

Approved 4-11-92  
Date ok

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at  
Chairperson

1:30 a.m./p.m. on March 26, 1992 in room 423-S of the Capitol.

All members were present except:

Representative Flottman, excused

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chip Wheelen, Kansas Medical Society  
Tom Hitchcock, Kansas Board of Pharmacy  
Larry Buening, Kansas Board of Healing Arts  
Harold Riehm, Kansas Association of Osteopathic Medicine  
Mr. Don Johnson, Registered Pharmacist/Supervisor of Walgreen's  
Pharmacies Mr. Dick Pratt, owner of "Super D" drugstores  
Lana Vanderplas, Legislative Intern for Rep. Wagnon  
Bob Williams, Kansas Pharmacy Association

Chair called meeting to order drawing attention to scheduled agenda.

**STAFF BRIEFING ON SB 673.**

Mr. Furse gave a comprehensive explanation of **SB 673**, noting it relates to civil penalty code. He detailed these sections plus those on patient confidentiality and he noted exceptions. He answered numerous questions.

**HEARINGS BEGAN ON SB 673.**

Chip Wheelen offered hand-out (Attachment No. 1). He noted that current law is flawed in governing prescription-only drugs. It had been brought to the attention of the Kansas Medical Society that if a person provides false information to a physician for the purpose of obtaining drugs, that information is protected legally by the physician-patient privilege statute. Passage of **SB 673** would enable physicians to assist in the detection/prosecution of those individuals who purposely divert narcotic and other prescription substances from legitimate medical usage to the illegal drug market. He cited some specific cases. He urged support. Mr. Wheelen then answered questions.

Tom Hitchcock, Kansas Board of Pharmacy, offered hand-out (Attachment No, 2), and noted **SB 673** will close an existing hole when a non-legitimate patient wants to obtain a legitimate drug for illegitimate purposes. The responsibility for proper prescribing/dispensing of a controlled substance rests with the practitioner. A corresponding responsibility rests with the pharmacist who fills the prescription. Under current law, the only action these two professionals can take is to refuse to treat the patient, or to fill the prescription. Generally upon refusal to do so, the professional patient will find another pharmacist that will believe his/her story and fill the prescription. He urged favorable passage of **SB 673** in order that this problem can be curbed. He answered questions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 a.m./p.m. on March 25, 1992

**HEARINGS CONTINUED ON SB 673.**

Larry Buening, Executive Director, Ks. Board of Healing Arts, provided hand-out (Attachment No.3) and expressed support for SB 673. If enacted, it will make it a crime for a person to provide false information to a physician in order to obtain a prescription drug, contrary to current law. Each year millions of unit dosages of controlled substances are illegally diverted for non-medical or street use. The deceived or duped doctor that makes an honest attempt to alleviate pain/suffering is often the subject of a con artist that is guilty of misconduct. He urged support.

Harold Riehm, Executive, Kansas Association of Osteopathic Medicine, (see Attachment No.4), noted this concern of physicians being "duped" by persons seeking access to certain prescriptions has prompted programs by the Association of Osteopathic Medicine and other professional associations aimed at educating physicians on this matter in which con artists approach physicians for requests for medication under false pretenses or fraud. The physician learns how to respond to this problem. To date, Kansas law has been silent on any penalties for persons attempting to obtain a prescribed drug under false pretenses or fraud. SB 673 would remedy this, making it a violation of Kansas law, and providing a penalty clause. He urged support.

**HEARINGS CLOSED ON SB 673.**

**BRIEFING ON SB 692.**

Mr. Furse explained the bill, drawing attention to exceptions in the law; defining differences in the schedule of controlled substances; he explained the process of electronic filing by two or more pharmacies to maintain required dispensing information; provisions for enforcement. He noted there is no interstate commerce question in this legislation. He answered questions.

**HEARINGS BEGAN ON SB 692.**

Don Johnson, Registered Pharmacist, provided hand-out (Attachment No.5). He explained SB 692 would allow prescription transfer between pharmacies as a convenience to the consumer. He noted controlled substances are not covered in the bill since they are subject to federal guidelines. He cited the benefits to the consumer, explained the electronic transfer of prescriptions with computerization. He noted a prescription belongs to the patient for whom it is written and he/she should have the freedom to obtain the medication at a pharmacy of his/her choice. The proposed language in SB 692 would provide prescription transfer for the convenience of the consumer, but would also allow for better control against fraud. He drew attention to federal guidelines provided to members (see Attachment No. 6). No questions.

