state without first having obtained a registration from  
15 the board. Each application for registration of a pharmacy shall indicate  
16 the person or persons desiring the registration, including the ~~pharmacist in~~  
17 ~~charge~~ *pharmacist-in-charge*, as well as the location, including the street  
18 name and number, and such other information as may be required by the  
19 board to establish the identity and exact location of the pharmacy. The  
20 issuance of a registration for any pharmacy shall also have the effect of  
21 permitting such pharmacy to operate as a retail dealer without requiring  
22 such pharmacy to obtain a retail dealer's permit. On evidence satisfactory  
23 to the board: (1) That the pharmacy for which the registration is sought  
24 will be conducted in full compliance with the law and the rules and  
25 regulations of the board; (2) that the location and appointments of the  
26 pharmacy are such that it can be operated and maintained without  
27 endangering the public health or safety; and (3) that the pharmacy will be  
28 under the supervision of a pharmacist, a registration shall be issued to such  
29 persons as the board shall deem qualified to conduct such a pharmacy.

30 (b) For any person to violate the federal drug supply chain security  
31 act, 21 U.S.C. § 351 et seq.

32 (c) For any person to distribute at wholesale any drugs *or devices*  
33 without first obtaining a registration as a wholesale distributor from the  
34 board.

35 (d) For any person to operate as a third-party logistics provider within  
36 this state without having first obtained a registration from the board.

37 (e) For any person to in any manner distribute or dispense samples of  
38 any drugs *or devices* without first having obtained a permit from the board  
39 so to do, and it shall be necessary to obtain permission from the board in  
40 every instance where the samples are to be distributed or dispensed.  
41 Nothing in this subsection shall be held to regulate or in any manner  
42 interfere with the furnishing of samples of drugs to duly licensed  
43 practitioners, to mid-level practitioners, to pharmacists or to medical care

1 facilities.

2 (f) Except as otherwise provided in this subsection, for any person  
3 operating a store or place of business to sell, offer for sale or distribute any  
4 drugs to the public without first having obtained a registration or permit  
5 from the board authorizing such person so to do. No retail dealer who sells  
6 12 or fewer different nonprescription drug products shall be required to  
7 obtain a retail dealer's permit under the pharmacy act of the state of Kansas  
8 or to pay a retail dealer new permit or permit renewal fee under such act. It  
9 shall be lawful for a retail dealer who is the holder of a valid retail dealer's  
10 permit issued by the board or for a retail dealer who sells 12 or fewer  
11 different nonprescription drug products to sell and distribute  
12 nonprescription drugs ~~which~~ *that* are prepackaged, fully prepared by the  
13 manufacturer or distributor for use by the consumer and labeled in  
14 accordance with the requirements of the state and federal food, drug and  
15 cosmetic acts. Such nonprescription drugs shall not include: (1) A  
16 controlled substance; (2) a prescription-only drug; or (3) a drug product  
17 intended for human use by hypodermic injection; but such a retail dealer  
18 shall not be authorized to display any of the words listed in K.S.A. 65-  
19 1626~~(hh)~~(zz), and amendments thereto, for the designation of a pharmacy or  
20 drugstore.

21 ~~(g) For any person to sell any drugs manufactured and sold only in~~  
22 ~~the state of Kansas, unless the label and directions on such drugs shall first~~  
23 ~~have been approved by the board~~ *manufacture within this state any drugs*  
24 *or devices except under the personal and immediate supervision of a*  
25 *pharmacist or such other individual as may be approved by the board*  
26 *after an investigation and a determination by the board that such*  
27 *individual is qualified by scientific or technical training or experience to*  
28 *perform such duties of supervision as may be necessary to protect the*  
29 *public health and safety, and no individual shall manufacture any drugs or*  
30 *devices without first obtaining a registration to do so from the board.*

31 (h) For any person to operate an institutional drug room without first  
32 having obtained a registration to do so from the board. Such registration  
33 shall be subject to the provisions of K.S.A. 65-1637a, and amendments  
34 thereto, and any rules and regulations adopted pursuant thereto.

35 (i) For any person to operate a veterinary medical teaching hospital  
36 pharmacy without first having obtained a registration to do so from the  
37 board. Such registration shall be subject to the provisions of K.S.A. 65-  
38 1662, and amendments thereto, and any rules and regulations adopted  
39 pursuant thereto.

