

POLICY STATEMENT OF THE KANSAS BOARD OF PHARMACY REGARDING INDEPENDENT CONTRACTORS DELIVERING PRESCRIPTIONS

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The Kansas Board of Pharmacy (“Pharmacy Board”) has received inquiries regarding whether a Kansas pharmacy may use the services of an independent contractor or third-party service to deliver prescription medications to its customers.

Based upon the current status of the Kansas Pharmacy Act, K.S.A. 65-1625, *et. seq.*, it is the policy of the Pharmacy Board that use by a Kansas pharmacy of a third-party non-pharmacy independent contractor or delivery service to deliver its prescription medications to its customers would result in a violation the Kansas Pharmacy Act. The policy is based upon the following analysis:

K.S.A. 65-1636(a) provides:

“Except as otherwise provided in this act, the sale and dispensing of drugs shall be limited to pharmacies operating under registrations as required by this act, and the actual sale or dispensing of drugs shall be made by a pharmacist or other persons acting under the immediate personal direction and supervision of the pharmacist.”

At K.S.A. 65-1626(o) “dispense” or “dispensing” is defined to mean “to deliver prescription medication to the ultimate user or research subject by or pursuant to a lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.” Therefore, because a third-party delivery entity is not a pharmacy and the delivery person would not be operating under the immediate directions and supervision of a pharmacist, K.S.A. 65-1636(a) effectively prohibits an entity and/or delivery person from delivering a prescription medication to an ultimate user.