Dick Pratt, owner of "Super D" stores, offered hand-out (Attachment No.7). He supported SB 692, and offered suggested amendments indicated in hand-out, i.e., to record the name of the requesting pharmacy, requesting pharmacist, and the date of the request for transfer of the prescription. To amend further by writing the words "Void by Transfer" on the face of the prescription order, and on the computer record of that prescription.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 /4/m./p.m. on March 25, 1992

Lana Vanderplas, Legislative Intern for Rep. Wagnon, offered hand-out (Attachment No. 8). At the request of Rep. Wagnon, she appears in support of SB 692. She detailed her problems in maintaining ability to have her prescription filled due to her moving from Kansas to Colorado, and back to Kansas again. When she returns to Kansas, she must again visit a physician to obtain a new prescription since current law disallows the transfer of her prescription. She urged support.

Bob Williams, Ks. Pharmacists Association, provided hand-out (Attachment No.9), and stated previous concerns with SB 692 have been alleviated since the hearings in the Senate. The Pharmacists Association met with the Kansas Board of Pharmacy and the recommendations made by the Board indicate previous concerns of the Pharmacy Association have been solved. Objections have been withdrawn and they are in support. He answered questions.

Tom Hitchcock, Kansas State Board of Pharmacy, offered hand-out (Attachment No. 10). He noted earlier opposition to SB 692 because refillable C-III and IV prescriptions were not addressed in the proposed bill and because of the failure in subsection (b) on page 2, line 24 to address the necessity of a hard copy of the prescription that is transferred to a second pharmacy. Both these problems have now been addressed in the Pharmacy Act and in the Drug Enforcement Act regulations. With both of these concerns addressed, the Board now does not oppose SB 692. He answered numerous questions.

HEARINGS CLOSED ON SB 692.

Chair drew attention to bills previously heard.

DISCUSSION BEGAN ON SB 182.

Rep. Bishop moved to report SB 182 favorable for passage, seconded by Rep. Praeger. Discussion began, i.e., concerns expressed in regard to definition of "posed imminent risk"; bill refers only to requirements in the rules and regulations in respect to patient care; variations on how imminent risk is interpreted; some view the legislation should have that language deleted, some view it important enough to remain in SB 182. Chair requested staff to clarify language in statute.

Mr. Furse stated this would address the Adult Care Home Licensure Act. He explained the assessment for civil penalty and also the appeal rights of the licensee.

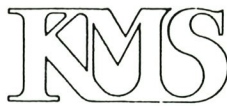
Discussion continued in regard to inspections, correction discrepancies, and re-inspections. It was noted SB 182 will impose penalties on those facilities that often are cited for infractions. It was the consensus that the safety of the elderly patient is the main focus and this should not be compromised in any manner.

Vote taken. Chair in doubt. Show of hands indicated 8 in favor, 7 against. Motion carried.

Rep. Bishop agreed to carry SB 182 on the floor of the House.

At 3:20 p.m. Chairperson Sader stated that Committee will reconvene at 5:00 p.m. this afternoon. Meeting recessed.





# KANSAS MEDICAL SOCIETY

623 W. 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383  
WATS 800-332-0156 FAX 913-235-5114

March 26, 1992

TO: House Public Health and Welfare Committee  
FROM: Kansas Medical Society *Chip Steelman*  
SUBJECT: Senate Bill 673, Narcotics Obtained by Fraudulent Means

The Kansas Medical Society enthusiastically supports the provisions of SB 673. This bill was introduced at our request because of a flaw in current law governing prescription-only drugs.

It has been brought to our attention that if a person provides false information to a physician for the purpose of obtaining narcotics, that information is legally protected by the physician-patient privilege statute. Furthermore, even if the false information were not protected from being used as evidence, this kind of physician "duping" would not constitute obtaining a prescription drug by fraudulent means.

Passage of SB 673 would enable physicians to assist in the detection and prosecution of individuals who purposely divert narcotic and other prescription substances from legitimate medical usage to the illegal drug market. We urge you to recommend SB 673 for passage.