40 (j) For any person to sell or distribute in a pharmacy a controlled  
41 substance designated in K.S.A. 65-4113~~(e)~~(d) or ~~(f)~~ (e), and amendments  
42 thereto, unless:

43 (1) (A) Such controlled substance is sold or distributed by a licensed

1 pharmacist, *or by* a registered pharmacy technician ~~or a pharmacy,~~  
2 *pharmacist* intern or clerk supervised by a licensed pharmacist;

3 (B) ~~any person~~ *individual* purchasing, receiving or otherwise  
4 acquiring any such controlled substance produces a *valid* photo  
5 identification showing the date of birth of the ~~person~~ *individual* and signs a  
6 log and enters in the log, or allows the seller to enter in the log, such  
7 ~~person's~~ *individual's* address and the date and time of sale or allows the  
8 seller to enter such information into an electronic logging system pursuant  
9 to K.S.A. 65-16,102, and amendments thereto. The log or database  
10 required by the board shall be available for inspection during regular  
11 business hours to the board of pharmacy and any law enforcement officer;

12 (C) the seller determines that the name entered in the log corresponds  
13 to the name provided on such identification and that the date and time  
14 entered are correct; and

15 (D) the seller enters in the log the name of the controlled substance  
16 and the quantity sold; or

17 (2) there is a lawful prescription.

18 (k) For any pharmacy to allow customers to have direct access to any  
19 controlled substance designated in K.S.A. 65-4113~~(e)(d)~~ or ~~(f)~~ *(e)*, and  
20 amendments thereto. Such controlled substance shall be placed behind the  
21 counter or stored in a locked cabinet that is located in an area of the  
22 pharmacy to which customers do not have direct access.

23 (l) A seller who in good faith releases information in a log pursuant to  
24 subsection (j) to any law enforcement officer is immune from civil liability  
25 for such release unless the release constitutes gross negligence or  
26 intentional, wanton or willful misconduct.

27 (m) For any person to sell or lease or offer for sale or lease durable  
28 medical equipment *or to supply medical grade oxygen to an end user*  
29 without first obtaining a registration from the board, in accordance with  
30 rules and regulations adopted by the board, except that this subsection  
31 shall not apply to:

32 (1) Sales not made in the regular course of the person's business; or

33 (2) sales by charitable organizations exempt from federal income  
34 taxation pursuant to the internal revenue code of 1986, ~~as amended.~~

35 (n) For any person to operate as an outsourcing facility within this  
36 state, or operate as an outsourcing facility outside of Kansas and ship, mail  
37 or deliver drugs into this state, without having first obtained a registration  
38 from the board.

39 (o) For any person to operate an automated dispensing system within  
40 this state without having first obtained a registration from the board.

41 (p) *For any person to distribute drugs or devices into Kansas as an*  
42 *out-of-state manufacturer of such drugs or devices without first obtaining*  
43 *a registration as a manufacturer from the board.*

1       Sec. 11. K.S.A. 65-1645 is hereby amended to read as follows: 65-  
2 1645. (a) Application for registrations or permits under K.S.A. 65-1643,  
3 and amendments thereto, shall be made on a form prescribed and furnished  
4 by the board. Applications for registration shall contain such information  
5 as may be required by the board in accordance with the provisions of  
6 K.S.A. 65-1655, ~~and amendments thereto, and K.S.A. 65-1655a and 65-~~  
7 1655b, and amendments thereto. The application shall be accompanied by  
8 the fee prescribed by the board under the provisions of this section. When  
9 such application and fees are received by the secretary on or before the due  
10 date, such application shall have the effect of temporarily renewing the  
11 applicant's registration or permit until actual issuance or denial of the  
12 renewal. However, if at the time of filing a proceeding is pending before  
13 the board that may result in the suspension, probation, revocation or denial  
14 of the applicant's registration or permit, the board may declare, by  
15 emergency order, that such application for renewal shall not have the effect  
16 of temporarily renewing such applicant's registration or permit. Separate  
17 applications shall be made and separate registrations or permits issued for  
18 each separate place at which is carried on any of the operations for which a  
19 registration or permit is required by K.S.A. 65-1643, and amendments  
20 thereto.

21       (b) *An application for a registration or permit under K.S.A. 65 -*  
22 *1643, and amendments thereto, submitted for a facility physically located*  
23 *outside of the state of Kansas shall be accompanied by an additional*  
24 *non - resident fee prescribed by the board by rules and regulations*  
25 *pursuant to this section. Such fee shall not exceed \$350 for a new*  
26 *registration and \$250 for a renewal.*

27       (c) The nonrefundable fees required for the issuing of the licenses,  
28 registrations or permits under the pharmacy act of the state of Kansas shall  
29 be fixed by the board as herein provided, subject to the following:

30       (1) Pharmacy, new registration not more than ~~\$150~~ \$250, renewal not  
31 more than ~~\$125~~ \$250;

32       (2) pharmacist, new license by examination not more than \$350;

33       (3) pharmacist, reinstatement application fee not more than \$250;

34       (4) pharmacist, biennial renewal fee not more than \$200;

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

36       (6) pharmacist, reciprocal licensure fee not more than ~~\$250~~ \$350;

37       (7) pharmacist, penalty fee, not more than \$500;

38       (8) manufacturer *or virtual manufacturer*, new registration not more  
39 than \$500, renewal not more than ~~\$400~~ \$500;

