

HOUSE BILL No. 2538

By Representative Sloan

1-21

AN ACT establishing under the state board of pharmacy a drug repository program to accept and dispense donated prescription drugs.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this act:

(1) "Health care facility" means any of the following:

(A) A hospital;

(B) a hospice care program or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(C) a nursing facility;

(D) a home health agency;

(E) an intermediate care facility for the mentally retarded;

(F) a mental health center;

(G) a mental health clinic.

(2) "Health care professional" means any of the following who provide medical, dental or other health-related diagnosis, care or treatment:

(A) Persons licensed to practice medicine and surgery or podiatric medicine and surgery;

(B) licensed professional and licensed practical nurses;

(C) licensed physician assistants;

(D) licensed dentists and dental hygienists;

(E) licensed optometrists;

(F) licensed pharmacists.

(3) "Hospital" has the same meaning as in K.S.A. 65-425 and amendments thereto.

(4) "Nonprofit clinic" means a charitable nonprofit corporation organized as a nonprofit corporation under the laws of this state or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons. "Nonprofit clinic" does not include a hospital or a facility that is operated for profit.

(5) "Prescription-only drug" has the same meaning as in K.S.A. 65-1626 and amendments thereto.

(b) The state board of pharmacy shall establish a drug repository pro-

1 gram to accept and dispense prescription-only drugs donated for the pur-
2 pose of being dispensed to individuals who are residents of this state and
3 meet eligibility standards established in rules and regulations adopted by
4 the board under section 4 and amendments thereto. Only drugs in their
5 original sealed and tamper-evident unit dose packaging may be accepted
6 and dispensed. The packaging must be unopened, except that drugs pack-
7 aged in single unit doses may be accepted and dispensed when the outside
8 packaging is opened if the single unit dose packaging is undisturbed.
9 Drugs donated by individuals bearing an expiration date that is less than
10 six months from the date the drug is donated shall not be accepted or
11 dispensed. A drug shall not be accepted or dispensed if there is reason
12 to believe that it is adulterated. Subject to the limitation specified in this
13 act, unused drugs dispensed for purposes of the medicaid program may
14 be accepted and dispensed under the drug repository program.

15 Sec. 2. (a) Any person, including a drug manufacturer or any health
16 care facility, may donate prescription drugs to the drug repository pro-
17 gram. The drugs must be donated at a pharmacy, hospital or nonprofit
18 clinic that elects to participate in the drug repository program and meets
19 criteria for participation in the program established by rules and regula-
20 tions adopted by the state board of pharmacy. Participation in the pro-
21 gram by pharmacies, hospitals and nonprofit clinics is voluntary. Nothing
22 in this act or any other statutes of this state requires a pharmacy, hospital
23 or nonprofit clinic to participate in the program.

24 (b) A pharmacy, hospital or nonprofit clinic eligible to participate in
25 the program shall dispense drugs donated under this section to individuals
26 who are residents of this state and meet the eligibility standards estab-
27 lished by rules and regulations adopted by the board or to other govern-
28 ment entities and nonprofit private entities to be dispensed to individuals
29 who meet the eligibility standards. A drug may be dispensed only pur-
30 suant to a prescription issued by a person authorized to prescribe drugs.
31 A pharmacy, hospital or nonprofit clinic that accepts donated drugs shall
32 comply with all applicable federal laws and laws of this state dealing with
33 storage and distribution of dangerous drugs and shall inspect all drugs
34 prior to dispensing them to determine that they are not adulterated. The
35 pharmacy, hospital or nonprofit clinic may charge individuals receiving
36 donated drugs a handling fee established in accordance with rules and
37 regulations adopted by the board. Drugs donated to the repository may
38 not be resold.

39 Sec. 3. (a) The state board of pharmacy, the secretary of health and
40 environment, any person, including a drug manufacturer or government
41 entity, that donates drugs to the repository program; any pharmacy, hos-
42 pital, nonprofit clinic or health care professional that accepts or dispenses
43 drugs under the program; and any pharmacy, hospital or nonprofit clinic

1 that employs a health care professional who accepts or dispenses drugs
2 under the program, in the absence of bad faith, shall not be subject to
3 any of the following for matters related to donating, accepting or dis-
4 pensing drugs under the program: criminal prosecution, liability in tort
5 or other civil action for injury, death or loss to person or property or
6 professional disciplinary action.

7 (b) A drug manufacturer, in the absence of bad faith, shall not be
8 subject to criminal prosecution or liability in tort or other civil action for
9 injury, death or loss to person or property for matters related to the
10 donation, acceptance or dispensing of a drug manufactured by the drug
11 manufacturer that is donated by any person under the program, including
12 but not limited to, liability for failure to transfer or communicate product
13 or consumer information or the expiration date of the donated drug.

14 Sec. 4. The state board of pharmacy shall adopt rules and regulations
15 governing the drug repository program that establish all of the following:

16 (a) Eligibility criteria for pharmacies, hospitals and nonprofit clinics
17 to receive and dispense donated drugs under the program;

18 (b) standards and procedures for accepting, safely storing and dis-
19 pensing donated drugs;

20 (c) standards and procedures for inspecting donated drugs to deter-
21 mine that the original unit dose packaging is sealed and tamper-evident
22 and that the drugs are unadulterated, safe and suitable for dispensing;

23 (d) eligibility standards based on economic need for individuals to
24 receive drugs;

25 (e) a means, such as an identification card, by which an individual
26 who is eligible to receive donated drugs may demonstrate eligibility to
27 the pharmacy, hospital or nonprofit clinic dispensing the drugs;

28 (f) a form that an individual receiving a drug from the repository must
29 sign before receiving the drug to confirm that the individual understands
30 the immunity provisions of the program;

31 (g) a formula to determine the amount of a handling fee that phar-
32 macies, hospitals and nonprofit clinics may charge to drug recipients to
33 cover restocking and dispensing costs;

34 (h) in addition, for drugs donated to the repository by individuals:

35 (1) A list of drugs, arranged either by category or by individual drug,
36 that the repository will accept from individuals;

37 (2) a list of drugs, arranged either by category or by individual drug,
38 that the repository will not accept from individuals, which list shall include
39 a statement as to why the drug is ineligible for donation; and

40 (3) a form each donor must sign stating that the donor is the owner
41 of the drugs and intends to voluntarily donate them to the repository;

42 (i) in addition, for drugs donated to the repository by health care
43 facilities:

1 (1) A list of drugs, arranged either by category or by individual drug,
2 that the repository will accept from health care facilities;

3 (2) a list of drugs, arranged either by category or by individual drug,
4 that the repository will not accept from health care facilities, which list
5 shall include a statement as to why the drug is ineligible for donation;

6 (j) any other standards, procedures or matters the board considers
7 appropriate to carry out the provisions of this act.

8 Sec. 5. This act shall take effect and be in force from and after its
9 publication in the statute book.

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