Thank you for considering our position on this important matter.

CW/cb

*PHW*  
*3-26-92*  
*11:30 PM*  
*Att #1*

*Kansas State Board of Pharmacy*

LONDON STATE OFFICE BUILDING  
900 JACKSON AVENUE, ROOM 513  
TOPEKA, KANSAS 66612-1220  
PHONE (913) 296-4056

SB 673

STATE OF KANSAS

HOUSE PUBLIC HEALTH  
AND WELFARE COMMITTEE

MARCH 26, 1992

JOAN FINNEY  
GOVERNOR

MADAM CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS EXECUTIVE SECRETARY OF THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY IN SUPPORT OF SB 673.

THE BILL IS NECESSARY TO PLUG A HOLE THAT EXISTS WHERE A NONLEGITIMATE PATIENT WANTS TO OBTAIN A LEGITIMATE DRUG FOR ILLEGITIMATE PURPOSES. THIS TYPE OF PATIENT IS OFTEN REFERRED TO AS A "PROFESSIONAL PATIENT" AND THE DRUG IS ALMOST ALWAYS A CONTROLLED SUBSTANCE DRUG THAT INDEED HAS A TENDENCY FOR ABUSE.

INCLUDED IN BOTH THE STATE AND FEDERAL CONTROLLED SUBSTANCES (CS) ACT, IT DENOTES THAT A PRESCRIPTION FOR A CS MUST BE ISSUED FOR A LEGITIMATE MEDICAL PURPOSE AND THE RESPONSIBILITY FOR PROPER PRESCRIBING AND DISPENSING OF A CS IS UPON THE PRACTITIONER. HOWEVER, A CORRESPONDING RESPONSIBILITY RESTS WITH THE PHARMACIST WHO FILLS THE PRESCRPTION. THE PERSON FILLING AN UNLAWFUL PRESCRIPTION, AS WELL AS THE PERSON ISSUING IT, SHALL BE SUBJECT TO THE PENALTIES, PROVIDED FOR VIOLATIONS, OF THE PROVISIONS OF LAW RELATING TO CONTROLLED SUBSTANCES.

*JHw*  
MAR 26 1992

*1:30 PM*  
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*1-2*

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HOUSE PUBLIC HEALTH  
AND WELFARE COMMITTEE  
MARCH 26, 1992  
PAGE 2

UNDER THE CURRENT STATUTES, THE ONLY ACTION A PRACTITIONER MAY TAKE WHEN CONFRONTED BY THE PROFESSIONAL PATIENT IS TO REFUSE TO TREAT SUCH PATIENT. LIKewise, A PHARMACIST MAY ONLY REFUSE TO FILL THE CS PRESCRIPTION WHEN THE PROFESSIONAL PATIENT PRESENTS THE PRESCRIPTION WHICH WAS OBTAINED WITH FRAUDULENT INFORMATION. UPON REFUSAL, THE PROFESSIONAL PATIENT MERELY CONTINUES DOWN THE STREET UNTIL THEY FIND A PRACTITIONER THAT WILL SWALLOW THEIR FRAUD OR WITH AN OBTAINED PRESCRIPTION, KEEP GOING TO OTHER PHARMACIES UNTIL SOME INNOCENT PHARMACIST FILLS THE PRESCRIPTION.

THE BOARD OF PHARMACY RESPECTFULLY REQUESTS THE FAVORABLE PASSAGE OUT OF COMMITTEE OF SB 673.

THANK YOU.

*JHW*  
MAR 26 1992  
1:30 PM  
Att # 2  
2-2

# State of Kansas

235 S. TOPEKA BLVD.  
TOPEKA, KS 66603



913-296-7413  
FAX: 913-296-0852

## Board of Healing Arts

### MEMORANDUM

**TO:** House Committee on Public Health and Welfare  
**FROM:** Lawrence T. Buening, Jr., Executive Director *LTB*  
**DATE:** March 26, 1992  
**RE:** TESTIMONY ON SENATE BILL 673

Madam Chairperson and members of the Committee, thank you for the opportunity to appear before you and, on behalf of the State Board of Healing Arts, express the Board's strong support for Senate Bill 673. This bill would make it a crime for a person to provide false information to a physician in order to obtain a prescription drug, whether by prescription order or through dispensing or administration. At present, a person who obtains a drug by fraudulent, deceptive and false methods is guilty of no criminal conduct.