40       (9) wholesale distributor, new registration not more than \$500,  
41 renewal not more than ~~\$400~~ \$500, except that a wholesale distributor  
42 dealing exclusively in nonprescription drugs, the manufacturing,  
43 distributing or dispensing of which does not require registration under the

1 uniform controlled substances act, shall be assessed a fee for registration  
2 and ~~re-registration~~ *renewal* not to exceed ~~\$50~~ \$100;

3 (10) special auction not more than \$50;

4 (11) samples distribution not more than ~~\$50~~ \$100, renewal not more  
5 than ~~\$50~~ \$100;

6 (12) institutional drug room, new registration not more than ~~\$40~~  
7 \$100, renewal not more than ~~\$35~~ \$100;

8 (13) retail dealer selling more than 12 different nonprescription drug  
9 products, new permit not more than ~~\$12~~ \$50, renewal not more than ~~\$12~~  
10 \$50;

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

13 (15) veterinary medical teaching hospital pharmacy, new registration  
14 not more than \$40, renewal not more than \$35;

15 (16) durable medical equipment registration fee, not more than ~~\$300~~  
16 \$400, renewal not more than ~~\$300~~ \$400;

17 (17) third-party logistics provider, new registration not more than  
18 \$500, renewal not more than ~~\$400~~ \$500, except that a third-party logistics  
19 provider exclusively providing nonprescription drugs, the manufacturing,  
20 distributing or dispensing of which does not require registration under the  
21 uniform controlled substances act, shall be assessed a fee for registration  
22 and ~~re-registration~~ *renewal* not to exceed ~~\$50~~ \$100;

23 (18) outsourcing facility, new registration not more than \$500,  
24 renewal not more than ~~\$400~~ \$500;

25 (19) repackager, new registration not more than \$500, renewal not  
26 more than ~~\$400~~ \$500; or

27 (20) automated dispensing system registration fee, not more than \$40,  
28 renewal not more than \$35.

29 ~~(e)~~(d) For the purpose of fixing fees, the board may establish classes  
30 of retail dealers' permits for retail dealers selling more than 12 different  
31 nonprescription drug products, and the board may fix a different fee for  
32 each such class of permit.

33 ~~(d)~~(e) The board shall determine annually the amount necessary to  
34 carry out and enforce the provisions of this act for the next ensuing fiscal  
35 year and shall fix by rules and regulations the fees authorized for such year  
36 at the sum deemed necessary for such purposes. The fees fixed by the  
37 board under this section immediately prior to the effective date of this act  
38 shall continue in effect until different fees are fixed by the board by rules  
39 and regulations as provided under this section.

40 ~~(e)~~(f) The board may deny renewal of any registration or permit  
41 required by K.S.A. 65-1643, and amendments thereto, on any ground that  
42 would authorize the board to suspend, revoke or place on probation a  
43 registration or permit previously granted pursuant to the provisions of

1 K.S.A. 65-1643, and amendments thereto. Registrations and permits issued  
 2 under the provisions of K.S.A. 65-1643 and 65-1644, and amendments  
 3 thereto, shall be conspicuously displayed in the place for which the  
 4 registration or permit was granted. Such registrations or permits shall not  
 5 be transferable. All such registrations and permits shall expire every year.  
 6 The expiration date shall be established by rules and regulations adopted  
 7 by the board. All registrations and permits shall be renewed annually.  
 8 Notice of renewal of registrations and permits shall be sent by the board to  
 9 each registrant or permittee at least 30 days prior to expiration of the  
 10 registration or permit. If application for renewal is not made prior to  
 11 expiration, the existing registration or permit shall lapse and become null  
 12 and void on the date of its expiration, and no new registration or permit  
 13 shall be granted except upon payment of the required renewal fee plus a  
 14 penalty equal to the renewal fee. Failure of any registrant or permittee to  
 15 receive such notice of renewal shall not relieve the registrant or permittee  
 16 from the penalty hereby imposed if the renewal is not made as prescribed.

17 ~~(f)~~(g) In each case in which a license of a pharmacist is issued or  
 18 renewed for a period of time less than two years, the board shall prorate to  
 19 the nearest whole month the license or renewal fee established pursuant to  
 20 this section.

21 ~~(g)~~(h) The board may require that fees paid for any examination  
 22 under the pharmacy act of the state of Kansas be paid directly to the  
 23 examination service by the ~~person~~ *individual* taking the examination.

