



STATE OF KANSAS

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July 20, 1984

ATTORNEY GENERAL OPINION NO. 84- 71

Lynn E. Ebel  
Attorney, Kansas Board of Pharmacy  
Davis, Davis, McGuire & Thompson  
P.O. Box 69  
400 Shawnee Street  
Leavenworth, Kansas 66048

Re: Public Health -- Examination and Registration of  
Pharmacists -- Registration of Out of State Pharmacists  
Doing Business in Kansas

Synopsis: The requirements of the Kansas Pharmacy Act, K.S.A.  
65-1601 et seq extend to all persons within or without  
the state who deliver prescription drugs in Kansas.  
Cited herein: K.S.A. 65-1636, K.S.A. 1983 Supp.  
65-1626, 65-1631, 65-1643.

\* \* \*

Dear Ms. Ebel:

As counsel for the Kansas Board of Pharmacy, you request our opinion regarding the authority of the board to require out of state pharmacies doing business in Kansas to hold Kansas pharmacy licenses and be subject to the board's regulations.

K.S.A. 65-1636 is contained in the Kansas Pharmacy Act, K.S.A. 65-1625 et seq., and provides:

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"Except as otherwise provided in this act, the sale and distribution of drugs shall be limited to pharmacies operating under registrations as required by this act and the actual sale or distribution of drugs shall be made by a registered pharmacist or other person acting under his or her immediate personal direction and supervision."

K.S.A. 1983 Supp. 65-1626(i) states that to "distribute means to deliver . . . any drug." Subsection (g) states that to "dispense means to deliver prescription medication to the ultimate user pursuant to the lawful order of a practitioner."

The term pharmacy is defined at K.S.A. 1983 Supp. 65-1626(s) as "premises, laboratory, area or other place (1) where drugs are offered for sale, where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed . . ."  
As noted above, only pharmacies operating under the direction of a registered pharmacist may distribute drugs in Kansas under K.S.A. 65-1636. K.S.A. 1983 Supp. 65-1643(f) provides that it is unlawful for "any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board . . ."

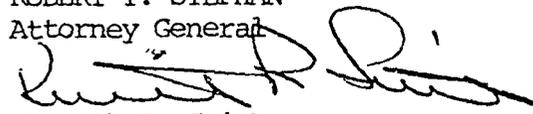
In none of the foregoing statutes is there any language of limitation which suggests that only Kansas residents are subject to the board's control. Rather, Kansas statutes provide for the registration on a reciprocal basis of out of state pharmacists without examination. K.S.A. 1983 Supp. 65-1631(d). We therefore conclude that the language of the Kansas Pharmacy Act does not suggest that its provisions are limited to pharmacies within this state.

A consideration of the purpose of the act also suggests that there was no intent to limit the application of the act. The state's interest in establishing and maintaining high standards in the dispensation of prescription drugs is clear. See, e.g., State ex rel. v. Fadely, 180 Kan. 652, 665 (1957). We therefore conclude that both the language and purpose of the Kansas Pharmacy Act require that out of state pharmacies doing business in Kansas hold a Kansas pharmacy license and be subject to all Kansas regulations.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General



Kenneth R. Smith  
Assistant Attorney General