

STATE OF KANSAS  
KANSAS PHARMACY BOARD

**NOTICE OF PUBLIC HEARING ON PROPOSED ARTICLE**

A public hearing will be conducted at 10:30 a.m., on the 11<sup>th</sup> day of March, 2010, at the Kansas University School of Pharmacy, 1251 Wescoe Hall Drive, 2056 Malott Hall, Room 2049, Lawrence, Kansas, to consider the amendments of 68-20-10a and 68-1-1b and the proposed 68-7-21 of the Kansas Pharmacy Board.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the amendments of 68-20-10a and 68-1-1b and the proposed 68-7-21. All parties may submit written comments prior to the hearing to the Executive Secretary of the Kansas Pharmacy Board, Debra Billingsley, [pharmacy@pharmacy.ks.gov](mailto:pharmacy@pharmacy.ks.gov) or Landon State Office Building, 900 SW Jackson, Room 560, Topeka, Kansas 66612-1231. All interested parties will be given a reasonable opportunity to present their views orally on the amendment of the regulation during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to 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 regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting the Kansas Pharmacy Board, Landon State Office Building, 900 SW Jackson, Room 560, Topeka, Kansas 66612-1231, (785) 296-4056. Handicapped parking is located along Sunnyside Avenue, which runs south of Malott Hall. If handicapped parking on Sunnyside Avenue is used, it is necessary to cross the street to enter into the first floor of Malott Hall. There also is handicapped parking located behind Malott Hall in

Lot #37. This lot is accessed by an alley that lies to the east of the Dole Human Development Center, which also is located to the east of Malott Hall. If Lot #37 is used, entry into Malott Hall would occur on the second floor of the building.

A summary of the amended and proposed regulations are as follows:

**68-20-10a. Electronic prescription transmission of controlled substances.** This regulation already identifies various provisions for electronic prescription transmission of controlled substances. The amended regulation is proposed to specify what constitutes a “long term care facility (LTCF)” for purposes of prescriptions by electronic transmission.

**68-1-1b. Continuing education unit.** This regulation provides the provisions for continuing educational units.

**68-7-21. Institutional drug rooms.** This regulation identifies the policies and procedures governing the storage and proper and consistent controls of drugs administered or dispensed in an Institutional Drug Room.

Copies of the regulation and the economic impact statement may be obtained from the Kansas Pharmacy Board, Landon State Office Building, 900 SW Jackson, Room 560, Topeka, Kansas 66612-1231, (785) 296-4056, or by accessing the Board’s website at <http://www.accesskansas.org/pharmacy/leg.html>.

Debra Billingsley  
Executive Secretary

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**ECONOMIC IMPACT STATEMENT**

Pursuant to K.S.A. 77-420(b), the Kansas Pharmacy Board submits the following description of the economic impact of K.A.R. 68-20-10a.

1. This regulation already identifies various provisions for electronic prescription transmission of controlled substances in long term care facilities. The amended regulation is proposed to specify what constitutes a “long term care facility (LTCF)” for purposes of prescriptions by electronic transmission.
2. The proposed regulation is not mandated by federal laws.
3. No new costs will be borne by pharmacists, pharmacy technicians, or others.
4. The Board is not aware of any less costly or less intrusive methods to achieve the stated purpose and thus none were considered.
5. This is not a proposed environmental regulation.

**68-20-10a. Electronic prescription transmission of controlled substances.** (a) A prescription drug order transmitted electronically shall be issued for a legitimate medical purpose by a prescriber acting within the course of legitimate professional practice.

(b) All prescription drug orders communicated by way of electronic transmission shall fulfill all the requirements of K.A.R. 68-2-22.

(c) If communicated by electronic transmission, the prescription drug order shall be maintained in hard copy for the time required by existing federal and state laws and regulations.

(d) A prescription drug order, including that for any controlled substance listed in schedules III, IV, and V, and in certain situations, that for any controlled substance listed in schedule II, may be communicated by electronic transmission.

(e) The electronic transmission of a prescription drug order for any schedule II controlled substance shall conform to these requirements:

(1) A prescription drug order for any schedule II controlled substance may be communicated by the prescriber or that prescriber's designated agent by way of electronic transmission, if the original, written, signed prescription drug order is presented to the pharmacist for review before the actual dispensing of the controlled substance, except as noted in this subsection.

(2) A prescription drug order for any schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be communicated by the prescriber or that prescriber's designated agent to the pharmacy by way of electronic transmission. The hard copy of this electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and ~~it~~ the hard copy shall be maintained as such.

(3) A prescription drug order for any schedule II controlled substance for a resident of a

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~~long term care facility (LTCF)~~ nursing facility, a nursing facility for mental health, or an assisted living facility may be communicated by the prescriber or that prescriber's designated agent by way of electronic transmission. The hard copy of this electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and ~~it~~ the hard copy shall be maintained as such.

(4) A prescription drug order for any schedule II controlled substance for a patient released by a registered institution to a home hospice setting that continues to provide daily skilled nursing care to the home hospice setting may be transmitted by the prescriber or that prescriber's designated agent by way of electronic transmission to the dispensing pharmacy. The hard copy of this electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and ~~it~~ the hard copy shall be maintained as such.

(5) In the case of an emergency situation, a prescription drug order for any schedule II controlled substance may be communicated by the prescriber by way of electronic transmission, if ~~these conditions~~ the following requirements are met:

(A) The quantity prescribed and dispensed ~~is~~ shall be limited to the amount adequate to treat the patient during the emergency period. Dispensing beyond the emergency period shall be pursuant to a written prescription drug order signed by the prescriber.

(B) After the pharmacist views the prescription drug order, this order shall be immediately reduced to a hard copy and shall contain all information required by federal and state laws and regulations.

(C) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order communicated by way of electronic transmission, consistent with existing federal and state laws and regulations.

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(D) (i) Within seven days after authorizing an emergency prescription drug order, the prescriber shall cause a written prescription drug order for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to all other federal and state laws and regulations, the prescription drug order shall have written on its face "authorization for emergency dispensing" and the date of the transmitted prescription drug order.

(ii) The written prescription drug order shall be delivered to the pharmacist in person within seven days of authorization, or if delivered by mail, ~~it~~ the order shall be postmarked within the seven-day period.

(iii) Upon receipt, the dispensing pharmacist shall attach this written prescription drug order to the hard copy of the electronically transmitted prescription drug order. The pharmacist shall notify the nearest office of the U.S. drug enforcement administration (DEA) if the prescriber fails to deliver a written prescription drug order. (Authorized by and implementing K.S.A. 65-1630, K.S.A. ~~1998~~ 2008 Supp. 65-1642, K.S.A. ~~1998~~ Supp. 65-4102, as amended by L. 2009, Ch. 32, Sec. 54, and K.S.A. 65-4123, ~~as amended by L. 1999, Ch. 115, Sec. 15;~~ effective Feb. 5, 1999; amended Dec. 27, 1999; amended P-\_\_\_\_\_.)

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