Each year, millions of unit dosages of controlled drugs are illegally diverted from the health care industry for non-medical or "street" use. The federal government's Drug Abuse Warning Network (DAWN) data, from selected hospital and medical examiners consistently indicates that more overdose deaths and hospital admissions are attributed to prescription drugs than to illegal drugs.

#### MEMBERS OF BOARD

JOHN P. WHITE, D.O., PRESIDENT  
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REX WRIGHT, D.C., VICE PRESIDENT  
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FRANKLIN G. BICHLMEIER, M.D., OVERLAND PARK  
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HOWARD ELLIS, M.D., LEAWOOD  
EDWARD J. FITZGERALD, M.D., WICHITA  
HAROLD GULDNER, SYRACUSE  
MARK HATESOHL, D.C., MANHATTAN

GRACIELA MARION, EUDORA  
JOHN PETERSEN, OVERLAND PARK  
RICHARD UHLIG, D.O., HERINGTON  
IRWIN WAXMAN, D.P.M., PRAIRIE VILLAGE  
KENNETH D. WEDEL, M.D., MINNEAPOLIS  
RON ZOELLER, D.C., TOPEKA

*PHW*  
*3-26-92*  
*1:30PM*  
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House Committee on Public Health and Welfare  
March 26, 1992  
Page Two

The American Medical Association has categorized physicians who misprescribe drugs into four categories: dishonest, dated, disabled and deceived or duped. This Legislature has provided the State Board of Healing Arts and law enforcement authorities with adequate laws to address the first three categories. However, with the deceived or duped doctor, that individual is guilty of nothing more than an honest attempt to alleviate pain and suffering. It is the doctor shopper, professional patient or con artist that is guilty of the misconduct. Yet, there is no statutory provision that allows for any punishment for such deception and fraud.

The duped or deceived physicians are those who get conned by people who are adept at scams and it is not only the grossly naive who get conned. Due to the skill of the con artists, any physician can be taken since these people prey on the natural compassion and strong desire of physicians to provide help to individuals who appear in need.

In conclusion, the State Board of Healing Arts strongly supports Senate Bill 673 and the amendments to K.S.A. 21-4214 which would punish the true offender who obtains drugs by the use of false information.

Thank you very much for the opportunity to appear before you and I would be happy to answer any questions.

JHW  
3-26-92  
1130P  
Att #3  
2-2

# Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka Blvd.  
Topeka, Kansas 66612  
(913) 234-5563

March 23, 1992

To: Chairman Sader, and Members, House Public Health Committee  
From: Harold E. Riehm, Executive Director, The Kansas Association of Osteopathic  
Medicine  
Subject: Testimony in Support of S.B. 673

I appear today in support of S.B. 673.

There has been considerable discussion in recent years, of physicians being "duped" by persons seeking access to certain prescription drugs. The extent of such activity is little known, but there are documented instances of it taking place.

This has prompted programs by KAOM and other professional associations aimed at educating doctors of "approaches" used by such persons and how physicians should respond. This has been part of our "risk management" continuing education for physicians.

Though the Board of Healing Arts, Kansas, licensed physicians have been subject to investigation and penalty for misprescribing or, in this specific case, prescribing without proper cause. But, Kansas law has been silent on any penalties for persons attempting to obtain a prescribed drug under false pretenses or fraud.

S.B. 673 would remedy this by making it a violation of Kansas law to provide false information to a practitioner for the purpose of obtaining a prescription-only drug. It would also preclude use of physician-patient confidentiality as a defense against providing false information to a physician.

We urge your support of S.B. 673. Thank you for this opportunity to present our views.

