

cKansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Board of Pharmacy
Agency

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Agency Contact

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Contact Phone Number

68-23-1, 68-23-2, 68-23-3, 68-23-4, 68-23-5, 68-23-6
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

- No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
 - Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.

 - No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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Section I

Brief description of the proposed rule(s) and regulation(s).

K.A.R. 68-23-1 through 68-23-6 are proposed to provide requirements for the new practice of telepharmacy in Kansas. As required by K.S.A. 65-16,130, the proposed regulations outline definitions, as well as the requirements for the registration application and renewal; restrictions on the location, delivery, managing pharmacy, and dispensing threshold; criteria for exemption or waiver; practice of telepharmacy; management of controlled substances and drugs of concern; operations; personnel, staffing, training, and supervision; and structural, security, technology, and equipment requirements.

Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

Regulations are not mandated by the federal government. Proposed regulations are consistent with other state models and the requirements set by Kansas statute.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The Board anticipates that proposed regulations will enhance pharmacy business activity and flexibility, and provide greater access to pharmaceutical services for patients.

Restrictions on the location of the telepharmacy outlet and delivery radius (K.A.R. 68-23-2) may limit telepharmacy outlet operations but only based on the presence and availability of existing and operational pharmacies in the area. Furthermore, location restrictions do not apply to community mental health centers, federally qualified health clinics, or indigent health care clinics. Restrictions on managing pharmacies ensure a supervising pharmacist is available to handle any situation and can reach the telepharmacy outlet quickly in-person, if necessary.

Other restrictions on any business activities would be related to the financial burden of implementing telepharmacy software and equipment (K.A.R. 68-23-6). However, these requirements are consistent with routine pharmacy operations.

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Business activity may also be restricted by requiring minimum qualifications, training, and experience from telepharmacy outlet personnel. Therefore, they are reasonable and consistent to protect the public welfare.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

Any economic impact different from that related to routine operation of a pharmacy would be related to the telepharmacy outlet's costs for the following:

1. The cost of implementation and monthly maintenance of telepharmacy outlet software and equipment. Vendors and other state boards of pharmacy estimate the costs of implementation to range from \$5,000 - \$25,000 for initial setup (equipment, support, software, installation, etc.), and costs of ongoing maintenance to range from \$200 - \$1,000 per month (software, operation, electronic storage).
2. The cost of continuous video surveillance of the telepharmacy outlet, which would depend on the software vendor, hours of operation, amount of video storage required, etc. Vendors and other state boards of pharmacy estimate the costs of implementation at \$20,000, and costs of ongoing maintenance and storage to range from \$300 - \$1,650 per month.
3. The cost of a monitored alarm system, which is estimated under \$1,000 per year.
4. Additional travel and coverage by a pharmacist-in-charge or supervising pharmacist that would be above and beyond routine in-person pharmacy supervision. While no additional pharmacist hours are required to operate a telepharmacy outlet, there may be a shift in the location for hours worked or those dedicated to particular tasks/functions.

While the telepharmacy outlet may have revenue limitations based on the maximum average quarterly prescriptions dispensed (dispensing threshold), the pharmacy could elect to exceed the threshold by adding an in-person pharmacist. The regulation allows for this to be somewhat fluid on a quarterly basis with proper notification and approval from the Board.

Note: There is no mandate that any business operate a telepharmacy outlet or that any pharmacist serve as a pharmacist-in-charge or supervising pharmacist.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Pharmacies registered in Kansas

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

In 2018, the Board commenced a pilot project allowing for the operation of a telepharmacy outlet in the state of Kansas. Telepharmacy allows a pharmacist to conduct their review, supervision, verification, and patient counseling responsibilities virtually, while a pharmacy technician or pharmacist intern staffs the brick-and-mortar pharmacy and conducts the in-person dispensing process. Among other things, the software enables remote prescription verification and live-video counseling with patients including audio and video. The Kansas

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pilot has been operational for 5+ years, demonstrating success and no increased risk to the public.

The National Association of Boards of Pharmacy (NABP) added telepharmacy to the Model Act in 2006 and more than 25 states have adopted telepharmacy laws or regulations, including Nebraska, Colorado, and Texas. The proposed regulations provide appropriate protections and requirements for proper administration and use of these systems, establish criteria for safe operation, compliance, and evaluation, and create the potential for increased patient/consumer access to pharmacy services, especially in rural or underserved areas.

While operational service and equipment requirements may be higher than a traditional pharmacy, costs are reduced by not requiring the staffing of an in-person supervising pharmacist.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

Utilization of existing Board forms, resources, and processes. Proposed regulations for telepharmacy outlets deviate as minimally as possible from existing pharmacy requirements in Kansas.

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$10k to 40k for one-time implementation for each telepharmacy outlet; \$1200-\$3500 per month for ongoing telepharmacy systems maintenance

Costs to Local Governmental Units – \$0

Costs to Members of the Public – \$0

Total Annual Costs – \$\$10k to 40k one-time; \$14k-\$42k ongoing
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

Review of other state board of pharmacy fiscal and economic statements related to rule adoption. Review of software and industry vendor costs.

- Yes If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs
- No
- Not

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Applicable have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

If applicable, [click here](#) to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

None

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

Not quantifiable. The goal of allowing telepharmacy operations is to provide increased access to pharmacy services in Kansas. However, the nature of the allowance is that the Board does not know if/when any telepharmacy will be operational in Kansas or what actual fiscal impact there may be on public health.

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Not applicable.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Proposed regulations are based on similar state models, as well as comments and feedback from pharmacy stakeholders and telepharmacy organizations. The Board's pilot project is ongoing after 5+ years in operation and the Kansas Pharmacists Association's hosting of a telepharmacy workgroup that informed Board actions and proposed regulations. Any member of the public was invited to participate in providing feedback to the Board on draft regulations. Review of other state board of pharmacy fiscal and economic statements related to rule adoption. Review of software and industry vendor costs

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

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Yes If yes, complete the remainder of Section IV.

No If no, skip the remainder of Section IV.

A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

[Click here to enter agency response.](#)

B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

[Click here to enter agency response.](#)

C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

[Click here to enter agency response.](#)

D. Provide a detailed statement of the data and methodology used in estimating the costs used.

[Click here to enter agency response.](#)

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