

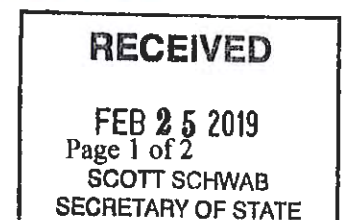
State of Kansas
Board of Pharmacy
Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted on Tuesday, May 7, 2019 at 9:00 a.m. at the Kansas State Board of Pharmacy at 800 SW Jackson, Suite 1414, Topeka, Kansas to review and consider the adoption of proposed amended regulations of the Kansas State Board of Pharmacy.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the public hearing to Alexandra Blasi, Executive Secretary, 800 S.W. Jackson, Suite 1414, Topeka, Kansas 66612-1244 or by e-mail to pharmacy@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the public hearing should be made at least 10 business days in advance of the hearing by contacting Alexandra Blasi, Executive Secretary, 800 S.W. Jackson, Suite 1414, Topeka, Kansas 66612-1244 or by phone at (785) 296-4056 . Handicapped parking is located at the north entrance to the building. Curbs at the north entrance are accessible to individuals with disabilities.

Summaries of the proposed regulations and their economic impact follow. Copies of the regulations and economic impact statement may be viewed at <http://pharmacy.ks.gov/statutes-regs/proposed-reg-changes>.



K.A.R. 68-11-1 and 68-11-2 are being amended to increase application and renewal fees for pharmacists, pharmacies, and other facilities registered by the Board. In response to legislative requests in 2014 related to excess Board fee funds, the Board lowered fees by 20% for all application and renewal license types. In addition, the legislature swept \$800,000 from the Board fee fund to the state general fund after fees were lowered in 2014, depleting the fee fund balance even more. These increases are within existing statutory caps, allow fees to remain competitive with other state boards of pharmacy, and are necessary to maintain a positive fee fund balance in FY 2020 and beyond. Based on the increases, which range from 25-46% for most licensure categories, the Board anticipates generating \$342,630 of additional revenue per year. For more details, please review the complete economic impact statement.

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68-11-1. Fees for examination and licensure as a pharmacist. The following fees shall be paid to the board by each applicant for examination and licensure as a pharmacist:

(a) Each applicant for examination shall pay a fee of ~~\$40.00~~ \$100.00 ~~to the Kansas board of pharmacy.~~

(b) Each applicant for reciprocal licensure shall pay a fee of ~~\$64.00~~ \$125.00 ~~to the Kansas board of pharmacy.~~

(c) An additional fee of \$250.00 to evaluate the education and training shall be paid by each applicant for reciprocal licensure or examination who graduated from a school or college of pharmacy or department of a university not approved by the board.

(d) Each licensed pharmacist shall pay a renewal fee of ~~\$120.00~~ \$150.00.

(e) The penalty fee for a late renewal of a pharmacist license shall be ~~\$160.00~~ \$200.00.

(Authorized by K.S.A. 65-1630 and K.S.A. 2013-Supp. 65-1645; implementing K.S.A. 2013-Supp. 65-1645; effective May 1, 1983; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended May 1, 1991; amended Nov. 30, 1992; amended June 6, 1994; amended July 31, 1998; amended Feb. 5, 1999; amended Feb. 7, 2003; amended Oct. 20, 2006; amended May 30, 2014; amended P-_____.)

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68-11-2. Fees for premises and service registrations and permits. (a) Pharmacy

registration fees shall be as follows:

(1) Each new pharmacy registration shall be ~~\$112.00~~ \$150.00.

(2) Each renewal pharmacy registration shall be ~~\$100.00~~ \$125.00.

(b) Manufacturer registration fees shall be as follows:

(1) Each new ~~manufacturer~~ registration shall be ~~\$240.00~~ \$350.00.

(2) Each renewal ~~manufacturer~~ registration shall be ~~\$240.00~~ \$350.00.

(c) Wholesaler distributor registration fees shall be as follows:

(1) Each new ~~wholesaler distributor~~ registration shall be ~~\$240.00~~ \$350.00.

(2) Each renewal ~~wholesaler distributor~~ registration shall be ~~\$240.00~~ \$350.00.

(3) For each wholesale distributor who deals exclusively in nonprescription drugs, the registration fee shall be ~~\$40.00~~ \$50.00.

(4) For each wholesale distributor who deals exclusively in nonprescription drugs, the renewal fee shall be ~~\$40.00~~ \$50.00.

(d) For each institutional drug room or veterinary medical teaching hospital pharmacy, registration fees shall be as follows:

(1) Each new registration shall be ~~\$20.00~~ \$25.00.

(2) Each renewal registration shall be ~~\$16.00~~ \$20.00.

(e) Retail dealer permit fees shall be as follows:

(1) Each new ~~retail dealer~~ permit shall be \$10.00.

(2) Each renewal ~~retail dealer~~ permit shall be \$10.00.

(f) Each special auction permit shall be \$28.00.

(g) Sample distribution fees shall be as follows:

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(1) Each new ~~sample distribution~~ permit shall be ~~\$24.00~~ \$30.00.

(2) Each renewal ~~sample distribution~~ permit shall be ~~\$24.00~~ \$30.00.

(h) For each place of business that sells durable medical equipment, registration fees shall be as follows:

(1) Each new registration shall be ~~\$240.00~~ \$300.00.

(2) Each renewal registration shall be ~~\$240.00~~ \$300.00.

(i) Third-party logistics provider registration fees shall be as follows:

(1) Each new ~~third party logistics provider~~ registration shall be ~~\$240.00~~ \$350.00.

(2) Each renewal ~~third party logistics provider~~ registration shall be ~~\$240.00~~ \$350.00.