24 Sec. 12. K.S.A. 65-1656 is hereby amended to read as follows: 65-  
 25 1656. (a) Nothing contained in the pharmacy act of the state of Kansas  
 26 shall prohibit a pharmacist licensed in this state from filling or refilling a  
 27 valid prescription for prescription drugs not listed in schedule II of the  
 28 uniform controlled substances act, ~~which~~ *that* is on file in a pharmacy  
 29 licensed *or registered* in any state and has been transferred from one  
 30 pharmacy to another ~~by any means, including by way of electronic data~~  
 31 ~~processing equipment~~, upon the following conditions and exceptions:

32 (1) Prior to dispensing pursuant to any such prescription, the  
 33 dispensing pharmacist shall:

34 (A) ~~Advise the patient that the prescription file at such other~~  
 35 ~~pharmacy must be canceled before the dispensing pharmacist will be able~~  
 36 ~~to fill the prescription;~~

37 (B) ~~determine that the prescription is valid and on file at such other~~  
 38 ~~pharmacy and that such prescription may be filled or refilled, as requested,~~  
 39 ~~in accordance with the prescriber's intent expressed on such prescription;~~

40 (C) ~~notify the pharmacy where the prescription is on file that the~~  
 41 ~~prescription must be canceled;~~

42 (D) ~~record the prescription order, the name of the pharmacy at which~~  
 43 ~~the prescription was on file, the prescription number, the name of the drug~~

1 ~~and the original amount dispensed, the date of original dispensing and the~~  
2 ~~number of remaining authorized refills~~ *Ensure records and notifications*  
3 *are in compliance with rules and regulations adopted by the board;* and

4 ~~(E)(B)~~ obtain the consent of the prescriber to the refilling of the  
5 prescription when the prescription, in the professional judgment of the  
6 dispensing pharmacist, so requires. Any interference with the professional  
7 judgment of the dispensing pharmacist by any other licensed pharmacist,  
8 agents of the licensed pharmacist or employees shall be grounds for  
9 revocation or suspension of the registration issued to the pharmacy.

10 (2) Upon receipt of a request for *the transfer of a* prescription  
11 ~~information set forth in subsection (a)(1)(D)~~ *record*, if the requested  
12 pharmacist is satisfied in the professional judgment of the pharmacist that  
13 such request is valid and legal, the requested ~~pharmacist~~ *pharmacy* shall:

14 (A) Provide such information accurately and completely;

15 (B) ~~record on the prescription the name of the requesting pharmacy~~  
16 ~~and pharmacist and the date of request~~ *ensure records and notifications are*  
17 *made in compliance with rules and regulations adopted by the board;* and

18 (C) ~~cancel the prescription on file. No further prescription transfer~~  
19 ~~shall be given or medication dispensed pursuant to such original~~  
20 ~~prescription~~ *provide information in a timely manner to avoid interruption*  
21 *in the medication therapy of the patient.*

22 (3) In the event that, after the information set forth in subsection (a)  
23 (1)(D) has been provided, a prescription is not dispensed by the requesting  
24 pharmacist, then such pharmacist shall provide notice of this fact to the  
25 pharmacy from which such information was obtained, such notice shall  
26 then cancel the prescription in the same manner as set forth in subsection  
27 (a)(2)(C).

28 ~~(4)~~—When filling or refilling a valid prescription on file in another  
29 state, the dispensing pharmacist shall be required to follow all the  
30 requirements of Kansas law ~~which~~ *that* apply to the dispensing of  
31 prescription drugs. If anything in Kansas law prevents the filling or  
32 refilling of the original prescription it shall be unlawful to dispense  
33 pursuant to this section.

34 ~~(5)(4)~~ In addition to any other requirement of this section, the transfer  
35 of original prescription information for a controlled substance listed in  
36 schedules III, IV and V for the purposes of refill dispensing shall be made  
37 in accordance with the requirements of ~~section 1306.25 of chapter 21 of~~  
38 ~~the code of federal regulations~~ *21 C.F.R. § 1306.25.*

39 (b) Two or more pharmacies may establish and use a common  
40 electronic file to maintain required dispensing information. Pharmacies  
41 using such a common electronic file are not required to physically transfer  
42 prescriptions or information for dispensing purposes between or among  
43 pharmacies participating in the same common prescription file, except that

1 any such common file must contain complete and adequate records of such  
2 prescription and refill dispensed as required by the pharmacy act of the  
3 state of Kansas.

4 (c) The board may ~~formulate~~ *adopt* such rules and regulations, not  
5 inconsistent with law, as may be necessary to carry out the purposes of and  
6 to enforce the provisions of this section except that the board shall not  
7 impose greater requirements on either common electronic files or a hard  
8 copy record system.

9 (d) ~~Drugs shall in no event be dispensed more frequently or in larger~~  
10 ~~amounts than the prescriber ordered without direct prescriber authorization~~  
11 ~~by way of a new prescription order.~~ *Nothing in this section shall prevent a*  
12 *pharmacy from forwarding to another pharmacy an original, unfilled*  
13 *prescription for a noncontrolled substance or electronically forwarding an*  
14 *original, unfilled, electronic prescription for a controlled substance, at the*  
15 *request of the patient, in compliance with the provisions of the federal or*  
16 *state uniform controlled substances act.*

17 (e) This section shall be a part of and supplemental to the pharmacy  
18 act of the state of Kansas.

