

Approved: 2-23-99  
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on February 17, 1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department  
Norman Furse, Revisor of Statutes  
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Harold Riehm, Executive Director, Kansas Assn. of Osteopathic Medicine  
Larry Buening, Executive Director, Kansas Board of Healing Arts  
James Crowl, Kansas Chiropractic Association  
Connie Hubbell, Commissioner, MH and DD, Social and Rehab. Services

Others attending: See attached list

**Hearing on: SB 216 - Compensation of Board of Healing Arts Review Committee**

Harold Riehm, KAOM, testified before the Committee in support of **SB 216**. The proposed legislation would allow the Board of Healing Arts to compensate members of its review committees on an hourly basis at a rate it determines, instead of the subsistence and mileage that they are paid under current law. Mr. Riehm noted that there are five three-member Review Committees that serve the Board – three MDs, one DO and one DC. Members of these committees are appointed by the Board, and the amount of compensation per hour and even the decision to commence payment rests with the Board. (Attachment 1)

Larry Buening, Executive Director, Board of Healing Arts, testified in support of the bill noting that the review committees in the three branches of the healing arts were created by the 1984 Legislature to provide assistance to the Board in the analysis of investigative information and to make recommendations to the Board when, in the judgment of the review committee, a violation of the healing arts act has occurred. Mr. Buening noted that at a review committee meeting held February 15, 1999, the three medicine and surgery review committee members were asked to review 19 investigative cases. In preparing for review committee meetings, the members can spend more than two hours reviewing investigative material compiled in one investigative case in preparation for the meeting. The review committees recommend to Board staff whether an investigation should be closed, whether additional information should be obtained, or whether the matter should be presented to the Board for the initiation of formal disciplinary proceedings. For performing these functions, the review committee members currently receive \$72.06 for their meeting plus mileage expense as noted in his written testimony. (Attachment 2)

Speaking in opposition to **SB 216** was James Crowl, legal counsel for the Kansas Chiropractic Association. Mr. Crowl opposed the bill because he felt: (1) If payments to review committees are authorized, additional fee increases will be necessary as a result, (2) there is no shortage of qualified individuals who are willing to serve on review committees without compensation, and (3) people serve on the Board of Healing Arts for the same reason legislators serve in the legislature...as a public service, and (4) review committee doctors should be no different and not be paid \$70.00 an hour for their public service work as noted in his written testimony. (Attachment 3)

**Hearing on: SB 233 - Entering the concept of mental health reform to child in need of care status**

Connie Hubbell, Commissioner of Mental Health and Developmental Disabilities, SRS, spoke in support of **SB 233**. Commissioner Hubbell noted that the bill represents the final piece of the series of laws and amendments that have been offered and enacted since mental health reform programs were begun in 1990. The provisions of this bill would extend the requirement and procedure of mental health center screening and prior authorization before admission to a state psychiatric hospital to misdemeanor, juvenile offender and child-in-need-of-care cases as noted in her written testimony. (Attachment 4)

There were no opponents to **SB 233**.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on February 17, 1999.

**Report from Kansas State Board of Pharmacy**

Larry Froelich, Executive Secretary, Kansas State Board of Pharmacy, submitted a written report on electronic prescription transmission. (Attachment 5)

**Approval of Minutes**

Senator Becker made a motion to approve the Committee minutes of February 9, 10, and 11, 1999, seconded by Senator Salmans. The motion carried.

**Adjournment**

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 18, 1999.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
GUEST LIST

DATE: 2-17-99



| NAME              | REPRESENTING              |
|-------------------|---------------------------|
| Mike Shely        | Federico Consulting       |
| Larry Swearing    | Bd of Healing Arts        |
| Shelly Walczman   | Bd of Healing Arts        |
| Lindy Haynes      | Keys for Networking       |
| Gary Robbins      | Ks Optometric Assn        |
| Mary Ellen Carter | via Christi Health System |
| Mary Hillin       | CFS of PRS                |
| Pick Pittman      | Health Midwest            |
| Mark Stafford     | Bd of Healing Arts        |
| Larrie Ann Brown  | K A H P                   |
| Danielle Noe      | Governor's Office         |
| Meg Draper        | IAMS                      |
| Keith Keames      | FHCS                      |
| Paul Remoin       | K&L Contracting           |
| Mark McGuire      | Easton Inc.               |
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|                   |                           |
|                   |                           |
|                   |                           |

# Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director  
1260 SW Topeka Blvd  
Topeka, KS 66614

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(785) 234-5564 fax  
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February 17, 1999

To:  Chairperson Praeger and Members, Senate Public Health Committee  
From:  Harold E. Riehm, Executive Director, Kansas Association of Osteopathic Medicine  
Subject: Testimony in Support of SB 216

Thank you for this opportunity to express our support for passage of SB 216. This proposal is a rerun. It passed the Senate in an "earlier life", but failed passage in the House.