BHW  
3-26-92  
1:30 PM  
Att #4

TESTIMONY BY DON JOHNSON BEFORE THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

MARCH 26, 1992

MY NAME IS DON JOHNSON AND I AM A REGISTERED PHARMACIST SUPERVISING WALGREENS STORES IN NEBRASKA AND KANSAS. WE ARE IN FAVOR OF BILL 692 THAT WOULD ALLOW PRESCRIPTION TRANSFER BETWEEN PHARMACIES AS A CONVENIENCE TO THE CONSUMER. CURRENTLY, THE ONLY WAY A CUSTOMER CAN GET A PRESCRIPTION REFILLED AT A PHARMACY THAT DOES NOT HAVE THE ORIGINAL PRESCRIPTION IS TO CALL THE DOCTOR. AFTER VERIFYING THE MEDICATION, A NEW PRESCRIPTION IS CREATED. BECAUSE THERE IS NO INCENTIVE TO CALL THE ORIGINAL PHARMACY, DUPLICATE PRESCRIPTIONS FOR THE SAME MEDICATION MAY EXIST MAKING IT HARDER TO CONTROL POTENTIAL FRAUD. WITH THE PROPOSED BILL, PRESCRIPTIONS COULD BE TRANSFERRED BETWEEN PHARMACIES AND WOULD BE CANCELED AFTER THEIR TRANSFER. DUPLICATE PRESCRIPTIONS COULD THEN BE CONTROLLED MORE EFFECTIVELY.

IN 18 OF THE 28 STATES THAT WALGREENS OPERATES PHARMACIES, TRANSFERS ARE ALLOWED WITH NO LIMITATIONS. SOME OF THOSE ARE STATES SURROUNDING KANSAS INCLUDING MISSOURI, IOWA, OKLAHOMA, TEXAS AND COLORADO. OTHER STATES ALLOW TRANSFERS WITH SOME LIMITATIONS INCLUDING NEBRASKA. CONTROLLED SUBSTANCES ARE NOT IDENTIFIED IN THE BILL BECAUSE THEY WOULD THEN BE SUBJECTED TO FEDERAL GUIDELINES. THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATIONS REGULATIONS ALLOW THE ONE-TIME TRANSFER OF PRESCRIPTIONS FOR CONTROLLED SUBSTANCES IN SCHEDULES III, IV, AND V BETWEEN PHARMACIES. THE REGULATION WAS EFFECTIVE ON OCTOBER 5, 1981 AND HAS SEVERAL REQUIREMENTS INCLUDING THE VOIDING OF THE PRESCRIPTION AT THE ORIGINAL PHARMACY.

*PNW* 130

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*Attn #5*

*1 of 2*

THE BILL ALSO ACKNOWLEDGES THE CURRENT TECHNOLOGY AVAILABLE IN PHARMACIES WITH COMPUTERIZATION. ELECTRONIC TRANSFER WITH INTEGRATED SYSTEMS ARE CONSIDERED ONE FILE IN SOME STATES AND DO NOT REQUIRE A TRANSFER. IN OTHER STATES IT IS CONSIDERED A TRANSFER. OUR SYSTEM AUTOMATICALLY CANCELS THE PRESCRIPTION WHEN IT IS REFILLED AT ANOTHER LOCATION MAINTAINING AN AUDIT TRAIL EVEN WITH THE EXISTING REGULATIONS IN KANSAS.

THE GREATEST BENEFIT WOULD BE TO THE CONSUMER BECAUSE OF THE CONVENIENCE INVOLVED. SEVERAL EXAMPLES COULD BE CITED THAT WOULD PROVE THIS BILLS MERIT TO THE CONSUMER.

1. UNDER THE EXISTING SYSTEM, THE PATIENT MAY HAVE TO PAY A FEE TO THE PHYSICIAN FOR THE TELEPHONE CALL TO OBTAIN A NEW PRESCRIPTION.
2. PRESCRIPTION VERIFICATIONS ARE LIMITED TO A DOCTOR'S OFFICE HOURS AND ARE ALMOST ALWAYS SUBJECTED TO A RETURN CALL. THE PATIENT THEN HAS TO WAIT UNTIL THE CALL IS RECEIVED AND THE PRESCRIPTION CAN BE FILLED.
3. IN A MOBILE SOCIETY, PRESCRIPTION TRANSFERABILITY WOULD THEN BE AVAILABLE ON NIGHTS AND WEEKENDS OR WHEN THE PATIENT IS TRAVELING.
4. EACH PRESCRIPTION WOULD NOW HAVE AN AUDIT TRAIL AND A RECORD OF ITS TRANSFER.