19 Sec. 13. K.S.A. 65-1657 is hereby amended to read as follows: 65-  
20 1657. (a) No nonresident pharmacy shall ship, mail or deliver, in any  
21 manner, prescription drugs *or devices* to a patient, *patient's agent or*  
22 *prescriber's office* in this state unless registered under this section as a  
23 nonresident pharmacy. Applications for a nonresident pharmacy  
24 registration under this section shall be made on a form furnished by the  
25 board. A nonresident pharmacy registration shall be granted for a period of  
26 one year upon compliance by the nonresident pharmacy with the  
27 provisions of this section and rules and regulations adopted pursuant to  
28 this section and upon payment of the registration fee established under  
29 K.S.A. 65-1645, and amendments thereto, for a pharmacy registration. A  
30 nonresident pharmacy registration shall be renewed annually on forms  
31 provided by the board, upon compliance by the nonresident pharmacy with  
32 the provisions of this section and rules and regulations adopted pursuant to  
33 this section and upon payment of the renewal fee established under K.S.A.  
34 65-1645, and amendments thereto, for the renewal of a pharmacy  
35 registration.

36 (b) As conditions for the granting of a registration and for the renewal  
37 of a registration for a nonresident pharmacy, the nonresident pharmacy  
38 shall comply with the following:

39 (1) Provide information to the board to indicate the person or persons  
40 applying for the registration, the location of the pharmacy from which the  
41 prescription drugs will be dispensed, the names and titles of all principal  
42 owners and corporate officers, if any, and the names of all pharmacists  
43 dispensing prescription drugs to residents of Kansas;

1 (2) be registered and in good standing in the state in which such  
2 pharmacy is located;

3 (3) maintain, in readily retrievable form, records of prescription drugs  
4 dispensed to Kansas patients;

5 (4) supply upon request, all information needed by the board to carry  
6 out the board's responsibilities under this section and rules and regulations  
7 adopted pursuant to this section;

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

11 (6) provide toll-free telephone communication consultation between a  
12 Kansas patient and a pharmacist at the pharmacy who has access to the  
13 patient's records, and ensure that the telephone ~~number(s)~~ *number* will be  
14 placed upon the label affixed to each prescription drug container dispensed  
15 in Kansas; and

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

18 ~~(c) When any nonresident pharmacy fails to supply requested~~  
19 ~~information to the board or fails to respond to proper inquiry of the board,~~  
20 ~~after receiving notice by certified mail, the board may assess a civil fine in~~  
21 ~~accordance with the provisions in K.S.A. 65-1658, and amendments~~  
22 ~~thereto.~~

23 ~~(d)~~ Each nonresident pharmacy shall comply with the following  
24 unless compliance would be in conflict with specific laws or rules and  
25 regulations of the state in which the pharmacy is located:

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

28 (2) labeling of all prescriptions dispensed, to include, but not be  
29 limited to, identification of the product and quantity dispensed;

30 (3) all the statutory and regulatory requirements of Kansas for  
31 dispensing prescriptions in accordance with the quantities indicated by the  
32 prescriber; and

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

35 ~~(e)~~*(d)* In addition to ~~subsection (d)~~ *the requirements of subsection (c)*,  
36 each nonresident pharmacy shall comply with all the statutory and  
37 regulatory requirements of Kansas regarding drug product selection laws  
38 whether or not such compliance would be in conflict with specific laws or  
39 rules and regulations of the state in which the pharmacy is located, except  
40 that compliance ~~which~~ *that* constitutes only a minor conflict with specific  
41 laws or rules and regulations of the state in which the pharmacy is located  
42 would not be required under this subsection.

43 ~~(f)~~*(e)* Each nonresident pharmacy shall develop and provide the board

1 with a policy and procedure manual that sets forth:

2 (1) Normal delivery protocols and times;

3 (2) the procedure to be followed if the patient's medication is not  
4 available at the nonresident pharmacy, or if delivery will be delayed  
5 beyond the normal delivery time;

6 (3) the procedure to be followed upon receipt of a prescription for an  
7 acute illness, ~~which policy~~ that shall include a procedure for delivery of  
8 the medication to the patient from the nonresident pharmacy at the earliest  
9 possible time, or an alternative that assures the patient the opportunity to  
10 obtain the medication at the earliest possible time; and

11 (4) the procedure to be followed when the nonresident pharmacy is  
12 advised that the patient's medication has not been received within the  
13 normal delivery time and that the patient is out of medication and requires  
14 interim dosage until mailed prescription drugs become available.