This Bill would simply permit the Board of Healing Arts to compensate members of the Review Committees that serve the Board. Several years ago, when the Board authorized payment of Review Committee members for time spent outside the formal Committee meetings, in preparation for the meetings. An informal opinion of the Attorney General, however, ruled there was no statutory authority to compensate these persons. This Bill would provide such authority.

There are five three-member Review Committees that serve the Board--three MD, one DO and one DC. Members of these Committees are appointed by the Board from each of the noted professions. Review Committee members are currently compensated for the day in which they meet in session. They are not compensated for the time they spend reviewing cases and records relevant thereto, on their own time outside a formal meeting. It is this time that would now be compensated.

It is important to note what this Bill would not do. It would not require the Board to provide such compensation nor would it suggest a starting time for payment were the decision made to proceed. Neither would the Bill provide compensation at any specific level. Such payment levels would be determined by the Board within Board budgetary and appropriation limits.

These persons provide a great service to their professions. When the Board of Healing Arts has occasion to hire outside consultants, hearing examiners, etc., they are always compensated for their service. We think Review Committee members should be, also.

Opponents of the Bill and of this payment, primarily from the Chiropractic Profession, suggest that Review Members are no different than Board members who are compensated on a per diem basis. We respectfully disagree. With Board membership come the "honor and glory" of being a member of a major State Agency Board of Directors. Appointment is by the Governor, major press releases are issued, and considerable recognition occurs within their respective professions and communities. For Board of Review Members, recognition occurs only when publicized or initiated among their colleagues. We think this is a major difference. In some respects, Review Board members might be compared to staff of the Board.

It should be repeated—the amount of compensation per hour and even the decision to commence payment, rests with the Board. All this Bill would do is eliminate the legal deterrent to payment.

I will be pleased to respond to questions.

Senate Public Health & Welfare  
Date: 2-17-99  
Attachment No. 1

# KANSAS BOARD OF HEALING ARTS


**BILL GRAVES**  
Governor



235 S. Topeka Blvd.  
Topeka, KS 66603-3068  
(785) 296-7413  
FAX # (785) 296-0852  
(785) 368-7102

## MEMORANDUM

TO: Senate Committee on Public Health and Welfare

FROM: Lawrence T. Buening, Jr.   
Executive Director

DATE: February 17, 1999

RE: **SENATE BILL NO. 216**

Senator Praeger and members of the Committee, thank you for the opportunity to appear before you and provide information in support of Senate Bill No. 216. The Board did not request introduction of this bill. However, the bill contains language which was amended into both Senate Bills No. 221 and 244 during the 1997 legislative session and was supported by the Board at that time. The effect of the bill is very simple—it would enable but require the Board to compensate review committee members for time expended reviewing investigative records and reports in preparation for the review committee meetings.

Review committees in the three branches of the healing arts were created by the 1984 Legislature to provide assistance to the Board in the analysis of investigative information and to make recommendations to the Board when, in the judgment of the review committee, a violation of the healing arts act had occurred. The review committee for the practice of podiatry was created by the 1992 Legislature. Currently, the Board has 5 three-member review committees—one each for osteopathic medicine and surgery, chiropractic and podiatry and two for medicine and surgery.

Several years ago, the Board recognized the increasing number of investigative cases being presented to the review committees and the amount of time expended by each of the members in reviewing investigative materials and preparing for the committee meetings. For instance, in FY1985 the Board received a total of 190 complaints, not all of which were made into investigative cases. In FY1998, the Board opened 476 investigative cases. For FY1999, 550 investigative cases are expected to be opened. Therefore, in the early 1990s, the Board authorized payment of hourly compensation to the members for time expended outside of the review committee meetings themselves. When a

LAWRENCE T. BUENING, JR.  
EXECUTIVE DIRECTOR

WILLIAM BRYANT, WASHINGTON  
JAMES D. EDWARDS, D.C., EMPORIA  
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ROBERT L. FRAYSER, D.O., HOISINGTON  
JOHN P. GRAVINO, D.O., LAWRENCE  
JANA D. JONES, M.D., LANSING  
LANCE MALMSTROM, D.C., TOPEKA