CUSTOMER SERVICE AND CONVENIENCE ARE A PRIORITY IN TODAY'S MARKET. WE CONSISTENTLY EXTEND HOURS OF OPERATION TO 24 HOURS A DAY AND PROVIDE AN 800 NUMBER NATIONALLY WITH THAT IN MIND. A PRESCRIPTION BELONGS TO THE PATIENT FOR WHOM IT IS WRITTEN AND THEY SHOULD BE ALLOWED TO OBTAIN THE MEDICATION AT THE PHARMACY OF THEIR CHOICE. WE BELIEVE THAT ALLOWING PRESCRIPTION TRANSFERS WOULD NOT ONLY BE MORE CONVENIENT TO THE CONSUMER, IT WOULD BE BETTER CONTROLLED.

*PHED 130*  
MAR 26 1992

*Attn #5*

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(b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed, and

(c) No dispensing occurs after 6 months after the date on which the prescription was issued.

[36 FR 18733, Sept. 21, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973]

§ 1306.24 Labeling of substances.

(a) The pharmacist filling a prescription for a controlled substance listed in Schedule III or IV shall affix to the package a label showing the pharmacy name and address, the serial number and date of initial filling, the name of the patient, the name of the practitioner issuing the prescription, and directions for use and cautionary statements, if any, contained in such prescription as required by law.

(b) The requirements of paragraph (a) of this section do not apply when a controlled substance listed in Schedule III or IV is prescribed for administration to an ultimate user who is institutionalized: *Provided, That:*

(1) Not more than a 34-day supply or 100 dosage units, whichever is less, of the controlled substance listed in Schedule III or IV is dispensed at one time;

(2) The controlled substance listed in Schedule III or IV is not in the possession of the ultimate user prior to administration;

(3) The institution maintains appropriate safeguards and records the proper administration, control, dispensing, and storage of the controlled substance listed in Schedule III or IV; and

(4) The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product and the patient, and to set forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.

[36 FR 7799, Apr. 24, 1971. Redesignated at 38 FR 18733, Sept. 21, 1971, and amended at 37 FR 15921, Aug. 8, 1972]

§ 1306.26 Filling prescriptions.

All prescriptions for controlled substances listed in Schedules III and IV shall be kept in accordance with § 1304.04(d) of this chapter.

[36 FR 7799, Apr. 24, 1971. Redesignated at 38 FR 18733, Sept. 21, 1971, and 38 FR 26609, Sept. 24, 1973]

§ 1306.26 Transfer between pharmacies of prescription information for Schedules III, IV, and V controlled substances for refill purposes.

(a) The transfer of original prescription information for a controlled substance listed in Schedules III, IV or V for the purpose of refill dispensing is permissible between pharmacies on a one time basis subject to the following requirements:

(1) The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

(i) Write the word "VOID" on the face of the invalidated prescription.

(ii) Record on the reverse of the invalidated prescription the name, address and DEA registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.

(iii) Record the date of the transfer and the name of the pharmacist transferring the information.

(b) The pharmacist receiving the transferred prescription information shall reduce to writing the following:

(1) Write the word "transfer" on the face of the transferred prescription.

(2) Provide all information required to be on a prescription pursuant to 21 CFR 1306.05 and include:

(i) Date of issuance of original prescription;

(ii) Original number of refills authorized on original prescription;

(iii) Date of original dispensing;

(iv) Number of valid refills remaining and date of last refill;

(v) Pharmacy's name, address, DEA registration number and original prescription number from which the prescription information was transferred;

(vi) Name of transferor pharmacist.

(3) Both the original and transferred prescription must be maintained for a period of two years from the date of last refill.

(c) Pharmacies electronically accessing the same prescription record must satisfy all information requirements of a manual mode for prescription transfer.

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Att #6  
1-2

(d) The procedure allowing the transfer of prescription information for refill purposes is permissible only if allowable under existing state or other applicable law.

[46 FR 48919, Oct. 5, 1981]

**CONTROLLED SUBSTANCES LISTED IN  
SCHEDULE V**

**§ 1306.31 Requirement of prescription.**

(a) A pharmacist may dispense directly a controlled substance listed in Schedule V pursuant to a prescription as required for controlled substances listed in Schedules III and IV in § 1306.21. A prescription for a controlled substance listed in Schedule V may be refilled only as expressly authorized by the prescribing individual practitioner on the prescription; if no such authorization is given, the prescription may not be refilled. A pharmacist dispensing such substance pursuant to a prescription shall label the substance in accordance with § 1306.23 and file the prescription in accordance with § 1306.24.

