Approved: _____
Date

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 February 13, 2008 in Room 136-N of the Capitol.

All members were present, with the exception of Senator Jordan who was excused.

Committee staff present:
Terri Weber, Kansas Legislative Research Department
Sara Zafar, Kansas Legislative Research Department
Nobuko Folmsbee, Revisor of Statutes
Renae Jefferies, Revisor of Statutes
Jan Lunn, Committee Secretary

Conferees appearing before the committee:
Kathy Damron, President, Strategic Communications of Kansas
Andy Marso, Private Citizen
Brenda E. Walker, Director, Bureau of Disease Control and Prevention, Kansas Department of Health and Environment
Allyn Bandell, Pharm. D., Director, Medical Science, Infectious Disease, MedImmune, Inc.
Daniel Reynolds, D.O.
Gianfranco Pezzino, M.D., M. P. H., Associate Director of Public Health Systems, Kansas Health Institute

Others attending:
In addition to the attached list, there were approximately sixteen (16) others attending.

Discussion and final action on **SB 491 - Prescription Monitoring Program**

Chairman Barnett asked Nobuko Folmsbee, revisor of statutes, to provide an overview of the balloon amendments that were approved at the February 7, 2008, meeting. Ms. Folmsbee distributed a copy of the approved balloon amendment including technical changes required as a result of the amendments. (Attachment 1)

Senator Barnett proposed an amendment relative to the prescription monitoring program advisory committee. Instead of "two licensed physicians nominated by the Kansas medical society," Senator Barnett proposed "two licensed physicians, one nominated by the Kansas medical society and one nominated by the Kansas association of osteopathic medicine. . . " Senator Barnett moved the amendment; Senator Wagle seconded the motion. The motion carried.

Senator Journey proposed an amendment within Section 5 (4) and (6), to include language referring to K.S.A. 22-2502 and adding "inquisition subpoena" to the appropriate section as well as technical changes resulting from the amendment. A copy of the proposed balloon amendment is attached to these minutes as a matter of record. (Attachment 2) Senator Journey moved to adopt the amendment; Senator Brungardt seconded the motion. The motion passed.

Ms. Folmsbee reviewed the next amendment proposed by the Kansas Medical Society in which "medical care facility as defined in K.S.A. 65-425" was added to Section 1. (c) (2). (Attachment 3) Senator Schmidt moved to accept the amendment; Senator Wagle seconded the motion; the motion passed.

The last amendment was proposed by the National Association of Chain Drug Stores and the Kansas Pharmacy Board (Attachment 4) providing for the use of a nationally recognized telecommunications format for the transmission of data; eliminating the requirement to show identification when you are not the patient, but picking up the drug for someone else; and eliminating the notice to the patient that the pharmacist is monitoring controlled substances and drugs of concern. Following discussion, Senator Journey expressed concern related to the proposed deletion requiring identification if a prescription is picked up by someone other than for whom it was prescribed. Senator Schmidt clarified that in rural pharmacies, registered pharmacists are well acquainted with their customers, and in addition, this issue could be handled by separate legislation or within rules and regulations should national standards require. Senator Schmidt moved to accept

the proposed amendment, Senator Brundgardt seconded the motion. The motion passed with seven in favor and Senator Journey in opposition.

Senator Barnett requested clarification regarding the prescription monitoring program and whether this was intended to be a real-time exchange of information. Senator Schmidt clarified that the Board of Pharmacy would determine the reporting standard during design and implementation, but it is expected that the reporting delay to be no longer than a seven-day period. Senator Schmidt added that the Methamphetime Precursor Tracking Program is anticipated to be a real-time exchange of information.

Senator Schmidt moved to pass out as a substitute bill **SB 491 Prescription Monitoring Program,** as amended, and to advance it to the Senate for passage. Senator Gilstrap seconded the motion. The motion passed.

SB 529 - Educational awareness regarding meningococcal meningitis vaccine.

Chairman Barnett recognized Kathy Damron, representing Sanofi-Pasteur, who delivered supportive testimony for **SB 529,** distributed a copy of the Center for Disease Control's "Recommended Immunization of Persons Aged 7-18 Years", and introduced Andy Marso, a young man who experienced meningococcal meningitis while a student at a Kansas university. Ms. Damron's testimony is attached, and therefore, considered to be part of the record. (Attachment 5)

Andy Marso, a 2004 graduate of the Kansas University School of Journalism and journalist at The Olathe News, provided testimony . Mr. Marso's testimony was compelling and frightening as he spoke about his disease process, his fight for survival, his multiple surgical procedures, his four and one-half month hospital stay, his thirteen-month rehabilitation experience, and his life following recuperation. Mr. Marso's message was one of promoting meningitis awareness, and particularly, vaccination. The current vaccine has the power to prevent 85% of cases; the future dream is the development of a vaccine to prevent 100% of all meningococcal meningitis cases. Mr. Marso's testimony is attached and therefore, incorporated into these minutes (Attachment 6)