LAUREL H. RICKARD, MEDICINE LODGE  
CHRISTOPHER P. RODGERS, M.D., HUTCHINSON  
HAROLD J. SAUDER, D.P.M., INDEPENDENCE  
EMILY TAYLOR, LAWRENCE  
PAUL T. TRUONG, D.O., WICHITA

MEMBERS OF THE BOARD  
RONALD J. ZOELLER, D.C., PRESIDENT  
TOPEKA  
DONALD B. BLETZ, M.D., VICE-PRESIDENT  
OVERLAND PARK

Senate Public Health and Welfare  
Date: 2-17-99  
Attachment No. 2

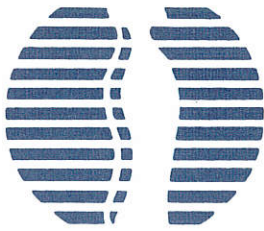
question was raised as to the statutory authority of the Board to pay this compensation, the Board sought the advice of the Attorney General. In August 1996, the AG issued an informal opinion stating that, in the absence of statutory authority which authorizes compensation for time spent reviewing files outside of a meeting, review committee members may not receive additional compensation for reviewing files. The Board immediately discontinued the payment of any compensation over and above that authorized by K.S.A. 65-2840c. In FY 1996, the Board had authorized compensation at the rate of \$70 per hour for time expended outside of review committee meetings. The Board paid compensation of \$13,653.50 to 8 review committee members for their preparation time prior to 16 review committee meetings. This is less than 1% of the Board's current expenditure limitation for FY99.

In preparing for review committee meetings, the members can spend more than two hours reviewing investigative material compiled in one investigative case in preparation for the meeting. At a review committee meeting held February 15, 1999, the three medicine and surgery review committee members were asked to review 19 investigative cases. The investigative materials in those 19 cases are in the two boxes I have brought with me today. Reviewing nineteen cases is actually a short review committee meeting. At times, the review committees have dealt with as many as 50 cases at one meeting.

Review committee members are appointed by the Board. They operate in relative obscurity as the peer review function they perform is confidential. Review committee members are generally not recognized and they do not have their names on the Board's letterhead. However, the review committees perform a vital function in the manner in which the Board operates. Review committees are utilized not only to review investigative materials following the conclusion of an investigation, but also to review information and complaints received in the Board office to determine whether an investigation should be commenced. The review committees recommend to Board staff whether an investigation should be closed, whether additional information should be obtained, or whether the matter should be presented to the Board for the initiation of formal disciplinary proceedings. For performing these functions, the review committee members currently receive \$72.06 for their meeting plus their mileage expenses.

X Senate Bill No. 216 does not change the amount of compensation review committee members would receive for attending the meetings themselves. Further, Senate Bill No. 216 does not require the Board to compensate review committee members for any of their time expended in preparation for the meetings. It would provide the Board with the authority to compensate them for this outside preparation time. However, whether and if the Board would exercise this authority would depend on the Legislature authorizing these expenditures through the budget process and on whether the Board's fee fund balance could accommodate such additional expenditures.

In conclusion, the Board asks your support for Senate Bill No. 216 so that the extremely important function review committees perform can continue and the Board can continue to attract and retain competent and willing individuals to perform this vital work. Thank you for allowing me to appear before you today. I would be happy to respond to any questions.



# Kansas Chiropractic Association

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TESTIMONY OF JAMES CROWL  
LEGAL COUNSEL FOR THE  
KANSAS CHIROPRACTIC ASSOCIATION  
FEBRUARY 17, 1999

Chairperson Praeger and members of the Committee. My name is James Crowl and I represent the Kansas Chiropractic Association. The KCA appreciates the opportunity to offer testimony in opposition to SB 216.

For committee members who are unfamiliar with this issue and it's history, I would like to give you a brief background.

Review committee doctors assist the board in determining whether disciplinary action is needed against a doctor who has been charged with wrong doing. The review committee doctors are not members of the board but are appointed and approved for those positions by the Board of healing Arts.

Until 1996, review committee doctors were compensated for reviewing files at home at the rate of \$70.00 per hour. When those payments became known, the board agreed to halt the payments until the Attorney General's office could give the board direction about the legality of those payments.