(b) An individual practitioner may administer or dispense directly a controlled substance listed in Schedule V in the course of his professional practice without a prescription, subject to § 1306.07.

(c) An institutional practitioner may administer or dispense directly (but not prescribe) a controlled substance listed in Schedule V only pursuant to a written prescription signed by the prescribing individual practitioner, or pursuant to an oral prescription made by a prescribing individual practitioner and promptly reduced to writing by the pharmacist (containing all information required in § 1306.05 except for the signature of the prescribing individual practitioner), or pursuant to an order for medication made by an individual practitioner which is dispensed for immediate administration to the ultimate user, subject to § 1306.07.

[36 FR 7799, Apr. 24, 1971, as amended at 36 FR 18733, Sept. 21, 1971. Redesignated at 36 FR 26609, Sept. 24, 1973]

**§ 1306.32 Dispensing without prescription.**

A controlled substance listed in Schedule V, and a controlled substance listed in Schedule II, III, or IV

which is not a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that:

(a) Such dispensing is made only by a pharmacist (as defined in § 1306.02(d)), and not by a nonpharmacist employee even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his professional and legal responsibilities set forth in this section, the actual cash, credit transaction, or delivery, may be completed by a nonpharmacist);

(b) Not more than 240 cc. (8 ounces) of any such controlled substance containing opium, nor more than 120 cc. (4 ounces) of any other such controlled substance nor more than 48 dosage units of any such controlled substance containing opium, nor more than 24 dosage units of any other such controlled substance may be dispensed at retail to the same purchaser in any given 48-hour period;

(c) The purchaser is at least 18 years of age;

(d) The pharmacist requires every purchaser of a controlled substance under this section not known to him to furnish suitable identification (including proof of age where appropriate);

(e) A bound record book for dispensing of controlled substances under this section is maintained by the pharmacist, which book shall contain the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser (the book shall be maintained in accordance with the recordkeeping requirement of § 1304.04 of this chapter); and

(f) A prescription is not required for distribution or dispensing of the substance pursuant to any other Federal, State or local law.

[36 FR 7799, Apr. 24, 1971, as amended at 36 FR 18733, Sept. 21, 1971. Redesignated at 36 FR 26609, Sept. 24, 1973]

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S.B. 692 SUGGESTED ADDITIONS

3. RECORD ON THE FACE OF THE PRESCRIPTION OR ON THE COMPUTER RECORD THE NAME OF THE REQUESTING PHARMACY, THE NAME OF THE REQUESTING PHARMACIST, ADD THE DATE OF THE REQUEST, AND
  
4. WRITE THE WORD "VOID BY TRANSFER" ON THE FACE OF THE PRESCRIPTION ORDER OR KEY ON THE COMPUTER RECORD OF THAT PRESCRIPTION ORDER THE WORD "VOID BY TRANSFER".

1:30

PHRU  
3-26-92  
Attn # 7

**JOAN WAGNON**

REPRESENTATIVE, FIFTY-FIFTH DISTRICT

1606 BOSWELL

TOPEKA, KANSAS 66604

(913) 235-5881

OFFICE:

STATE CAPITOL, 272-W

TOPEKA, KANSAS 66612

(913) 296-7647



TOPEKA

HOUSE OF  
REPRESENTATIVES

## COMMITTEE ASSIGNMENTS

CHAIR: TAXATION

MEMBER: ECONOMIC DEVELOPMENT  
FEDERAL & STATE AFFAIRS  
LEGISLATIVE POST AUDIT

March 26, 1992

## Testimony Regarding Senate Bill 692

My name is Lana Vanderplas. At the request of and on behalf of Representative Joan Wagnon, I am here today advocating SB 692.

Like many college students, I lead a mobile life style. I attended my first five semesters of college at Fort Hays State University, spent last summer working in Colorado, am currently residing in Topeka as an intern in the legislature for Representative Joan Wagnon, and expect to return to Fort Hays State to finish up my undergraduate studies.

