

CHAPTER 61

(SB 107)

AN ACT relating to the Board of Pharmacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 315.035 is amended to read as follows:

- (1) No person shall operate a pharmacy without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars (\$250).
- (2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars (\$250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.
- (3) A separate permit to operate shall be required for each pharmacy.
- (4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars (\$250) nor to increase more than twenty-five dollars (\$25) per year. An additional fee not to exceed the annual renewal fee may be assessed **and set by administrative regulation** as a **delinquent renewal** penalty for failure to renew by **June 30**~~[August 1]~~ of each year.
- (5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.
- (6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for Health Services or a local health department.

Section 2. KRS 315.110 is amended to read as follows:

- (1) ***Each license to practice pharmacy, unless sooner suspended or revoked, shall expire on February 28 following its date of issuance.*** Every pharmacist who desires to continue to practice pharmacy shall pay to the executive director of the board a reasonable renewal fee to be set by administrative regulation of the board, but not to exceed one hundred seventy-five dollars (\$175) annually or increase more than twenty-five dollars (\$25) per year, and shall file with the board an application in such form and containing such data as the board may require for renewal of the license. ~~[-The renewal fee and renewal period shall be set by administrative regulation of the board.]~~ A ***delinquent renewal*** penalty fee not to exceed the renewal fee may be assessed ***and set by administrative regulation*** for each renewal period the licensee fails to renew the license ~~[-within thirty (30) days -]after expiration.~~
- (2) Every pharmacist shall keep his current certificate conspicuously displayed in his primary place of practice.
- (3) In addition to a current renewal certificate, each pharmacist shall be issued upon renewal a pocket certificate which shall be in the licensee's possession at all times when the licensee is engaged in the practice of pharmacy and which shall be exhibited by the licensee upon request from any member, inspector or agent of the board.

Section 3. KRS 315.120 is amended to read as follows:

- (1) Within thirty (30) days after the renewal period, the executive director shall notify all pharmacists who have failed to comply with license renewal requirements. ~~[-Failure to comply within sixty (60) days after notification shall result in automatic revocation of the license, unless the pharmacist is able to demonstrate by written petition at a hearing before the board that the failure to renew was not willful. The license holder shall be advised of this in the notification.]~~
- (2) Any pharmacist who has failed to timely renew his license for any consecutive period up to five (5) years may renew his license only upon satisfying the continuing education regulations of the board and paying the cumulative penalty and renewal fees provided for in KRS 315.110.
- (3) Any pharmacist who has failed to timely renew his license for five (5) or more consecutive years may renew his license only upon satisfying the continuing education regulations of the board, passing a satisfactory examination before the board and paying the renewal and penalty fees provided for in KRS 315.110.
- (4) Any pharmacist not currently holding an active pharmacist's license in another jurisdiction who does not desire to meet the qualifications for active license renewal shall, upon application, be issued an inactive license. Such license shall entitle the license holder to use the term "pharmacist" but the license holder shall not be permitted to engage in the practice of pharmacy. An inactive license holder may apply for an active license as provided for by the regulations of the board. The inactive license renewal fee shall be set by administrative regulation of the board, not to exceed fifty dollars (\$50) annually.

Section 4. KRS 315.191 is amended to read as follows:

- (1) The board is authorized to:
 - (a) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters set forth in this chapter relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers, to the extent that regulation and control of same have not been

delegated to some other agency of the Commonwealth, but administrative regulations relating to drugs shall be limited to the regulation and control of drugs sold pursuant to a prescription drug order. However, nothing contained in this chapter shall be construed as authorizing the board to promulgate any administrative regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services;

- (b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board;
- (c) Prescribe the time, place, method, manner, scope, and subjects of examinations, with at least two (2) examinations to be held annually;
- (d) Issue and renew all licenses, certificates, and permits for all pharmacists, pharmacist interns, pharmacies, wholesale distributors, and manufacturers engaged in the manufacture, distribution, or dispensation of drugs;
- (e) Investigate all complaints or violations of the state pharmacy laws and the administrative regulations promulgated by the board, and bring all these cases to the notice of the proper law enforcement authorities;
- (f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are necessary and to control the storage, retrieval, dispensing, refilling, and transfer of prescription drug orders within and between pharmacists and pharmacies licensed or issued a permit by it;
- (g) Perform all other functions necessary to carry out the provisions of law and the administrative regulations promulgated by the board relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers;
- (h) Establish or approve programs for training, qualifications, and registration of pharmacist interns;
- (i) Assess reasonable fees, in addition to the fees specifically provided for in this chapter and consistent with KRS 61.870 to 61.884, for services rendered to perform its duties and responsibilities, including, but not limited to, the following:
 - 1. Issuance of duplicate certificates;
 - 2. Mailing lists or reports of data maintained by the board;
 - 3. Copies of documents; or
 - 4. Notices of meetings;
- (j) Seize any drug or device found by the board to constitute an imminent danger to public health and welfare;
- (k) Establish an advisory council to advise the board on administrative regulations and other matters, within the discretion of the board, pertinent to the regulation of pharmacists, pharmacist interns, pharmacy technicians, pharmacies, drug distribution, and drug manufacturing. The council shall consist of nine (9) members selected by the board for ~~four (4) year~~ terms **of up to four (4) years**. No member shall serve on the council for more than **eight (8) years**~~[two (2) full terms]~~. Membership of the council

