

2021 Kansas Statutes

65-1657. Nonresident pharmacy registration; information required; civil fine; regulatory requirements; drug product selection rules; interstate delivery guidelines; disciplinary action; pharmacies prohibited from advertising unless registered; penalties for violations; injunctive relief; rules and regulations. (a) No nonresident pharmacy shall ship, mail or deliver, in any manner, prescription drugs or devices to a patient, patient's agent or prescriber's office in this state unless registered under this section as a nonresident pharmacy. Applications for a nonresident pharmacy registration under this section shall be made on a form furnished by the board. A nonresident pharmacy registration shall be granted for a period of one year upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the registration fee established under K.S.A. 65-1645, and amendments thereto, for a pharmacy registration. A nonresident pharmacy registration shall be renewed annually on forms provided by the board, upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the renewal fee established under K.S.A. 65-1645, and amendments thereto, for the renewal of a pharmacy registration.

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

- (1) Provide information to the board to indicate the person or persons applying for the registration, the location of the pharmacy from which the prescription drugs will be dispensed, the names and titles of all principal owners and corporate officers, if any, and the names of all pharmacists dispensing prescription drugs to residents of Kansas;
- (2) be registered and in good standing in the state in which such pharmacy is located;
- (3) maintain, in readily retrievable form, records of prescription drugs dispensed to Kansas patients;
- (4) supply upon request, all information needed by the board to carry out the board's responsibilities under this section and rules and regulations adopted pursuant to this section;
- (5) maintain pharmacy hours that permit the timely dispensing of drugs to Kansas patients and provide reasonable access for the patients to consult with a licensed pharmacist about such patients' medications;
- (6) provide toll-free telephone communication consultation between a Kansas patient and a pharmacist at the pharmacy who has access to the patient's records, and ensure that the telephone number will be placed upon the label affixed to each prescription drug container dispensed in Kansas; and
- (7) provide to the board such other information as the board may reasonably request to administer the provisions of this section.

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

- (1) All statutory and regulatory requirements of Kansas for controlled substances, including those that are different from federal law;
- (2) labeling of all prescriptions dispensed, to include, but not be limited to, identification of the product and quantity dispensed;
- (3) all the statutory and regulatory requirements of Kansas for dispensing prescriptions in accordance with the quantities indicated by the prescriber; and
- (4) the Kansas law regarding the maintenance and use of the patient medication profile

record system.

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

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

(1) Normal delivery protocols and times;

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

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

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

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

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

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

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

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

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

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

History: L. 1992, ch. 304, § 2; L. 1994, ch. 247, § 2; L. 2001, ch. 5, § 228; L. 2008, ch. 75, § 2; L.

2008, ch. 150, § 7; L. 2021, ch. 106, § 13; June 3.