

BOARDS AND COMMISSIONS

Board of Pharmacy

(Amendment)

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

RELATES TO: KRS 315.191(1)(c), (d), 315.050, 315.210

STATUTORY AUTHORITY: KRS 218A.205(8), 315.191(1)(a), (c), (d), 315.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.210 authorizes the board to establish conditions for licensure by reciprocity. KRS 218A.205(8) requires the board to establish requirements for background checks for licensees. This administrative regulation establishes conditions, forms, and examination requirements for licensure by reciprocity and for licensure of non-resident pharmacists.

Section 1. Definitions.

(1) "Board" is defined by KRS 315.010(4).

(2) "Good standing" means that a license is not suspended, revoked, surrendered, conditioned under terms of probation, or otherwise in a status that in any manner restricts the activity of the licensee.

~~(3)~~ "License transfer" means a license to practice pharmacy in Kentucky issued by the board to a pharmacist licensed in another jurisdiction.

(4) ~~{(3)}~~ "NABP" means the National Association of Boards of Pharmacy.

(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.

Section 2. An applicant licensed in another jurisdiction shall be eligible for license transfer, if the:

(1) Requirements for licensure of the jurisdiction that granted his or her license met or exceeded Kentucky requirements for licensure when the license in the other jurisdiction was granted;

(2) Applicant holds in good standing, an active license to practice pharmacy;

(3) Applicant has:

(a) Completed and certified the NABP Preliminary Application for Transfer of Pharmacist License form; and

(b) Received an NABP Official Application for Transfer of Pharmacist License;

(4) Applicant is currently in good standing in the jurisdiction from which he or she has applied;

(5) Applicant has successfully completed an examination in jurisprudence;

(6) Applicant has submitted to a nation-wide criminal background investigation by means of fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; and

(7) Applicant has submitted to a query to the National Practitioner Data Bank of the United States Department of Health and Human Services.

Section 3. Required Information. An applicant shall provide the information required by the NABP Preliminary Application for Transfer of Pharmacist License form, including:

(1) Name, maiden, and other names used currently or previously;

(2) Address, telephone number;

(3) Date of birth;

(4) Social Security number;

(5) Citizenship;

(6) Sex;

- (7) State of original license by examination, including:
 - (a) License number;
 - (b) Original date of issue;
 - (c) Current status of original licensure; and
 - (d) State for which license transfer is requested;
- (8) Pharmacy education, including:
 - (a) Name and location of pharmacy school;
 - (b) Name of pharmacy degree;
 - (c) Date degree was received; and
 - (d) Other professional degrees, including the information specified by paragraphs (a) to (c) of this subsection;
- (9) Whether the applicant has earned certification by the Foreign Pharmacy Graduate Examination Committee, and, if so, the examination equivalency number assigned;
- (10) Total hours of practical experience as an intern prior to licensure as a pharmacist;
- (11) States, dates, and results of pharmacist licensure examinations;
- (12) Pharmacist licenses currently held, including issue date, expiration date, status, and any board action taken against the licensee;
- (13) Practice and employment, including nonpharmacist employment, from the past three (3) years;
- (14) Record of charges or convictions of any felony or misdemeanor offense, other than traffic offenses, and whether or not a sentence was imposed or suspended;
- (15) Record of any surrender of a pharmacist license or registration issued by the federal government or any state controlled substance authority;
- (16) Record of any pharmacist license revocation, suspension, restriction, termination, or other disciplinary action by any board of pharmacy or other state authority;
- (17) Record of whether the pharmacist is currently under investigation or subject to disciplinary action by the licensing jurisdiction, federal Food and Drug Administration, federal Drug Enforcement Administration or any state drug enforcement authority for the violation of any state or federal pharmacy, liquor, or drug laws;
- (18) Record of any condition or impairment, such as substance or alcohol abuse or dependency that in any way affects the pharmacist's ability to practice pharmacy in a safe and competent manner; and
- (19) Record of any application for initial licensure, renewal licensure, or licensure by transfer that was denied by any licensing authority, whether in pharmacy or any other profession.

Section 4. The board shall accept license transfer applications from jurisdictions that:

- (1) Are an active member of the NABP; and
- (2) Grant license transfers to pharmacists pursuant to conditions and requirements that are the equivalent of conditions and requirements established by the board.