shall include nine (9) individuals broadly representative of the profession of pharmacy and the general public. Members shall be selected by the board from a list of qualified candidates submitted by the association, society, or other interested parties; and

- (1) Promulgate administrative regulations establishing the qualifications that pharmacy technicians are required to attain prior to engaging in pharmacy practice activities outside the immediate supervision of a pharmacist.
- (2) The board shall have other authority as may be necessary to enforce pharmacy laws and administrative regulations of the board including, but not limited to:
 - (a) Joining or participating in professional organizations and associations organized exclusively to promote improvement of the standards of practice of pharmacy for the protection of public health and welfare or facilitate the activities of the board; and
 - (b) Receiving and expending funds, in addition to its biennial appropriation, received from parties other than the state, if:
 1. The funds are awarded for the pursuit of a specific objective which the board is authorized to enforce through this chapter, or which the board is qualified to pursue by reason of its jurisdiction or professional expertise;
 2. The funds are expended for the objective for which they were awarded;
 3. The activities connected with or occasioned by the expenditure of the funds do not interfere with the performance of the board's responsibilities and do not conflict with the exercise of its statutory powers;
 4. The funds are kept in a separate account and not commingled with funds received from the state; and
 5. Periodic accountings of the funds are maintained at the board office for inspection or review.
- (3) In addition to the sanctions provided in KRS 315.121, the board or its hearing officer may direct any licensee, permit holder, or certificate holder found guilty of a charge involving pharmacy or drug laws, rules, or administrative regulations of the state, any other state, or federal government, to pay to the board a sum not to exceed the reasonable costs of investigation and prosecution of the case, not to exceed twenty-five thousand dollars (\$25,000).
- (4) In an action for recovery of costs, proof of the board's order shall be conclusive proof of the validity of the order of payment and any terms for payment.

Section 5. KRS 315.126 is amended to read as follows:

- (1) The board shall establish **a pharmacist recovery network**~~{an impaired pharmacist}~~ committee to promote the early identification, intervention, treatment, and rehabilitation of pharmacists and pharmacist interns who may be impaired by reason of illness, alcohol or drug abuse, or as a result of any other physical or mental condition.
- (2) The board may enter into a contractual agreement with a nonprofit corporation, pharmacy professional organization, or similar organization for the purpose of creating, supporting, and maintaining **a pharmacist recovery network**~~{an impaired pharmacist}~~ committee.
- (3) The board may promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate and implement the provisions of this section.

- (4) Beginning July 15, 1998, the board shall collect an assessment of ten dollars (\$10) to be added to each licensure renewal application fee payable to the board. This assessment shall be expended by the board on the operation of the *pharmacist recovery network*~~[impaired pharmacist]~~ committee.
- (5) Members of a *pharmacist recovery network*~~[an impaired pharmacist]~~ committee, any administrator, staff member, consultant, agent, volunteer, or employee of the committee acting within the scope of his or her duties and without actual malice and all other persons who furnish information to the committee in good faith and without actual malice shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the committee or by any individual member of the committee.
- (6) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the *pharmacist recovery network*~~[impaired pharmacist]~~ committee, all communications to or from the committee, and all proceedings, findings, and conclusions of the committee, including those relating to intervention, treatment, or rehabilitation, that in any way pertain or refer to a pharmacist or pharmacist intern who is or may be impaired shall be privileged and confidential.
- (7) All records and proceedings of the committee that pertain or refer to a pharmacist or pharmacist intern who is or may be impaired shall be privileged and confidential, used by the committee and its members only in the exercise of the proper function of the committee, not be considered public records, and not be subject to court subpoena, discovery, or introduction as evidence in any civil, criminal, or administrative proceedings, except as described in subsection (8) of this section.
- (8) The committee may only disclose the information relative to an impaired pharmacist or pharmacist intern if:
 - (a) It is essential to disclose the information to persons or organizations needing the information in order to address the intervention, treatment, or rehabilitation needs of the impaired pharmacist or pharmacist intern;
 - (b) The release is authorized in writing by the impaired pharmacist or pharmacist intern; or
 - (c) The committee is required to make a report to the board pursuant to KRS 315.121.

Approved March 11, 2005.