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Legislative Research Commission
083, Capital Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

December 2, 2024

Dear Co-Chairs,

After consideration of the issues raised by 201 KAR 2:030 and the attorney general's opinion referencing such, the Board of Pharmacy proposes the attached agency amendment to this ordinary administrative regulation.

Sincerely,

Christopher Harlow, Executive Director
Kentucky Board of Pharmacy

Final, 11-22-2024

AGENCY AMENDMENT

BOARDS AND COMMISSIONS

Board of Pharmacy

201 KAR 2:030. License transfer and Non-Resident Pharmacist License.

NOTE TO COMPILER: Make the changes as directed in the staff amendment/suggested substitute first, and then make these agency amendment changes to the suggested substitute.

TITLE

After "201 KAR 2:030. License transfer", delete "and Non-Resident Pharmacist License".

NECESSITY, FUNCTION, AND CONFORMITY

After "requirements for licensure by reciprocity", delete the following:
and for licensure of non-resident pharmacists

Section 1(4) and (5)

After "Boards of Pharmacy.", delete the following:

(5) "Non-Resident Pharmacist License" means a license issued by the board to a pharmacist licensed and located in another jurisdiction to practice pharmacy to citizens in Kentucky.

Sections 6 through 11

After "Section 6." Delete the following:

An applicant licensed in another jurisdiction shall be eligible for non-resident pharmacist license if the applicant:

- (1) Holds in good standing an active license to practice pharmacy in any state;
- (2) The applicant is issued a NABP Verify credential; and
- (3) The applicant submits to a fingerprint-supported criminal record check by the Department of Kentucky State Police and the Federal Bureau of Investigation pursuant to KRS 218A.205(8).

Section 7. An applicant for non-resident pharmacist license shall be exempt from:

- (1) The requirements for license transfer;
- (2) The Multistate Pharmacy Jurisprudence Examination administered by NABP; and
- (3) Continuing Education requirements of Kentucky.

Section 8. A non-resident pharmacist licensee shall:

- (1) Maintain participation in the NABP Verify Program;
- (2) Submit an initial application for non-resident pharmacist licensure;
- (3) Submit an annual renewal of non-resident pharmacist license; and
- (4) Pay the annual renewal of a pharmacist non-resident license fee established in 201 KAR 2:050.

Section 9. The following acts are prohibited with the utilization of a non-resident pharmacist license:

- (1) Engaging in the practice of pharmacy in Kentucky while:
 - (a) Residing in Kentucky; or
 - (b) Employed by a pharmacy located in Kentucky; and
- (2) Serving as a pharmacist-in-charge of a Kentucky permitted facility.

Section 10. Board Discretion.

- (1) The board maintains the discretion to deny an applicant a licensee if the applicant fails to demonstrate good mental health and moral character pursuant to KRS 315.050(1);
- (2) The board may waive the provisions of Section 9 of this administrative regulation during a declared state of emergency.

Section 11.

Section 11(1) and (1)(a) (*Now renumbered as Section 6(1) and (1)(a)*)

After "Reference. (1)", delete the following:

The following material is incorporated by reference:

- (a)

Section 11(1)(a) (*Now renumbered as Section 6(1)(a)*)

After "2018", insert the following:

. is incorporated by reference.

Section 11(1)(a) and (1)(b) (*Now renumbered as Section 6(1)(a) and (1)(b)*)

Delete the following:

; and

- (b) "Application/Renewal for Non-Resident Pharmacist License", 04/2024.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

At the time the agency files this agency amendment, the agency shall file one (1) clean updated copy of its RIA that:

- Includes the updated title of the regulation that deletes reference to the Non-Resident Pharmacist License
- Includes updated answers to Questions (1)(a)-(d), 2(a), (b), and (d), (3), (4)(a) and (b), (7), (8), and (9) for consistency and to delete references to the additional fees for non-resident pharmacists and the licensure of non-resident pharmacists that have been removed from the regulation.

FISCAL IMPACT STATEMENT

At the time the agency files this agency amendment, the agency shall file one (1) clean updated copy of its Fiscal Impact Statement that:

- Includes the updated title of the regulation that deletes reference to the Non-Resident Pharmacist License
- Includes an updated answer to Questions (2)(a) and (b), (4), (4)(a) and (b), (5)(a), (6)(b) for consistency with the changes of removing the non-resident pharmacist license from the regulation.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 2:030. License transfer.