On August 29, 1996, the Board of Healing Arts received word from the Attorney General's office that

- \* Review committee members as state officers are subject to the governmental ethics law which prohibits additional compensation for the performance of an official duty, and
- \* the statutes do not authorize compensation to committee members for time spent reviewing files outside of a meeting.

The Kansas Chiropractic Association thinks the matter should have ended at that point. Instead an amendment to SB 221 was offered last year which would legally authorize the payments. Ultimately and fortunately, the amendment was stripped out the bill in the House in what observers called a "loud voice vote."

During last year's session, some started referring to this proposal as the "cockroach bill." They made that analogy because they consider its provisions to be unclean; it disappears into the woodwork when light is shined on it, and like a cockroach...it is almost impossible to get rid of.

Senate Public Health & Welfare  
Date: 2-17-99  
Attachment No. 3

And sure enough, another bill has been introduced which would again place review committee doctors outside the governmental ethics law and authorize the Board of healing Arts to pay doctors \$70.00 per hour for their work at home.

there are three very compelling reasons why SB 216 should not become law.

First, the Board of Healing Arts generates it's income from the license renewal fees of doctors and many of those doctors are KCA members. Last year, our members had their license renewal fees increased 20%^ . The KCA believes if payments to review committees are authorized, additional fee increases will be necessary as a result.

Second, the argument that qualified doctors will not do the jobs unless they are paid is completely without foundation. The Executive Director of the Healing Arts Board can verify for the committee that there is no shortage of qualified individuals who are willing to serve on review committees without compensation.

And finally, SB 216 violates an important principle. People serve on the Kansas State Board of healing Arts for the same reason you serve in the legislature...as a public service. Review committee doctors should be no different. They should be honored to serve, they should not be exempted from the governmental ethics law and above all, they should not be paid \$70.00 an hour for their "public service" work.

I will be happy to answer any questions at the appropriate time.



**State of Kansas  
Department of Social  
& Rehabilitation Services**

Rochelle Chronister, Secretary  
Janet Schalansky, Deputy  
Secretary

For additional information, contact:

**SRS Office of the Secretary**  
Laura Howard, Special Assistant  
915 SW Harrison Street, Sixth Floor  
Topeka, Kansas 66612-1570  
☎785.296.6218 / Fax 785.296.4685

For fiscal information, contact:

**SRS Finance Office**  
Diane Duffy, CFO  
915 SW Harrison Street, Tenth Floor  
Topeka, Kansas 66612-1570  
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**Senate Public Health and Welfare  
February 17, 1999**

**Testimony: Testimony in Favor of Passage of Senate Bill 233**

**Mental Health and Developmental Disabilities  
Connie Hubbell, Commissioner  
785.296.3773**

Senate Public Health & Welfare  
Date: 2-17-99  
Attachment No. 4

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**Kansas Department of Social and Rehabilitation Service  
Rochelle Chronister, Secretary**

**Senate Public Health and Welfare  
Testimony in Favor of Passage of Senate Bill 233**

February 17, 1999

Madam Chairperson and members of the Committee, I am Connie Hubbell, Commissioner of Mental Health and Developmental Disabilities (MH&DD), one of seven Commissions within the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to appear and testify on behalf of Secretary Chronister today concerning Senate Bill 233. We requested this bill and favor its passage.

✓ Senate Bill 233 represents the final piece of the series of laws and amendments that have been offered and enacted as we have progressed in mental health reform since we began that program in 1990. It is not the end of mental health reform, and will not be the last of the amendments to law which this mental health reform movement will generate, but it is the last piece of what was envisioned in 1990.

✓ **The provisions of this bill would extend the requirement and procedure of mental health center screening and prior authorization before admission to a state psychiatric hospital to misdemeanor, juvenile offender and child-in-need-of-care cases.** The bill would require that before a court could order someone into one of our state hospitals, that the person would have to be either personally seen or their records and circumstances reviewed by a psychiatrist, psychologist or other qualified mental health professional employed by a participating Community Mental Health Center (CMHC) to determine whether the needs of that person and the court's requirements could be met, generally much faster and much cheaper, by community resources, rather than incurring the delays and expenses of transporting the person to the state hospital, having the person kept there, and then awaiting transportation of the person back to court. Of course, if the patient truly needs to be sent on to a state hospital, the CMHC issues a "ticket letter" to the court and to the state hospital, and the admission is then arranged and coordinated by the CMHC. Thereafter, the CMHC remains involved during the course of the patient's hospitalization and assists in the discharge and transfer of the person back to court and to any required follow-up care in the community.

