

2018 Kansas Statutes

65-1627. Grounds for revocation, suspension, placement in probationary status, denial, temporary suspension or temporary limitation of license for pharmacist, permit for retail dealer or registration for pharmacy, manufacturer, distributor or logistics provider; emergency proceedings, procedure. (a)

The board may revoke, suspend, place in a probationary status or deny an application or renewal of any license of any pharmacist upon a finding that:

- (1) The licensee has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact;
 - (2) the licensee has been convicted of a misdemeanor involving moral turpitude or gross immorality or any felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;
 - (3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;
 - (4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;
 - (5) the licensee has violated a provision of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act;
 - (6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;
 - (7) the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;
 - (8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;
 - (9) the licensee has failed to comply with the continuing education requirements of the board for license renewal;
 - (10) the licensee as a pharmacist in charge or consultant pharmacist under the provisions of K.S.A. 65-1648(c) or (d), and amendments thereto, has failed to comply with the requirements of K.S.A. 65-1648(c) or (d), and amendments thereto;
 - (11) the licensee has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement;
 - (12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;
 - (13) the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order; or
 - (14) the licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as established by any of the following:
 - (A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto.
 - (B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto.
 - (C) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto;
 - (15) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board;
 - (16) the licensee has violated or failed to comply with any lawful order or directive of the board; or
 - (17) the licensee has violated any of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board pursuant to the provisions of the prescription monitoring program act.
- (b) In determining whether or not the licensee has violated subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such violation exists, the investigative information shall be presented to the board as a whole. Information submitted to the board as a whole and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of pharmacy with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice pharmacy and who shall accept the privilege to practice pharmacy in this state by so practicing or by the making and filing of a renewal application to practice pharmacy in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.
- (c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action under subsection (a) against the licensee and that the licensee's continuation in practice would constitute an imminent danger to the public health and safety.
- (d) The board may suspend, revoke, place in a probationary status or deny a renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was issued are not being conducted according to law or the rules and regulations of the board. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.
- (e) The board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that:
- (1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of

the state of Kansas or of the rules and regulations of the board have occurred in connection therewith;

(2) the owner or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act or uniform controlled substances act of the state of Kansas, or the federal or state food, drug and cosmetic act;

(3) the owner or any pharmacist employed by such pharmacy has fraudulently claimed money for pharmaceutical services; or

(4) the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(f) A registration to manufacture or repackage drugs, to operate as a wholesale distributor, to sell durable medical equipment or to operate as a third-party logistics provider, or a registration for the place of business where any such operation is conducted, may be suspended, revoked, placed in a probationary status or the renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent:

(1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas;

(2) has been convicted of a felony under any federal or state law relating to the manufacture or distribution of drugs;

(3) has had any federal registration for the manufacture or distribution of drugs suspended or revoked;

(4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629, and amendments thereto;

(5) has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations; or

(6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas, has violated the uniform controlled substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act or has violated a provision of the federal drug supply chain security act or any rule or regulation adopted under such act. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

History: L. 1953, ch. 290, § 13; L. 1965, ch. 369, § 5; L. 1972, ch. 231, § 5; L. 1975, ch. 319, § 3; L. 1982, ch. 262, § 1; L. 1984, ch. 313, § 106; L. 1986, ch. 235, § 2; L. 1986, ch. 231, § 10; L. 1986, ch. 234, § 3; L. 1988, ch. 356, § 195; L. 1989, ch. 193, § 2; L. 1991, ch. 187, § 1; L. 1994, ch. 118, § 2; L. 1995, ch. 106, § 1; L. 1998, ch. 98, § 1; L. 1999, ch. 38, § 3; L. 1999, ch. 149, § 7; L. 2007, ch. 177, § 31; L. 2008, ch. 75, § 1; L. 2011, ch. 30, § 238; L. 2017, ch. 34, § 2; Apr. 20.