15 ~~(g) Except in emergencies that constitute an immediate threat to the  
16 public health and require prompt action by the board, the board may file a  
17 complaint against any nonresident pharmacy that violates any provision of  
18 this section. This complaint shall be filed with the regulatory or licensing  
19 agency of the state in which the nonresident pharmacy is located. If the  
20 regulatory or licensing agency of the state in which the nonresident  
21 pharmacy is located fails to resolve the violation complained of within a  
22 reasonable time, not less than 180 days from the date that the complaint is  
23 filed, disciplinary proceedings may be initiated by the board. The board  
24 also may initiate disciplinary actions against a nonresident pharmacy if the  
25 regulatory or licensing agency of the state in which the nonresident  
26 pharmacy is located lacks or fails to exercise jurisdiction.~~

27 *(f) The board may limit, condition, revoke, suspend, place in a  
28 probationary status or publicly or privately censure a registration or deny  
29 an application for issuance or renewal of any registration on any ground  
30 that would authorize the board to take action against the registration of a  
31 pharmacy under K.S.A. 65-1627, and amendments thereto.*

32 ~~(h)~~(g) The board shall adopt rules and regulations that make  
33 exceptions to the requirement of registration by a nonresident pharmacy  
34 when the out-of-state pharmacy supplies lawful refills to a patient from a  
35 prescription that was originally filled and delivered to a patient within the  
36 state in which the nonresident pharmacy is located, or when the  
37 prescriptions being mailed into the state of Kansas by a nonresident  
38 pharmacy occurs only in isolated transactions. In determining whether the  
39 prescriptions being mailed into the state of Kansas by a nonresident  
40 pharmacy are isolated transactions, the board shall consider whether the  
41 pharmacy has promoted its services in this state and whether the pharmacy  
42 has a contract with any employer or organization to provide pharmacy  
43 services to employees or other beneficiaries in this state.

1       ~~(j)~~(h) It is unlawful for any nonresident pharmacy ~~which~~ *that* is not  
2 registered under this act to advertise its services in this state, or for any  
3 person who is a resident of this state to advertise the pharmacy services of  
4 a nonresident pharmacy ~~which~~ *that* has not registered with the board, with  
5 the knowledge that the advertisement will or is likely to induce members  
6 of the public in this state to use the pharmacy to fill prescriptions.

7       ~~(j)~~(i) Upon request of the board, the attorney general may bring an  
8 action in a court of competent jurisdiction for injunctive relief to restrain a  
9 violation of the provisions of this section or any rules and regulations  
10 adopted by the board under authority of this section. The remedy provided  
11 under this subsection shall be in addition to any other remedy provided  
12 under this section or under the pharmacy act of the state of Kansas.

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

15       ~~(l)~~ The executive secretary of the board shall remit all moneys  
16 received from fees under this section to the state treasurer in accordance  
17 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon  
18 receipt of each such remittance, the state treasurer shall deposit the entire  
19 amount in the manner specified under K.S.A. 74-1609, and amendments  
20 thereto.

21       ~~(m)~~(k) A violation of this section is a severity level 10, nonperson  
22 felony.

23       ~~(n)~~(l) This section shall be *a* part of and supplemental to the  
24 pharmacy act of the state of Kansas.

25       Sec. 14. K.S.A. 65-1658 is hereby amended to read as follows: 65-  
26 1658. The state board of pharmacy, in addition to any other penalty  
27 prescribed under the pharmacy act of the state of Kansas, may assess a  
28 civil fine, after notice and an opportunity to be heard in accordance with  
29 the Kansas administrative procedure act, against any licensee or registrant  
30 under ~~subsections (a), (c), (d) and (e)~~ of K.S.A. 65-1627(a), (c), (d), (e)  
31 and (f), 65-1643, 65-1657, 65-1663 and 65-1676, and amendments thereto,  
32 for violation of the pharmacy act of the state of Kansas ~~or~~, rules and  
33 regulations of the state board of pharmacy adopted under the pharmacy act  
34 of the state of Kansas or for violation of the *federal or state* uniform  
35 controlled substances act or rules and regulations of the state board of  
36 pharmacy adopted under the *federal or state* uniform controlled substances  
37 act; ~~or for violation of the federal or state food, drug and cosmetic act or~~  
38 *any rules and regulations adopted under any such act* in an amount not to  
39 exceed \$5,000 for each violation. All fines assessed and collected under  
40 this section shall be remitted to the state treasurer in accordance with the  
41 provisions of K.S.A. 75-4215, and amendments thereto. ~~Of the amount so~~  
42 ~~remitted, an amount equal to the board's actual costs related to the case in~~  
43 ~~which the fine was assessed, as certified by the president of the board to~~

1 ~~the state treasurer, shall be, credited to the state board of pharmacy fee~~  
2 ~~fund, and the balance shall be credited to the state general fund.~~

