

BOARDS AND COMMISSIONS

Board of Pharmacy

(Amended After Comments)

201 KAR 2:380. Board authorized protocols.

RELATES TO: KRS 315.010(25), 315.191(1)(a), (f)

STATUTORY AUTHORITY: KRS 315.010(25), 315.191(1)(a), (f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.010(25) defines a prescription drug order, which includes orders issued through protocols authorized by the board. KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations necessary to regulate and control all matters pertaining to pharmacists, pharmacist interns, pharmacy technicians, and pharmacies. KRS 315.191(1)(f) authorizes the board to promulgate administrative regulations that are necessary to control the dispensing of prescription drug orders. This administrative regulation establishes procedures for board authorized protocols by which pharmacists may initiate the dispensing of noncontrolled medications or other professional services.

Section 1. Definitions ~~{Definition}~~.

(1) "Fully executed" means a protocol has been signed and dated by the prescriber and the pharmacist(s) party to the protocol agreement as required by Section 3 of this document.

(2) "Prescriber" means any Kentucky licensed physician or advanced practice nurse practitioner~~{individual authorized to prescribe a legend drug}~~.

(3) "Protocol registry" means the records maintained by the board of pharmacy of any fully executed protocol that is being utilized to initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services.

Section 2. Procedures. A pharmacist or pharmacists utilizing a protocol may initiate the dispensing of noncontrolled medications, over-the-counter medications, or other professional services under the following conditions:

(1) ~~{A prescriber approved protocol that meets the minimum requirements in Section 3 of this administrative regulation is in place, and is dated and signed by the prescriber and pharmacist authorized to initiate the dispensing of noncontrolled medications, over the counter medications, or other professional services. A pharmacist not party to the executed protocol has no authority to utilize the protocol for medication dispensing or other professional service provision;}~~ The protocol:

(a) Meets the minimum requirements in Section 3;

(b) Directs the care, based on current clinical guidelines, for acute self-limiting conditions and other minor ailments, preventative health services, and disease state monitoring and management as deemed appropriate by the board;

(c) Must state the permit number of the Kentucky permitted pharmacy where the protocol will be utilized;

(d) Has been reviewed and authorized by the board prior to its execution;

(e) Has been fully executed and submitted to the board for inclusion in the protocol registry, which shall be made available to the prescriber's licensing board upon request.

(2) ~~{The protocol directs the care, based on current clinical guidelines, for acute self-limiting conditions and other minor ailments, preventative health services, and disease state monitoring and management as deemed appropriate by the board} [conditions listed in Section 5 of this administrative regulation].~~

~~{(3)} [The protocol has been approved by the board, who provides notice to the prescriber's licensure board within ten (10) business days of approval by the board;]~~

~~{(4)}~~ The pharmacist or pharmacists documents the dispensing event in the pharmacy management system, including:

(a) Documentation as required by 201 KAR 2:171~~{170}~~ for the dispensing of prescription medication; and

(b) Documentation that the individual receiving the medication or other professional service was provided with education pursuant to Section ~~3(4)~~~~{4}~~ of this administrative regulation; and

~~{(3)}~~ ~~{(5)}~~ A pharmacist shall request the individual's primary care provider's information, provided one exists, and shall provide notification to the primary care provider within two (2) business days.

~~{(4)}~~ Any pharmacist not party to the fully executed protocol shall not utilize the protocol;

~~{(5)}~~ A pharmacist utilizing the protocol shall be employed by or contracted with the permit holder;

~~{(6)}~~ No fully executed protocol shall be used to initiate the dispensing of medications or to provide other professional services until it has been submitted to the board for inclusion in the protocol registry; and

~~{(7)}~~ The pharmacist-in-charge shall be responsible for:

~~{(a)}~~ Submitting the fully executed protocol to the board for inclusion into the registry; and

~~{(b)}~~ Submitting a written notification to the board to remove a protocol from the registry no later than thirty (30) days after discontinuing a protocol.

Section 3. Minimum Requirements of Protocol. Protocols shall contain the following elements:

(1) Criteria for identifying persons eligible to receive medication therapies or other professional services under the protocol, and referral to an appropriate prescriber if the patient is high-risk or treatment is contraindicated;

(2) A list of the medications, including name, dose, route, frequency of administration, and refills authorized to be dispensed under the protocol;

(3) Procedures for how the medications are to be initiated and monitored, including a care plan implemented in accordance with clinical guidelines;

(4) Education to be provided to the person receiving the dispensed medications, including aftercare instructions, if appropriate;

(5) Procedures for documenting in the pharmacy management system all medications dispensed, including notification of the prescriber signing the protocol, if requested;

(6) Length of time protocol is in effect;

(7) Date and signature of prescriber approving the protocol;

(8) Dates and signatures of the pharmacist(s) authorized to initiate dispensing of medications or other professional services under the protocol.~~;~~ ~~and]~~

~~{(9)}~~ ~~[The date, and education or training of the pharmacist as referenced in Section 4 of this administrative regulation.]~~

~~[Section 4.] [Pharmacist Education and Training Required. A pharmacist who dispenses medication pursuant to a prescriber approved protocol shall first receive education and training in the subject matter of the protocol from a provider accredited by the Accreditation Council for Pharmacy Education or by a comparable provider approved by the board. Documentation of education shall be provided to the board upon request. Education shall be obtained prior to initiating care under the protocol.]~~

