MEMORANDUM

TO: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy

FROM: Emily Caudill, Regulations Compiler


DATE: September 14, 2022

A copy of each administrative regulation listed above is enclosed for your files. These regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its DECEMBER 2022 meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, if comments are received during the public comment period, a Statement of Consideration or a one-month extension request for these regulations is due by noon on December 15, 2022. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures
GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(Amendment)
201 KAR 2:030. License transfer and Non-Resident Pharmacist License.
RELATES TO: KRS 315.191(1)(c), (d), 315.210. KRS 315.050
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 nonresident pharmacists.
Section 1. Definitions.
(1) "Board" is defined by KRS 315.010(4).
(2) "License transfer" means a license to practice pharmacy in Kentucky issued by the
board to a pharmacist licensed in another jurisdiction.
(3) "NABP" means the National Association of Boards of Pharmacy.
(4) "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 application 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.
Section 6. An applicant licensed in another jurisdiction shall be eligible for non-resident pharmacist license if the applicant:

(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; and

(2) The Multistate Pharmacy Jurisprudence Examination administered by NABP.

Section 8. A non-resident pharmacist licensee shall:

(1) Maintain participation in the NABP Verify Program;

(2) Submit an annual renewal of pharmacist license; and

(3) Be exempt from the continuing education requirements of Kentucky.

(4) Pay the annual renewal of a pharmacist license fee specified by 201 KAR 2:050 Section 1(3).

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 resident or nonresident pharmacy.
Section 6. Section 10. Fee.

An applicant shall include the fees specified by 201 KAR 2:050, Section 1(2) and (19).

(1) An applicant for license transfer shall include the fee specified by 201 KAR 2:050, Section 1(2) and (19); and

(2) An applicant for non-resident pharmacist licensure shall include the same fee as an applicant for license transfer specified by 201 KAR 2:050, Section 1(2).

Section 7. Section 11. Board Discretion.

(1) The Board maintains the discretion to deny an applicant a license 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 during a declared state of emergency.

Section 12. Incorporation by Reference (1) The following material is incorporated by reference:

(a) “NABP Preliminary Application for Transfer of Pharmacist License”, April 2018, is incorporated by reference.

(b) “Application for Non-Resident Pharmacist License,” 09/2022.

(c) “Renewal Application for Non-Resident Pharmacist License,” 09/2022.

(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
Christopher Harlow, Pharm.D.
Executive Director
Board of Pharmacy

September 14, 2022

Date
PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall be held on November 30, 2022, at 9:00 a.m. Eastern Time via zoom teleconference and at the Kentucky Transportation Cabinet Auditorium, 200 Mero Street, Frankfort, Kentucky 40601. 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 November 30, 2022. 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

201 KAR 2:030. License transfer and Non-resident pharmacist license. 
Contact person: Christopher Harlow, Phone 502-564-7910, email christopher.harlow@ky.gov

(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 non-resident 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 pharmacists 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.

(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): The cost to each entity identified is two-hundred and fifty dollars, as each non-resident licensure application and reciprocal licensure application is accompanied with a two-hundred and fifty dollar fee. The annual renewal fee is $105 for non-resident pharmacist licenses and regular pharmacist licenses.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will ensure pharmacists seeking reciprocity and non-resident pharmacists are informed of the requirements for licensure.

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

(a) Initially: $20,000 annually.
(b) On a continuing basis: $20,000 annually.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Each non-resident licensure application and reciprocal licensure application is accompanied with a two-hundred and fifty dollar fee to cover the administrative cost.

(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: This regulation establishes a new classification of pharmacist licensure which assess a fee at the same rate as the license transfer already provided in this rule.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation establishes a new classification of pharmacist licensure which assess a fee at the same rate as the license transfer already provided in this rule.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used) 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 NOTE ON STATE OR LOCAL GOVERNMENT

201 KAR 2:030. License transfer and Non-resident pharmacist license.
Contact Person: Christopher Harlow, Phone 502-564-7910, email
Christopher.harlow@ky.gov

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(1)(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.

   (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 generate approximately two-hundred and fifty dollars per non-resident pharmacist that applies for non-resident licensure. The Board anticipates between two thousand and four thousand applicants for non-resident licensure.

   (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 generate two hundred and fifty dollars per applicant in the coming years and ninety-five dollars for each non-resident pharmacist during annual renewal periods.