3 Sec. 15. K.S.A. 65-1663 is hereby amended to read as follows: 65-

4 1663. (a) It shall be unlawful for any ~~person~~ *individual* to function as a  
5 pharmacy technician in this state unless such ~~person~~ *individual* is  
6 registered with the board as a pharmacy technician. Every ~~person~~  
7 *individual* registered as a pharmacy technician shall have graduated from  
8 an accredited high school or its equivalent, obtained a graduate equivalent  
9 diploma ~~(, GED)~~, or be enrolled and in good standing in a high school  
10 education program. Every ~~person~~ *individual* registered as a pharmacy  
11 technician shall pass one or more examinations identified and approved by  
12 the board within the period or periods of time specified by the board after  
13 becoming registered. The board shall adopt rules and regulations  
14 identifying the required examinations, when they must be passed and  
15 establishing the criteria for the required examinations and passing scores.  
16 The board may include as a required examination any national pharmacy  
17 technician certification examination. The board shall adopt rules and  
18 regulations restricting the tasks a pharmacy technician may perform prior  
19 to passing any required examinations.

20 (b) All applications for registration shall be made on a form to be  
21 prescribed and furnished by the board. Each application for registration  
22 shall be accompanied by a registration fee fixed by the board by rule and  
23 regulation not to exceed \$50.

24 (c) The board shall take into consideration any felony conviction of  
25 an applicant, but such conviction shall not automatically operate as a bar to  
26 registration.

27 (d) Except as otherwise provided in this subsection, each pharmacy  
28 technician registration issued by the board shall expire every two years.  
29 The expiration date shall be established by rules and regulations adopted  
30 by the board. To provide for a system of biennial renewal of pharmacy  
31 technician registrations, the board may provide by rules and regulations  
32 that registrations issued or renewed may expire less than two years from  
33 the date of issuance or renewal. Each applicant for renewal of a pharmacy  
34 technician registration shall be made on a form prescribed and furnished  
35 by the board and shall be accompanied by a renewal fee fixed by the board  
36 ~~by rule and regulation~~ *rules and regulations* not to exceed ~~\$25~~ \$50.  
37 Pharmacy technician registration renewal fees may be prorated for  
38 registration periods ~~which~~ *that* are less than biennial in accordance with  
39 rules and regulations of the board. Except as otherwise provided in this  
40 subsection, the application for registration renewal, when accompanied by  
41 the renewal fee and evidence satisfactory to the board that the ~~person~~  
42 *individual* has successfully complied with the rules and regulations of the  
43 board establishing the requirements for a program of continuing pharmacy

1 technician education and received by the secretary on or before the date of  
2 expiration of the registration, shall have the effect of temporarily renewing  
3 the applicant's registration until actual issuance or denial of the renewal  
4 registration. If at the time of filing a proceeding is pending before the  
5 board which may result in the suspension, probation, revocation or denial  
6 of the applicant's registration, the board may by emergency order declare  
7 that the application for renewal shall not have the effect of temporarily  
8 renewing such applicant's registration. If the renewal fee is not paid prior  
9 to the expiration date of the renewal year, the registration is void.

10 (e) Continuing pharmacy technician education requirements shall be  
11 fixed by the board at not more than 20 clock hours biennially of a program  
12 of continuing education approved by the board. Continuing education  
13 hours may be prorated for licensure periods that are less than biennial in  
14 accordance with rules and regulations of the board.

15 (f) (1) The board may limit, *condition, revoke, suspend*—~~or revoke,~~  
16 *place in a probationary status or publicly or privately censure* a  
17 registration or deny an application for issuance or renewal of any  
18 registration as a pharmacy technician on any ground, which would  
19 authorize the board to take action against the license of a pharmacist under  
20 K.S.A. 65-1627, and amendments thereto.

21 (2) The board may require a physical or mental examination, or both,  
22 ~~of a person~~ *an individual* applying for or registered as a pharmacy  
23 technician.

24 (3) The board may temporarily suspend or temporarily limit the  
25 registration of any pharmacy technician in accordance with the emergency  
26 adjudicative proceedings under the Kansas administrative procedure act if  
27 the board determines that there is cause to believe that grounds exist for  
28 disciplinary action under this section against the registrant and that the  
29 registrant's continuation of pharmacy technician functions would constitute  
30 an imminent danger to the public health and safety.

31 (4) Proceedings under this section shall be subject to the Kansas  
32 administrative procedure act.

33 (g) Every registered pharmacy technician, within 30 days of obtaining  
34 new employment or ceasing employment as a pharmacy technician, shall  
35 notify the secretary of the name and address of the new employer or  
36 cessation of employment.

37 (h) Every pharmacy technician who changes their residential address,  
38 email address or legal name shall, within 30 days thereof, notify the  
39 secretary of such change on a form prescribed and furnished by the board.