Section 5. An applicant for license transfer shall take and pass the Multistate Pharmacy Jurisprudence Examination administered by the NABP and shall pay the fees in 201 KAR 2:050(1) and (19).

Section 6. An applicant licensed in another jurisdiction shall be eligible for non-resident pharmacist license if the applicant: ~~[Fee. An applicant shall include the fees specified by 201 KAR 2:050, Section 1(2) and (19).]~~

- (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 7.~~ Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "NABP Preliminary Application for Transfer of Pharmacist License", April 2018; and ~~is incorporated by reference.~~
 - (b) "Application/Renewal for Non-Resident Pharmacist License", 04/2024.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the Web site at <https://pharmacy.ky.gov/professionals/Pages/Pharmacists.aspx>. ~~<https://pharmacy.ky.gov/professionals/Pages/Reciprocal-Information.aspx>.~~

CHRISTOPHER HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: April 15, 2024

FILED WITH LRC: April 15, 2024 at 10:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 25, 2024, at 10:00 a.m. Eastern Time via zoom teleconference. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky

40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.

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 conditions, forms, and examination requirements for licensure by reciprocity and for licensure of non-resident pharmacists.

(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 and non-resident 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 and for licensure of non-resident pharmacists. 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 and non-resident 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 to an existing administrative regulation establishes a new classification of pharmacist licensure. This amendment to an existing administrative regulation establishes conditions, forms, and examination requirements for licensure of nonresident pharmacists.

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

This amendment to an existing administrative regulation is necessary to inform non-resident pharmacists of the conditions, forms, and examination requirements for non-resident licensure.

(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 non-resident licensure. 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 provides rules for non-resident pharmacist licensure.

(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 and non-resident pharmacists will be affected, as pharmacists seeking reciprocity and non-resident pharmacists will need to comply with this administrative regulation to obtain licensure. Data was collected from non-resident pharmacies indicating the number of pharmacists dispensing prescriptions to residents of the Commonwealth without a license issued by the Kentucky Board of Pharmacy to be 9,250 pharmacists.

(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 and non-resident pharmacists will have to familiarize themselves with this administrative regulation. 2. This administrative regulation establishes conditions, forms, and examination requirements for licensure by reciprocity and for licensure of non-resident pharmacists. 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. Applications for non-resident licensure will cost \$50. These fees are in 201 KAR 2:050.

(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 the administrative body 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:

An amendment to 201 KAR 2:050 includes a new fee for non-resident licensure that has been created here.

(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, but in the non-resident licensure application, a fee is referenced. This fee originates in 201 KAR 2:050.

(9) TIERING: Is tiering applied?

Tiering is not applied because the regulation is applicable to all pharmacists seeking license transfer and all out of state pharmacists seeking a nonresident license.

FISCAL IMPACT STATEMENT

(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:The board is implementing new licensing management software in 2024. The cost associated with this software includes the anticipated changes from this amendment. The base price for the software is \$220,500 plus the implementation cost of \$88,200. The yearly support and maintenance is \$66,150. Additional administrative costs include personnel costs for licensing pharmacists. The Board estimates the annual personnel cost to be approximately \$132,000.

Revenues:The Board estimates additional revenues to be approximately \$462,500 from annual renewals from non-resident pharmacists and those that practice into Kentucky via license transfer.

Cost Savings:none.

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

It will depend on the number of applicants seeking transfer or to become a non-resident pharmacist licensee.

(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 and those pharmacists seeking a non-resident pharmacist license.

(a) Estimate the following for the first year:

Expenditures:\$50 for a non-resident pharmacist license and \$50 for the annual renewal. 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 depend on the number of pharmacists seeking license transfer or a non-resident pharmacist license.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The fiscal impact rests on pharmacists that are seeking licensure in Kentucky via the license transfer route or the limited license that can be obtained via non-resident pharmacist licensure. For transfer applicants, the cost is \$250 with an annual renewal of \$105. For non-resident pharmacist license applicants, the cost is \$50 and the renewal cost is \$50. If pharmacies pay for their pharmacists non-resident in aggregate, these numbers could be increased for the initial licensing of non-resident pharmacists. Currently 47.6% of pharmacists licensed with the Board are located outside of Kentucky.

(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 including the number of pharmacists that might seek a non-resident pharmacist license, as collected from pharmacy responses.