In some areas of the state, we are aware that this process is already informally being followed, owing to the fact that the process is required if the civil mental health law is going to be invoked, but under current law, the courts do have the authority to directly send persons in these circumstances to the state hospital without utilizing the services of the local CMHC, and that does occur regularly. In a significant number of these cases, staff both at the state hospitals and at the CMHCs believe the person could have and should have been served in the community.

**Sections 1 through 6 of the bill deal with misdemeanor criminal circumstances:** competency

to stand trial, commitments in cases of incompetency to stand trial, evaluations, and treatment in lieu of other dispositions after conviction. When felony charges are involved, this bill does not change the direct commitment of those persons to the state security hospital. However, typically when mental health issues are raised in misdemeanor cases, the charges often involve trespassing, petty theft, simple assault, or disturbing the peace -- and are often a prelude to civil commitment proceedings. The amendments of this bill and the screening requirements it would require would likely speed up that diversion or resolve those issues more quickly, and at considerably less cost and delay than transfer to the state hospital now involves.

**Sections 10 thru 13 of the bill** do the same things for juvenile offender cases.

**Sections 7 thru 9 of the bill** provide for CMHC screenings in child-in-need-of-care cases and juvenile offender cases when evaluations and possible inpatient psychiatric treatment of those children are considered. We believe that only in the rarest of cases, only when it is absolutely necessary, should children be sent to a state hospital. We have and are continuing to require CMHCs to expand their capacity to serve children in their homes and home community, and the requirements of this bill would foster that progress.

X The other thing that you may notice about this bill is that where the word "institution" appears in current law it is replaced with the term "facility". No longer do we wish to correlate that mental health treatment or services need only be provided in a place far away, where people are segregated away from society, and kept there for long periods of time. Instead, we advocate the concept of treatment facilities, which may well be outpatient in nature and integrated with the local community, or certainly oriented to short term treatment on an inpatient basis where that is required.

Thank you for your consideration of this bill. I would be happy to answer any questions.

**Kansas Board  
Of  
Pharmacy**

900 SW Jackson, Room # 513  
Topeka, KS 66612-1231  
(785) 296-4056  
(785) 296-8420 Fax

February 17, 1999

The Honorable Sandy Praeger  
Chairperson, Public Health and Welfare  
Topeka State Capitol, Room 128-S  
Topeka, KS 66612

Dear Senator Praeger:

I am the Executive Secretary for the Kansas State Board of Pharmacy. During the 1998 Legislative session, the Senate Public Health and Welfare Committee requested a report from the Board on security problems with electronic transmission of prescriptions.

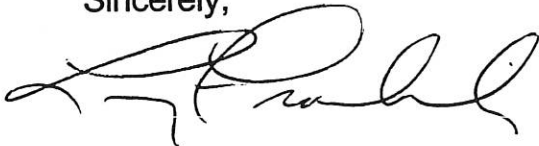
The Board office has not been notified of problems in this area. This answer may be premature as the regulations enacted were not effective until February 5, 1999. I have enclosed copies of:

**K.A.R. 68-2-22. Electronic prescription transmission.**

**K.A.R. 68-20-10a. Electronic prescription transmission.**

I am willing to respond to the next legislative session when more time has elapsed to compile a more thorough report by the Board of Pharmacy. I hope that my responses are satisfactory. If you have additional questions, please contact me at 296-8419.

Sincerely,



Larry Froelich  
Executive Secretary

Enclosures

CC: Board Members  
Norman Furse, Revisor of Statutes

Senate Public Health & Welfare  
Date: 2-17-99  
Attachment No. 5

68-2-22. **Electronic prescription transmission.** (a) A prescription drug order transmitted electronically shall be issued for a legitimate medical purpose by a practitioner acting within the course of legitimate professional practice.

(b) All prescription drug orders communicated by way of electronic transmission shall fulfill these requirements:

(1) Be transmitted to a pharmacist in a licensed pharmacy of the patient's choice, exactly as transmitted by the prescriber, with no intervening person or entity having access to the prescription drug order;

(2) identify the transmitter's phone number for verbal confirmation, the time and date of transmission, and the identity of the pharmacy intended to receive the transmission, as well as any other information required by federal or state laws and regulations;

(3) be transmitted by an authorized practitioner or the practitioner's designated agent; and

(4) be deemed the original prescription drug order, if it meets the requirements of this regulation.