40 (i) Each pharmacy shall at all times maintain a list of the names of  
41 pharmacy technicians employed by the pharmacy. A pharmacy technician  
42 shall work under the direct supervision and control of a pharmacist, and  
43 while on duty, shall wear a name badge or similar identification with the

1 pharmacy technician's name and designation as a pharmacy technician. It  
2 shall be the responsibility of the supervising pharmacist to determine that  
3 the pharmacy technician is in compliance with the applicable rules and  
4 regulations of the board, and the supervising pharmacist shall be  
5 responsible for the acts and omissions of the pharmacy technician in the  
6 performance of the pharmacy technician's duties. The ratio of pharmacy  
7 technicians to pharmacists in the prescription area of a pharmacy shall be  
8 prescribed by the board by rule and regulation. Any change in the ratio of  
9 pharmacy technicians to pharmacists in the prescription area of the  
10 pharmacy must be adopted by a vote of no less than six members of the  
11 board.

12 (j) Every registered pharmacy technician shall display the current  
13 registration in that part of the place of business in which such ~~person~~  
14 *individual* is engaged in pharmacy technician activities.

15 (k) Every pharmacy technician registered after July 1, 2017, shall be  
16 required to pass a certified pharmacy technician examination approved by  
17 the board.

18 (l) The board shall adopt such rules and regulations as are necessary  
19 to ensure that pharmacy technicians are adequately trained as to the nature  
20 and scope of their lawful duties.

21 (m) The board may adopt rules and regulations as may be necessary  
22 to carry out the purposes and enforce the provisions of this act.

23 (n) This section shall be *a* part of and supplemental to the pharmacy  
24 act of the state of Kansas.

25 Sec. 16. K.S.A. 65-1676 is hereby amended to read as follows: 65-  
26 1676. (a) It shall be unlawful for any ~~person~~ *individual* to function as a  
27 pharmacist intern in this state unless such ~~person~~ *individual* is registered  
28 with the board as a pharmacist intern.

29 (b) All applications for registration shall be made on a form to be  
30 prescribed and furnished by the board. Each application for registration  
31 shall be accompanied by a registration fee fixed by the board by ~~rule and~~  
32 ~~regulation~~ *rules and regulations* not to exceed ~~\$25~~ \$50.

33 (c) Each pharmacist intern registration issued by the board shall  
34 expire six years from the date of issuance.

35 (d) (1) The board may limit, *condition, revoke, suspend or revoke,*  
36 *place in a probationary status or publicly or privately censure* a  
37 registration or deny an application for issuance or renewal of any  
38 registration as a pharmacist intern on any ground that would authorize the  
39 board to take action against the license of a pharmacist under K.S.A. 65-  
40 1627, and amendments thereto.

41 (2) The board may temporarily suspend or temporarily limit the  
42 registration of any pharmacist intern in accordance with the emergency  
43 adjudicative proceedings under the Kansas administrative procedure act, if

1 the board determines that there is cause to believe that grounds exist for  
2 disciplinary action under this section against the registrant and that the  
3 registrant's continuation of pharmacist intern functions would constitute an  
4 imminent danger to the public health and safety.

5 (3) Proceedings under this section shall be subject to the Kansas  
6 administrative procedure act.

7 (e) Every registered pharmacist intern, within 30 days of obtaining  
8 new employment, shall furnish the secretary notice of the name and  
9 address of the new employer.

10 (f) Every pharmacist intern who changes their residential address,  
11 email address or legal name shall, within 30 days thereof, notify the  
12 secretary of such change on a form prescribed and furnished by the board.

13 (g) Each pharmacy shall at all times maintain a list of the names of  
14 pharmacist interns employed by the pharmacy. A pharmacist intern shall  
15 work under the direct supervision and control of a pharmacist. It shall be  
16 the responsibility of the supervising pharmacist to determine that the  
17 pharmacist intern is in compliance with the applicable rules and  
18 regulations of the board, and the supervising pharmacist shall be  
19 responsible for the acts and omissions of the pharmacist intern in the  
20 performance of the pharmacist intern's duties.

21 (h) ~~A person~~*An individual* holding a pharmacist intern registration  
22 shall display such registration in that part of the place of business in which  
23 such ~~person~~*individual* is engaged in pharmacist intern activities.

24 (i) The board shall adopt such rules and regulations as are necessary  
25 to ensure that pharmacist interns are adequately trained as to the nature  
26 and scope of their lawful duties. The board may adopt rules and  
27 regulations as may be necessary to carry out the purposes of and enforce  
28 the provisions of this section.

29 (j) This section shall be *a* part of and supplemental to the pharmacy  
30 act of the state of Kansas.

31 Sec. 17. K.S.A. 65-636, 65-1627, 65-1631, 65-1637, 65-1643, 65-  
32 1645, 65-1656, 65-1657, 65-1658, 65-1663 and 65-1676 and K.S.A. 2020  
33 Supp. 65-1626 are hereby repealed.

34 Sec. 18. This act shall take effect and be in force from and after its  
35 publication in the statute book.