Before my move to Colorado, I visited a physician in Hays and received a prescription for medication, which I filled at a local pharmacy. Upon moving to Colorado, I went to a pharmacy in that state and requested that my prescription be transferred to them from Hays. A simple phone call from the pharmacist in Colorado to the pharmacist in Hays easily fulfilled my request. However, when I moved back to Kansas and attempted the same type of transfer (only this time from Colorado back to Kansas), I was informed that Kansas laws prohibited the transfer of a prescription from another state to Kansas.

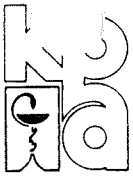
I could do nothing but contact a Kansas physician again and have my prescription reissued. I was inconvenienced and forced to pay for a second examination in Kansas to comply with our state's laws, yet it was the state of Kansas in which I had the first examination performed! Through the adoption of measures that allow interstate transfers of prescriptions and mandate that those prescriptions be investigated by the requested pharmacy, the complications involved in common situations such as mine can be avoided without ignoring safety.

Representative Wagnon and I see this as an issue affecting consumers. We advocate the policy of making it easy for consumers to have access to pharmacy services; however, we have not scrutinized the mechanics of this bill and leave it to the wisdom of the committee to determine how best to effect this policy.

Our laws must change to fit our changing society. You, as legislators, gather here each year in an attempt to react to those changes. I hope you will see SB 692 as an effective way to meet the needs of an increasingly mobile society.

*JAW*  
3-26-92  
Attn #8





THE KANSAS PHARMACISTS ASSOCIATION  
1308 SW 10TH STREET  
TOPEKA, KANSAS 66604  
PHONE (913) 232-0439  
FAX (913) 232-3764

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.  
EXECUTIVE DIRECTOR

## TESTIMONY

### HOUSE PUBLIC HEALTH & WELFARE COMMITTEE

SB 692

MARCH 26, 1992

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee regarding SB 692.

During the Senate Public Health & Welfare Committee deliberations concerning SB 692, we supported the concept of transferring those prescription orders which could be refilled, but were opposed to SB 692.

Our chief concerns were with the transferring of Schedule III, IV and V controlled substances and the transferring of prescriptions via a common electronic file. Subsequently we have met with the Kansas Board of Pharmacy and believe their recommendations alleviate our concerns. We have therefore withdrawn our opposition to SB 692. Thank you.

*PHW*  
MAR 26 1992  
1:30 P.M.  
Att #9.

*Kansas State Board of Pharmacy*

LONDON STATE OFFICE BUILDING  
900 JACKSON AVENUE, ROOM 513  
TOPEKA, KANSAS 66612-1220  
PHONE (913) 296-4056

STATE OF KANSAS

SB 692

HOUSE PUBLIC HEALTH  
AND WELFARE COMMITTEE

MARCH 26, 1992

JOAN FINNEY  
GOVERNOR

MADAM CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS EXECUTIVE SECRETARY OF THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD TO TESTIFY ON SB 692. WHEN WE APPEARED BEFORE THE SENATE COMMITTEE, IT WAS IN OPPOSITION OF THIS BILL, BUT TODAY WE APPEAR NEITHER AS A PROPONENT NOR AN OPPONENT OF SB 692.

THE PROBLEM WE HAD WITH THE BILL WAS THAT REFILLABLE C-III AND IV PRESCRIPTIONS WERE NOT ADDRESSED. THIS, HOWEVER, IS COVERED IN DEA REGULATIONS AND SUCH REGULATIONS MUST BE FOLLOWED.

THE OTHER PROBLEM HAD TO DO WITH SUBSECTION (b) STARTING ON PAGE 2, LINE 24 OF THE BILL. THIS PROBLEM WAS THAT THE SUBSECTION FAILS TO ADDRESS THE NECESSITY OF A HARD COPY OF THE PRESCRIPTION THAT IS TRANSFERRED TO A SECOND PHARMACY. SUCH IS ADDRESSED ELSEWHERE IN THE PHARMACY ACT WHICH REQUIRES RECORDS OF PRESCRIPTIONS THAT ARE FILLED IN A PHARMACY.

WITH BOTH PROBLEMS COVERED AS STATED ABOVE, THE BOARD DOES NOT OPPOSE THE PASSAGE OUT OF COMMITTEE OF SB 692.

THANK YOU.

*PHW*  
*3-26-92*  
*Attn #10*  
*1:30 p.m.*