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

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

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

   Revenues (+/-): +750,000
   Expenditures (+/-): -20,000

   Other Explanation: We are operating with estimates from North Carolina, as they have recently implemented a similar program. So far in 2022, North Carolina has had 4,500 applicants. We estimate between 2,000 and 4,000 new applicants the first year. For subsequent years, we anticipate between 100 and 500 applicants each year.
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 from this administrative regulation.

(c) How much will it cost the regulated entities for the first year? It is dependent on the number of pharmacists that serve Kentucky patients yet are currently unlicensed. Because these individuals are currently unlicensed, we do not have a certain estimate. For each pharmacist that becomes licensed, there is a $250 initial licensing fee and a $95 annual renewal fee.

(d) How much will it cost the regulated entities for subsequent years? Approximately $20,000 to administer the non-resident pharmacist licenses and annual renewals.

Cost Savings (+/-): 0
Expenditures (+/-): -$750,000

Other Explanation: We are operating with estimates from North Carolina, as they have recently implemented a similar program. So far in 2022, North Carolina has had 4,500 applicants. We estimate between 2,000 and 4,000 new applicants the first year. For subsequent years, we anticipate between 100 and 500 applicants each year.

(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 will not have a major economic impact.
SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The "NABP Preliminary Application for Transfer of Pharmacist License", Form April 2018, is the National Association of Boards of Pharmacy form that pharmacists utilize when applying for license transfer to the Kentucky Board of Pharmacy.

"Application for Non-Resident Pharmacist License" Form 09/2022 is the application all out of state pharmacists must use when applying for a non-resident pharmacist license.

"Renewal Application for Non-Resident Pharmacist License" Form 09/2022 is the application all out of state pharmacists must use when renewing their non-resident pharmacist license.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The application for non-resident pharmacist licensure and renewal application for non-resident pharmacist license are new. There have been no changes to the NABP Preliminary Application for Transfer of Pharmacist License.
Initial Application for Non-Resident Pharmacist Licensure

This application and fee of $250 must be in the Board Office after receiving the NABP Verify credential. Answer all questions in full and print legibly. The name must match the NABP Verify credential.

Please make checks payable to the ‘Kentucky State Treasurer’ or pay online at www.pharmacy.ky.gov.

I hereby submit this application by the Kentucky Board of Pharmacy for license as a Non-Resident Pharmacist subject to the provisions of the statutes and rules and regulations of the Board and being duly sworn submit the following:

1. Name

2. Address

3.

4. Telephone Number

5. E-mail Address

6. Date of Birth

7. Sex (check one): □ Male □ Female

8. Social Security Number

9. Kentucky Pharmacist Intern Registration Number (if applicable)

10. Please provide the name of the College of Pharmacy you attended and graduation date:

   College of Pharmacy

   Date of Graduation

11. Have you ever been convicted of a misdemeanor? □ No □ Yes

   A felony? □ No □ Yes

   If yes, give details:

   (If additional space is needed for details, please attach separate sheet)

12. Have you ever failed or been refused an examination by any State Board of Pharmacy?

   □ No □ Yes

   If yes, give details:

   (If additional space is needed for details, please attach separate sheet)
13. Have you ever been refused licensure by any State Board of Pharmacy or other licensing agency? ________ No ________ Yes

If yes, give details: ________________________________________________________________

______________________________________________________

[If additional space is needed for details, please attach separate sheet]

14. Have you ever had a Certification of Registration as a Pharmacist suspended, probated, or revoked by any State Board of Pharmacy?

_________ No _________ Yes

If yes, give details: ________________________________________________________________

______________________________________________________

[If additional space is needed for details, please attach separate sheet]

I certify that the statements contained in this application are true, complete, and correct, and I agree that the statements shall form the basis of my application and I do authorize the Kentucky Board of Pharmacy to make any investigations that they deem appropriate and to secure any additional information concerning me, and I further authorize them to furnish any information they may now or in the future have concerning me to any person, corporation, institution, association, Board or any municipal, county, state, or federal governmental agencies or units, and that I understand according to the Kentucky Revised Statutes a Pharmacist’s License may be revoked or suspended for presenting any false, fraudulent, or forged statement, certificate, diploma, or other thing, in connection with an application for a license or permit.

