

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on March 16, 2005 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Emalene Correll, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Whitney Nordstrom, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Final action on HB 2155

HB 2155– Prescription refills

Upon calling the meeting to order Chairperson Barnett announced the first order of business was final action on **HB 2155**, an act concerning pharmacists and pharmacy; relating to prescription refills; amending K.S.A. 65-1637 and repealing the existing section. First, the Chair requested that Mr. Norm Furse, Office of Revisor of Statutes, give a brief overview of the bill and its amendments. A copy of his handout is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

Senator Barnett asks where on page 2 would the new language begin. Senator Journey asks if a pharmacist chooses to refill a prescription do they contact the prescriber. Emalene Correll asks if pharmacists are currently required to contact the physician after refilling a prescription.

Senator Journey motioned to accept the balloon amendment. Senator Jordan seconded the motion. Motion Passed.

Senator Journey motioned to have the revisor add “pharmacist shall” notify prescriber on next business day or soon there after as possible. Senator Barnett seconded the motion. Motion Passed.

Senator V. Schmidt motioned to pass legislation favorably as amended. Senator Journey seconded the motion. Motion Passed.

Final action on HB 2284

HB 2284– Right to breastfeed

The next order of business was final action on **HB 2284**, an act relating to breastfeeding [mothers; concerning right to breastfeed; jury duty while breastfeeding; amending K.S.A. 43-158 and repealing the existing section].

Senator Brungardt motioned to remove the word “discreetly” from the bill. Senator Journey seconded the motion. Motion Passed.

Senator Brungardt motioned to remove Section 2 from page one, concerning jury duty. Senator V. Schmidt seconded the motion. Motion Failed.

Senator Haley motioned to pass legislation favorably as amended. Senator Wagle seconded the motion. Motion Passed.

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on March 16, 2005 in Room 231-N of the Capitol.

Adjournment

As there was no further business, the meeting was adjourned at 2:10 p.m.

The next meeting is scheduled for Tuesday, March 22, 2005.

HOUSE BILL No. 2155

By Committee on Health and Human Services

1-25

10 AN ACT concerning pharmacists and pharmacy; relating to prescription
11 refills; amending K.S.A. 65-1637 and repealing the existing section.
12

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

14 Section 1. K.S.A. 65-1637 is hereby amended to read as follows: 65-
15 1637. In every store, shop or other place defined in this act as a "phar-
16 macy" there shall be a pharmacist in charge and, except as otherwise
17 provided by law, the compounding and dispensing of prescriptions shall
18 be limited to pharmacists only. Except as otherwise provided by the phar-
19 macy act of this state, when a pharmacist is not in attendance at a phar-
20 macy, the premises shall be enclosed and secured. Prescription orders
21 may be written, oral, telephonic or by electronic transmission unless pro-
22 hibited by law. Blank forms for written prescription orders may have two
23 signature lines. If there are two lines, one signature line shall state: "Dis-
24 pense as written" and the other signature line shall state: "Brand exchange
25 permissible." Prescriptions shall only be filled or refilled in accordance
26 with the following requirements:

27 (a) All prescriptions shall be filled in strict conformity with any di-
28 rections of the prescriber, except that a pharmacist who receives a pre-
29 scription order for a brand name drug product may exercise brand
30 exchange with a view toward achieving a lesser cost to the purchaser
31 unless:

32 (1) The prescriber, in the case of a prescription signed by the pre-
33 scriber and written on a blank form containing two signature lines, signs
34 the signature line following the statement "dispense as written," or

35 (2) the prescriber, in the case of a prescription signed by the pre-
36 scriber, writes in the prescriber's own handwriting "dispense as written"
37 on the prescription, or

38 (3) the prescriber, in the case of a prescription other than one in
39 writing signed by the prescriber, expressly indicates the prescription is to
40 be dispensed as communicated, or

41 (4) the federal food and drug administration has determined that a
42 drug product of the same generic name is not bioequivalent to the pre-
43 scribed brand name prescription medication.

Nam Furse
Senate Public Health & Welfare
3-16-05
Attachment #1

1-2

1 (b) Prescription orders shall be recorded in writing by the pharmacist
2 and the record so made by the pharmacist shall constitute the original
3 prescription to be dispensed by the pharmacist. This record, if telephoned
4 by other than the physician shall bear the name of the person so tele-
5 phoning. Nothing in this paragraph shall be construed as altering or af-
6 fecting in any way laws of this state or any federal act requiring a written
7 prescription order.

8 (c) (1) Except as provided in paragraph (2), no prescription shall be
9 refilled unless authorized by the prescriber either in the original prescrip-
10 tion or by oral order which is reduced promptly to writing and filled by
11 the pharmacist.

except a drug

or a narcotic drug listed on any schedule of the uniform controlled substances

act

12 (2) A pharmacist may refill a prescription order for any prescription
13 drug ~~not~~ listed on schedule II of the uniform controlled substances act
14 without the prescriber's authorization when all reasonable efforts to con-
15 tact the prescriber have failed and when, in the pharmacists' professional
16 judgment, continuation of the medication is necessary for the patient's
17 health, safety and welfare. Such prescription refill shall only be in an
18 amount judged by the pharmacist to be sufficient to maintain the patient
19 until the prescriber can be contacted, but in no event shall a refill under
20 this paragraph be more than a seven day supply or one ~~unit~~. However,
21 if the prescriber states on a prescription that there shall be no emergency
22 refilling of that prescription, then the pharmacist shall not dispense any
23 emergency medication pursuant to that prescription. A pharmacy and a
24 pharmacist shall not incur any liability as a result of refusing to refill a
25 prescription pursuant to this paragraph. When an emergency pre-
26 scription is dispensed by a pharmacist pursuant to this section, the
27 prescriber shall not incur any liability for any damage, injury or
28 death resulting from the dispensing of the emergency
29 prescription.

package of the drug

No pharmacist shall be required to refill any prescription order under this subsection (c)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (c)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

30 (d) If any prescription order contains a provision that the prescription
31 may be refilled a specific number of times within or during any particular
32 period, such prescription shall not be refilled except in strict conformity
33 with such requirements.

34 (e) If a prescription order contains a statement that during any par-
35 ticular time the prescription may be refilled at will, there shall be no
36 limitation as to the number of times that such prescription may be refilled
37 except that it may not be refilled after the expiration of the time specified
38 or one year after the prescription was originally issued, whichever occurs
39 first, except that a prescription may be refilled after such a one-year pe-
40 riod if in the opinion of the prescriber continued renewal of the prescrip-
41 tion does not present a medical risk to the patient.

42 (f) Any pharmacist who exercises brand exchange and dispenses a less
43 expensive drug product shall not charge the purchaser more than the

Quere: Since a prescriber is authorized to prohibit "emergency" refilling under (c)(2), should the prescription orders which may be refilled under (c)(2) commence with prescription orders issued on and after the effective date of the act.

1-3

- 1 regular and customary retail price for the dispensed drug.
- 2 Nothing contained in this section shall be construed as preventing a
- 3 pharmacist from refusing to fill or refill any prescription if in the phar-
- 4 macist's professional judgment and discretion such pharmacist is of the
- 5 opinion that it should not be filled or refilled.
- 6 Sec. 2. K.S.A. 65-1637 is hereby repealed.
- 7 Sec. 3. This act shall take effect and be in force from and after its
- 8 publication in the statute book.