~~{Section 5.} {Authorized Conditions. Board-authorized protocols may be established for the following conditions:}~~

- ~~{(1)} {Acute influenza infection pursuant to recommendations by the Centers for Disease Control and Prevention (CDC);}~~
- ~~{(2)} {Acute streptococcal pharyngitis infection;}~~
- ~~{(3)} {Acute, uncomplicated urinary tract infection;}~~
- ~~{(4)} {Acute cutaneous or mucocutaneous fungal infection;}~~
- ~~{(5)} {Alcohol use disorder utilizing naltrexone-based therapy pursuant to recommendations from the American Psychiatric Association;}~~
- ~~{(6)} {Allergic rhinitis;}~~
- ~~{(7)} {Anaphylaxis;}~~
- ~~{(8)} {Colorectal cancer prevention and screening;}~~
- ~~{(9)} {HCV infection screening;}~~
- ~~{(10)} {HIV infection prophylaxis, pre-exposure and post-exposure pursuant to recommendations by the CDC;}~~
- ~~{(11)} {HIV infection screening pursuant to recommendations by the CDC;}~~
- ~~{(12)} {Nutritional supplementation with vitamins and minerals;}~~
- ~~{(13)} {Opioid use disorder pursuant to recommendations by the American Society of Addiction Medicine;}~~
- ~~{(14)} {Tobacco use disorder;}~~
- ~~{(15)} {Traveler's health pursuant to recommendations by the CDC;}~~
- ~~{(16)} {Tuberculosis prevention and control through skin testing, and referral as necessary, pursuant to recommendations by the CDC; and}~~
- ~~{(17)} {Self-care conditions appropriately treated with over-the-counter medications and products.}~~

Section 4. Protocol Review Committee.

- (1) The board shall form a committee comprised of four (4) pharmacists and one (1) physician. This committee shall meet no less than quarterly to:**
 - (a) Evaluate new protocols proposed for board approval to ensure compliance with Section 2(1)(b) and Section 3 of this administrative regulation; and**
 - (b) Review previously authorized protocols no later than three (3) years from the authorization date to ensure alignment with current practice guidelines.**
- (2) The protocol review committee may consult with an expert with relevant practice experience.**
- (3) The pharmacists shall be appointed by the Board of Pharmacy and the physician by the Kentucky Board of Medical Licensure.**
- (4) Terms for the pharmacist and physician members on the committee shall be for a term of four (4) years.**
- (5) The chair of the committee shall be a pharmacist member.**

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christopher Harlow

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes procedures for board authorized protocols by which pharmacists may initiate the dispensing of noncontrolled medications or offer other professional services.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary for pharmacists to provide a high level of care to their patients, in accordance with protocols that have been provided from the prescriber and approved by the Board of Pharmacy. This will allow for discretion by the Board of Pharmacy to approve board authorized protocols as the public health need arises.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 315.191(1)(a) authorizes the Board of Pharmacy to promulgate administrative regulations to regulate and control all matters pertaining to pharmacists and pharmacies. KRS 315.191(1)(f) authorizes the Board to promulgate administrative regulations pertaining to prescription drug orders. KRS 315.010(25) defines a prescription drug order to include protocols authorized by the Board. This administrative regulation establishes criteria for protocols to be authorized by the Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

Prescribers, pharmacists, pharmacies, patients and the public will be able to ascertain what is required for pharmacist to utilize a prescriber approved protocol.

(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 will provide the board with discretion to review protocols as public health needs arise. It removes the specific listing of conditions for which protocols can be established.

(b) The necessity of the amendment to this administrative regulation:

To allow pharmacists to play a more critical clinical role in public health and to respond immediately to public health needs without the delay of going through the rulemaking process.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 315.002 and 315.005 authorize the board to regulate the practice of pharmacy. KRS 315.191 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:

The amendment will further promote, preserve, and protect public health through effective regulation of pharmacists and pharmacies by providing the board with discretion to determine what prescriber approved protocols are appropriate as the public health need arises without going through the regulatory process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The board anticipates pharmacists will be impacted, as their potential scope of practice could be increased. With this regulation becoming effective, patients in need of access to care will be better served.

(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:

Pharmacies and pharmacists will have to familiarize themselves with new amended language in the regulation. The board will help to educate pharmacists and pharmacies in these changes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There are no expected costs for the identities to comply with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Pharmacists will potentially have the ability to have a larger clinical scope of practice and the public can more robustly utilize pharmacists to serve their public health needs.

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

(a) Initially:

No costs will be incurred.

(b) On a continuing basis:

No costs will be incurred.

(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:

No increase in fees or funding will be required because of this new regulation.

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

This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied because the regulation is applicable to all pharmacists equally.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Board of Pharmacy will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 315.191(a)(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments or school districts) for the first full year the administrative regulation is to be in effect.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

No answer provided.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not generate revenue for the board in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate revenue for the board in subsequent years.

(c) How much will it cost to administer this program for the first year?

No costs are required to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years?

No costs are required to administer this program for subsequent years. Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of this administrative regulation. Not applicable.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):0

Expenditures (+/-):0

Other Explanation:

none

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

There will be no cost savings from this administrative regulation.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

There will be no cost savings for subsequent years.

(c) How much will it cost the regulated entities for the first year?

There will be no cost to regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years?

There will be no cost to regulated entities for subsequent years. Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of this administrative regulation. Not applicable.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):0

Expenditures (+/-):0

Other Explanation:

none

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation does not have major economic impact.