(3) For each third-party logistics provider who deals exclusively in nonprescription drugs, the registration fee shall be ~~\$40.00~~ \$50.00.

(4) For each third-party logistics provider who deals exclusively in nonprescription drugs, the renewal fee shall be ~~\$40.00~~ \$50.00.

(j) For each outsourcing facility or virtual outsourcing facility, registration fees shall be as follows:

(1) Each new registration shall be ~~\$240.00~~ \$350.00.

(2) Each renewal registration shall be ~~\$240.00~~ \$350.00.

(k) Repackager registration fees shall be as follows:

(1) Each new registration shall be ~~\$240.00~~ \$350.00.

(2) Each renewal registration shall be ~~\$240.00~~ \$350.00.

(l) For each place of business that operates an automated dispensing system for patient medication administration, registration fees shall be as follows:

(1) Each new registration shall be \$20.00.

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(2) Each renewal registration shall be \$20.00. (Authorized by K.S.A. 65-1630 and K.S.A. 2016 Supp. 65-1645, as amended by L. 2017, ch. 34, sec. 10; implementing K.S.A. 2016 Supp. 65-1645, as amended by L. 2017, ch. 34, sec. 10; effective May 1, 1983; amended May 1, 1988; amended June 6, 1994; amended Feb. 7, 2003; amended Oct. 24, 2008; amended May 30, 2014; amended Dec. 15, 2017; amended P-_____.)

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Board of Pharmacy
Agency

Alexandra Blasi
Agency Contact

785-296-8419
Contact Phone Number

68-11-1, 68-11-2
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

K.A.R. 68-11-1 and 68-11-2 are being amended to increase application and renewal fees for pharmacists, pharmacies, and other facilities registered by the Board.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

The content of this regulation is not mandated by the federal government. Fees are consistent with other states.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

In response to legislative requests in 2014 related to excess Board fee funds, the Board lowered fees by 20% for all application and renewal license types. Proposed increases will financially impact new applicants and current licensees but should not be deterrents to engaging in the practice of pharmacy in Kansas.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

See attached comparative chart for an individual licensee impact as well as the total fiscal impact. The Board anticipates generating \$342,630 of additional revenue per year.

C. Businesses that would be directly affected by the proposed rule and regulation;

Resident and non-resident facilities registered by the Board including pharmacies, manufacturers, wholesale distributors, non-prescription drug distributors, institutional drug rooms, sample distributors, durable medical equipment providers, third-party logistics providers, outsourcing facilities, and repackagers.

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D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The Board lowered fees for four years and maintained a steady fee fund balance until additional contributions were required for the K-TRACS program. In addition, the legislature swept \$800,000 from the Board fee fund to the state general fund after fees were lowered in 2014, depleting the fee fund balance even more. These increases are within existing statutory caps, allow fees to remain competitive with other state boards of pharmacy, and are necessary to maintain a positive fee fund balance in FY 2020 and beyond.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The Board intentionally omitted a fee increase for pharmacy technicians, pharmacy students, and retail dealers, which are some of the lower earners and provide necessary services.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$342,630

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$342,630 per year

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

Data was acquired from the Board's licensing software system.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the

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League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

n/a

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Over the past three years, the agency has repeatedly notified pharmacy associations and other stakeholder groups of the dwindling fee fund balance and the inevitable fee increases. While no feedback has been provided at the times of such notifications, the Board has not recently consulted with such organizations. Licensees have expressed concern regarding Board fee funds (licensee dollars) being used for the K-TRACS program and have recommended that state general funding be appropriated for that program.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

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Proposed

Type	Current	New	Difference	% Change	2018 KBOP #s	Rev Increase
Pharmacist by Exam App	\$ 40.00	\$ 100.00	\$ 60.00	150%	219	\$ 13,140.00
Pharmacist by Recip App	\$ 64.00	\$ 125.00	\$ 61.00	95%	155	\$ 9,455.00
Pharmacist Renewal	\$ 120.00	\$ 150.00	\$ 30.00	25%	2686	\$ 80,580.00
Pharmacist Penalty	\$ 160.00	\$ 200.00	\$ 40.00	25%	43	\$ 1,720.00
Pharmacy App	\$ 112.00	\$ 150.00	\$ 38.00	34%	495	\$ 18,810.00
Pharmacy Renewal	\$ 100.00	\$ 125.00	\$ 25.00	25%	1631	\$ 40,775.00
Manufacturer App	\$ 240.00	\$ 350.00	\$ 110.00	46%	1	\$ 110.00
Manufacturer Renewal	\$ 240.00	\$ 350.00	\$ 110.00	46%	14	\$ 1,540.00
Distributor App	\$ 240.00	\$ 350.00	\$ 110.00	46%	164	\$ 18,040.00
Distributor Renewal	\$ 240.00	\$ 350.00	\$ 110.00	46%	1165	\$ 128,150.00
NPD App	\$ 40.00	\$ 50.00	\$ 10.00	25%	13	\$ 130.00
NPD Renewal	\$ 40.00	\$ 50.00	\$ 10.00	25%	111	\$ 1,110.00
Inst Drug Room App	\$ 20.00	\$ 25.00	\$ 5.00	25%	14	\$ 70.00
Inst Drug Room Renewal	\$ 16.00	\$ 20.00	\$ 4.00	25%	137	\$ 548.00
Sample App	\$ 24.00	\$ 30.00	\$ 6.00	25%	2	\$ 12.00
Sample Renewal	\$ 24.00	\$ 30.00	\$ 6.00	25%	30	\$ 180.00
DME App	\$ 240.00	\$ 300.00	\$ 60.00	25%	54	\$ 3,240.00
DME Renewal	\$ 240.00	\$ 300.00	\$ 60.00	25%	417	\$ 25,020.00
TOTAL						\$ 342,630.00

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