Contact person: Christopher Harlow, Phone 502-564-7910, email christopher.harlow@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes conditions, forms, and examination requirements for licensure by reciprocity.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to inform pharmacists of the conditions, forms, and examination requirements for reciprocal licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation, authorized by KRS 315.191 (1)(a), establishes conditions, forms, and examination requirements for licensure by reciprocity. This administrative regulation conforms to the authorizing statute because the authorizing statute gives the board authority to promulgate administrative regulations pertaining to pharmacists and pharmacies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will ensure that pharmacists are informed of the conditions, forms, and examination requirements for reciprocal licensure.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment cleans up the regulation and provides a definition of "good standing."

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clean up regulatory references and add a definition of "good standing."

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to an existing administrative regulation, authorized by KRS 315.191 (1)(a), establishes conditions, forms, and examination requirements for licensure by reciprocity. This amendment to an existing administrative regulation conforms to the authorizing statute because KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations pertaining to pharmacists and pharmacies.

(d) How the amendment will assist in the effective administration of the statutes: This amendment cleans up regulation references and adds a definition of "good standing."

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates that pharmacists seeking reciprocity will be affected, as pharmacists seeking reciprocity will need to comply with this administrative regulation to obtain licensure.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: 1. Pharmacists seeking reciprocity will have to familiarize themselves with this administrative regulation. 2. This administrative regulation establishes conditions, forms, and examination requirements for licensure by reciprocity. 3. The board will help educate identified entities of this amendment to an existing administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Reciprocal applications cost \$250, and this is not being amended.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These pharmacists will have the benefit of practicing pharmacy in Kentucky.

(5) Provide an estimate of how much it will cost to implement this administrative Regulation:

(a) Initially The Kentucky Board of Pharmacy is implementing a new licensing management software in 2024. The cost associated with this new software included the anticipated changes with the proposed and amended regulations. The base price for the software is \$220,500 plus the implementation cost of \$88,200. The yearly support and maintenance is \$66,150. This fund has been appropriated to the Kentucky Board of Pharmacy by the passing of HB6 in 2024.

Additional administrative cost includes personnel for licensing pharmacists and non-resident pharmacies. The Kentucky Board of Pharmacy estimates the annual and ongoing personnel cost to be \$132,000. :

(b) On a continuing basis: The year 2-5 support and maintenance for the licensing management software ranges from \$66,150 to \$72,284.

Additional administrative cost to administer the proposed amendment includes personnel for licensing pharmacists and non-resident pharmacies. The Kentucky Board of Pharmacy estimates the annual and ongoing personnel cost to be \$132,000.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Board revenues from pre-existing fees provide the funding to enforce the regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no fee being amended here directly or indirectly.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used) Tiering is not applied because the regulation is applicable to all pharmacists seeking license transfer.

FISCAL IMPACT STATEMENT

201 KAR 2:030. License transfer.

Contact person: Christopher Harlow, Phone 502-564-7910, email christopher.harlow@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 315.191(1) authorizes the Board to regulate pharmacists through licensing.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency, the Board of Pharmacy, is the only affected state unit impacted.

(a) Estimate the following for the first year:

Expenditures: This amendment does not create further expenditures outside of what is already allocated for licensing.

Revenues: This amendment does not create any additional revenue.

Cost Savings: none.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? These things are not expected to change as there is no fee increase or change per this amendment.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no local affected entities with the exception of the Board.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? n/a

(4) Identify additional regulated entities not listed in questions (2) or (3): Out of state pharmacists are the regulated party that will be impacted by this regulation. This includes those applicants seeking license transfer.

(a) Estimate the following for the first year:

Expenditures: For transfer/reciprocating pharmacists, the cost is \$250 initially and \$105 each year for renewal.

Revenues: n/a

Cost Savings: n/a

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It will not change unless there is a regulatory change.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no expected fiscal impact of this amended regulation.

(b) Methodology and resources used to determine the fiscal impact: The estimated revenues generated for the budget are obtained from current and historical data.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate): This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: Agency data.