



Testimony concerning SB 76
Senate Committee on Federal and State Affairs
Presented by Alexandra Blasi, Executive Secretary
On behalf of
The Kansas State Board of Pharmacy
February 1, 2017

Chairman LaTurner and Members of the Committee:

The Kansas State Board of Pharmacy testifies as an opponent of SB 76. These amendments would dramatically impact the Board's current staff and resources for processing and evaluating licensure applications and renewals, and would likely result in a significant decrease to current revenues and agency sustainability.

Automatic Reciprocity

The bill unnecessarily allows individuals with similar licenses or registrations in other states to merely complete an application, possibly pay a fee, and automatically begin operating or practicing in Kansas. The Board already has a mechanism by which a pharmacist may become licensed in Kansas and reciprocate their license. However, the pharmacy practice standards differ in each state. To protect the public, Kansas requires passage of a law exam to ensure that those storing, compounding, and dispensing prescription medications to Kansas citizens are qualified and familiar with our standards and practices. Removing this requirement would be detrimental and may result in additional investigations or even harm to patients. With regard to pharmacy technicians, states vary in their requirements for entry into the profession. In fact, 11 states have no requirements for technicians, at all.

In addition, the language allowing the licensee to merely be in "good standing" is insufficient. It fails to recognize those that may be under investigation or be located in states that have a backlog of disciplinary cases or resource shortages. For example, our sister state, Missouri, does not have an impaired provider program for pharmacists. Instead, they refer all cases to us for action when the individual is licensed in Kansas. Sometimes, their Missouri license remains in good standing, even though they are suspended or on probation in Kansas. Furthermore, the "good standing" designation only references their professional license. It does not reflect findings by the DEA or FDA of any wrongdoing, does not capture pending or past criminal charges related to drugs or other felonies, and does not accurately assess an applicant's competency and character for licensure according to Kansas requirements. Why would we hold our home-grown Kansans to a different standard than those coming from other states, and how does that adequately protect the public?

The Board of Pharmacy would argue that our current processes for reciprocity are strong and appropriate, and that this legislation conflicts with those requirements. In fact, we have over 2,100 active pharmacists from other states, which represents nearly 40% of that licensee population.

Low-Income Evaluation

SB 76 would require additional licensing staff and resources for the Board to properly collect documents and data for applicants, licensees, and registrants in order to evaluate fee waivers for those whose household adjusted gross income does not exceed 130% of the federal poverty level. This is not a current competency of our agency or current staff and training would be necessary. Additional secure document storage would also be required for income-related documents. The Board questions whether the low-income status and waiver would need to be assessed upon each license renewal, or if it is a permanent waiver. If ongoing assessment is needed, even more staff would be required.

30-Day Determination

The Board of Pharmacy would also need to hire additional staff to meet the 30-day requirement for licensure determination. Though the Board works hard to evaluate and license individuals in the shortest time possible, due to the volume and cyclical nature of applications received, a 30-day maximum would be particularly challenging. In excess of an added FTE, part-time seasonal staff may be necessary. In many cases, we are able to evaluate and license applicants in just a few days, where other applications that note criminal history or highlight competency concerns require in-depth analysis, collection of additional documents, or even an investigation. This process takes time and often requires review by a Board member. SB 76 makes no exception for these circumstances. Moreover, the legislation does not provide for how incomplete applications or renewals should be handled and how the 30 days might be applied therein.

The Board currently operates with the minimum staff required to timely and accurately complete our statutory duties, so there is no cushion to absorb this additional work. Necessary work stations, equipment, and system/Internet access would also be required. The Board is also at maximum capacity for our current office space – doubling staff in several offices – which would present a need for additional square footage and amendment to our current lease.

Fee Waiver and Board Revenue

If SB 76 were enacted, the decrease in the Board's revenue, though difficult to estimate, would likely be debilitating. Expenses of the Board are met through the fees assessed for new applications, biennial renewals, annual registration of pharmacy-related businesses, and late fees. Because we are fee funded, we have no other source of revenue to fulfill our licensing and public protection duties. The Board registers over 8,000 pharmacy technicians (\$20 application, \$20 renewal). As an entry-level healthcare profession with few barriers to entry, wages are lower and positions are a mixture of PRN, part-time, and full-time. It's likely that many pharmacy technicians would qualify for the low-income waiver upon application and repeatedly upon renewal. Pharmacy students are in a similar position, though most are not earning any income while they are in school. Likewise, many recent pharmacy school graduates have significant debt and are not earning income when they apply for initial licensure. If they should also qualify as low-income applicants, revenue would decrease, as the Board licenses over 300 new pharmacists each year (\$40 application fee).

An increased need for staff and resources, coupled with the decrease in revenue, would result in a major financial shortage for the agency. Therefore, a fee increase would be assessed on the remaining licensees, which include non-resident pharmacies, manufacturers, distributors, labs, retail dealers, and those individual licensees who do not meet the low-income determination. In effect, the bill would burden certain licensees with the cost of all low-income and military licensees.

Military Exemption

The Board is also unable to estimate how many military licenses would be applicable to the different professions licensed by the Board, and is, therefore, unable to estimate the impact this would have on our agency. However, the concerns regarding automatic reciprocity would hold.

Other Questions and Concerns

The Board questions how SB 76 would impact the fingerprint and KBI background check fees, which are set by the KBI at \$47 each and required for each pharmacist, intern, or technician applicant seeking licensure in Kansas. The Board cannot absorb this fee, and would be unable to properly screen individuals for licensure based on their criminal history without these vital reports.

The Board also wonders if this bill is meant to apply to individuals who are operating sole proprietor pharmacies or even LLCs, where they are seeking registration of their pharmacy facility. Would they be eligible for the low-income determination and fee waiver? Would they be eligible for the military exemption? Though perhaps it was not the intent of the drafter to apply to facilities or business owners, the Board wonders if there is ambiguity in the language that could make such licensees susceptible, as well.

The Board appreciates your consideration of these points and the opportunity to testify.

Respectfully submitted,

Alexandra Blasi, JD, MBA
Executive Secretary