(c) The prescribing practitioner may authorize an agent to communicate a prescription drug order orally or electronically to a pharmacist in a licensed pharmacy, if the identity of the transmitting agent is included in the order.

(d) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order communicated by way of electronic transmission, consistent with existing federal or state laws and regulations.

(e) All electronic equipment for receipt of prescription drug orders communicated by way of electronic transmission shall be maintained so as to ensure against unauthorized access.

(f) Persons other than those bound by a confidentiality agreement shall not have access to pharmacy records containing confidential information or personally identifiable information concerning the pharmacy's patients.

(g) If communicated by electronic transmission, the prescription drug order shall be maintained in hard copy for the time required by existing federal or state laws and regulations.

(h) A prescription drug order, including that for a controlled substance

listed in Schedules III, IV, and V, and in certain situations, that for a controlled substance listed in Schedule II, may be communicated by way of electronic transmission, provided all requirements of K.A.R. 60-20-10a are met.

(i) After the pharmacist views the prescription drug order, this order shall be immediately reduced to a hard copy and shall contain all information required by federal or state laws and regulations. (Authorized by K.S.A. 65-1630; implementing K.S.A. 1997 Supp. 65-1642; effective Feb. 5, 1999.)

**68-20-10a. Electronic prescription transmission of controlled**

**substances.** (a) A prescription drug order transmitted electronically shall be issued for a legitimate medical purpose by a practitioner acting within the course of legitimate professional practice.

(b) All prescription drug orders communicated by way of electronic transmission shall fulfill all the requirements of K.A.R. 68-2-22.

(c) If communicated by electronic transmission, the prescription drug order shall

be maintained in hard copy for the time required by existing federal and state laws and regulations.

(d) A prescription drug order, including that for a controlled substance listed in schedules III, IV, and V, and in certain situations, that for a controlled substance listed in schedule II, may be communicated by electronic transmission.

(e) The electronic transmission of a prescription drug order for a schedule II controlled substance shall conform to these requirements:

(1) A prescription drug order for a schedule II controlled substance may be

communicated by the practitioner or that practitioner's designated agent by way of electronic transmission, if the original written, signed prescription drug order is presented to the pharmacist for review before the actual dispensing of the controlled substance, except as noted in this subsection.

(2) A prescription drug order for a schedule II narcotic substance to be

compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be communicated by the practitioner or that practitioner's designated agent to the pharmacy by way of electronic transmission. The hard copy of such electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and it shall be maintained as such.

(3) A prescription drug order for a schedule II controlled substance for a resident of a long-term care facility (LTCF) may be communicated by the practitioner or that practitioner's designated agent by way of electronic transmission. The hard copy of such electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and it shall be maintained as such.

(4) A prescription drug order for a schedule II controlled substance for a patient

released by a registered institution to a home hospice setting which continues to provide daily skilled nursing care to the home hospice setting may be transmitted by the



practitioner or that practitioner's designated agent by way of electronic transmission to the dispensing pharmacy. The hard copy of such electronic transmission shall serve as the original, written prescription drug order for purposes of this subsection, and it shall be maintained as such.

(5) In the case of an emergency situation, a prescription drug order for a schedule II controlled substance may be communicated by the practitioner by way of electronic transmission, provided that these conditions are met:

(A) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period. Dispensing beyond the emergency period shall be pursuant to a written prescription drug order signed by the prescribing practitioner.

(B) After the pharmacist views the prescription drug order, this order shall be immediately reduced to a hard copy and shall contain all information required by federal or state laws and regulations.

(C) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order communicated by way of electronic transmission, consistent with existing federal or state laws and regulations.

(D) Within seven days after authorizing an emergency prescription drug order, the practitioner shall cause a written prescription drug order for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to all other federal and state laws and regulations, the prescription drug order shall have written on its face "authorization for emergency dispensing" and the date of the transmitted prescription drug order. The written prescription drug order shall be delivered to the pharmacist in person within seven days of authorization, or if delivered by mail, it shall be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this written prescription drug order to the hard copy of the electronically transmitted prescription drug order. The pharmacist shall notify the nearest office of the U.S. drug enforcement administration (DEA) if the prescribing practitioner fails to deliver a written prescription drug order.

(Authorized by K.S.A. 65-1630; implementing K.S.A. 1997 Supp. 65-1642; effective Feb. 5, 1999.)