Signature in Full

I hereby certify that the above application was signed, subscribed and sworn to before me this _______ day of ___________________ , 20__

(Seal)                                             Signature

My commission expires ____________________________

State of ________________________________

Attestation

I have read and understand the statutes and regulations provided by the most recent version of the Kentucky Pharmacy Lawbook. I understand it is my responsibility to remain up to date with the Kentucky Board of Pharmacy on changes to Kentucky pharmacy law. Finally, I attest that I am responsible to follow the laws of the Commonwealth of Kentucky while engaging in the practice of pharmacy under my Kentucky non-resident pharmacist license.

Signature in Full

Form 1
9/2022
Certificate of Moral Character

This certificate of moral character must be signed by a person of good standing in the community in which the applicant resides.

I, __________________________, of __________________________, do say that the applicant herein named, has been personally known to me for __________ years, that my acquaintance with the applicant throughout that period has been sufficiently intimate to afford me ample opportunity to become fully informed as to the applicant's moral character and fitness to practice pharmacy. I certify this individual to be of good moral character, and I recommend the applicant, so far as character and fitness are concerned, as worthy to be licensed to practice Pharmacy in Kentucky.

__________________________  __________________________
(Date)  (Signature)

__________________________
(Occupation)
Kentucky Board of Pharmacy
State Office Building Annex, Suite 300
125 Holmes Street
Frankfort, KY 40601
Phone 502-564-7910   Fax 502-696-3806

NON-RESIDENT PHARMACIST LICENSE RENEWAL APPLICATION

Please print legibly. Enclose check or money order made payable to ‘Kentucky State Treasurer’ for the amount of $95.00. Return the completed application to the Kentucky Board of Pharmacy no later than February 28th. Incomplete or illegible applications will be returned to applicant for correction.

Name _______________________________  RPh License No ______________________

Street _______________________________  Home Phone _________________________

City ___________________________  County ___  State ___  Zip ________

E-mail Address_____________________________  Birthdate __________  Social Security Number XXX-XX-____

Primary Place of Employment: [Please provide secondary places of employment on additional sheet and attach.]

Pharmacy/Business Name ________________________________

Kentucky Pharmacy Permit Number ____________________________  Phone No. ____________________________

YOUR APPLICATION FOR RENEWAL WILL BE RETURNED UNLESS ALL QUESTIONS ARE ANSWERED, ANY REQUIRED EXPLANATION IS PROVIDED AND THE APPLICATION IS DATED AND SIGNED.

A. Have you ever been convicted of any law relating to the practice of pharmacy, drugs, or controlled substances which you have not previously reported to this Board?
   _____YES, attach an explanation  _____NO

B. Have you been refused licensure or re-licensure by any Board of Pharmacy which you have not previously reported to this Board?
   _____YES, attach an explanation  _____NO

C. Have you had a Pharmacist or Pharmacy license/permit surrendered to or fined, suspended, probated, or revoked by any Board of Pharmacy which you have not previously reported to this Board?
   _____YES, attach an explanation  _____NO

D. Do you have an account with the Kentucky All Schedule Prescription Electronic Reporting System (KASPER)?
   _____YES  _____NO, Not employed as a pharmacist
   _____NO, Place of employment does not have a DEA Registration
   _____NO, Place of employment does not dispense to humans
   _____NO, Employed at a non-dispensing pharmacy
   _____NO, Consultant Pharmacist

I certify that I am not in default nor have I received notice of being in default of any insured Student Loan under the Federal Family Educational Loan Program [FFELP] that is administered by or through the Kentucky Higher Education Assistance Authority or equivalent state or federal agency. A pharmacist who makes a false, fraudulent or forged statement or misrepresentation of a material fact in securing renewal of a license is subject to disciplinary action pursuant to KRS 315.121(1)(e).

___________________________  ____________________________
DATE                                               SIGNATURE

Attestation

I have read and understand the statutes and regulations provided by the most recent version of the Kentucky Pharmacy Lawbook. I understand it is my responsibility to remain up to date with the Kentucky Board of Pharmacy on changes to Kentucky pharmacy law. Finally, I attest that I am responsible to follow the laws of the Commonwealth of Kentucky while engaging in the practice of pharmacy under my Kentucky non-resident pharmacist license.

Signature in Full
Form 09-2022