Ms. Brenda Walker, KDHE, supported **SB 529** and indicated educating students in grade 6 through 12 would lower the disease incidence in Kansas. Ms. Walker's testimony is attached. (Attachment 7)

It was noted that written testimony was submitted by the following:
Dan Morin, Kansas Medical Society (Attachment 8)

Chairman Barnett recommended the scope of **SB 529** be broadened to include education for other infectious diseases for which the Centers for Disease Control recommend immunization. Ms. Folmsbee distributed a balloon amendment to **SB 529.** (Attachment 9)

Senators Palmer and Wagle questioned whether the bill would mandate immunization, clarification was provided that the bill provides for educational awareness of each infectious disease and each such disease's vaccines. Senator Schmidt moved the amendment, it was seconded by Senator Brundgardt. The motion passed. Senator Schmidt moved to pass out favorably **SB 529** as amended; seconded by Senator Wagle. The motion passed.

SB 548 - School-based influenza vaccination pilot program.

Chairman Barnett recognized Allyn Bandell, Pharm.D., MedImmune, Inc. Dr. Bandell spoke in support of **SB 548** and the efforts to increase education on influenza vaccination in children as well as to evaluate feasibility of a school-based influenza vaccination program. Dr. Bandell's testimony is attached and considered to be part of this record. (Attachment 10)

Daniel Reynolds, D.O., and local pediatrician also spoke in support of **SB 548** and his involvement in an influenza clinic at Auburn Washburn USD 437 School District. He briefly discussed influenza morbidity in children as well as pediatric hospital admissions. Dr. Reynolds testimony is attached (Attachment 11).

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on February 13, 2008 in Room 136-N of the Capitol.

Brenda Walker, Director, Bureau of Disease Control and Prevention, Kansas Department of Health and Environment, presented statistics relative to the impact of influenza illness and supported **SB 548** as the first step in assessing feasibility for immunizations in a school-based setting. (Attachment 12)

Gianfranco Pezzino, MD, MPH, Kansas Health Institute, spoke from a neutral perspective regarding **SB 548,** noting that in his experience: immunizing children makes sense, outbreaks in school precede home and community, and this pilot program could add value in providing real-life experience to provide prophylaxis in case of a pandemic. Dr. Pezzino's testimony is attached and is incorporated into this record. (Attachment 13)

Written testimony was submitted by:

Dr. Ann Elliott, Director of Student Services, Auburn Washburn USD 437 (Attachment 14)
Ellen Losew, MD, FAAP, The Medical Center, PA, Hutchinson, Kansas (Attachment 15)
Dan Morin, Kansas Medical Society (Attachment 16)

Senator Vicki Schmidt moved to pass out favorably **SB 548 -School-based influenza vaccination pilot program.** Senator Journey seconded the motion; the motion passed.

The minutes of the February 4 and February 7, 2008, Public Health and Welfare Committee were reviewed. Senator Palmer moved to accept the minutes as submitted; Senator Brungardt seconded the motion. The motion.

The meeting was adjourned at 2:35pm.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: February 13, 2008

NAME	REPRESENTING
Allyn Bandell	MedImmune
Scott Brown	MedImmune
Sue Gowden	KDHE Imm Prog
Brenda Walker	KDHE
Craig Gunther	KSNA
Susan K	KDHE
GIANFRANCO PEZZINO	KHI
Kathy Damon	Sanofi Pasteur
Andy Marso	self
Dodie Weelshear	Ks Academy of Family Physicians
Paul Jerbo	VHG
Ron Seeber	Hinkhouse Firm/KPC
John Donley	KS Lusk. Assn
Jenny Maciaszek	self
JOHN C. BOTTENBERG	CVS/Caremark
Todd Finch	Ks. Optometric Assoc.
Susan Zalenski	J&J
Pat Riddell	Pfizer
Suzanne Wikle	KS Action for Children

Senate Committee on Public Health and Welfare
Balloon Amendments Adopted by the Committee
on February 7, 2008 and technical changes

Session of 2008

SENATE BILL No. 491

By Senators V. Schmidt, Allen, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Petersen, Pine, Reitz, D. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson and Wysong

1-28

AN ACT concerning controlled substances; enacting the prescription monitoring program act; creating the prescription monitoring program advisory committee

, methamphetamine precursor scheduling task force and veterinary prescription monitoring program task force

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

Section 1. This act shall be known and may be cited as the prescription monitoring program act.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Board" means the state board of pharmacy.

~~(b) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.~~

and by relettering the remaining subsections accordingly

(c) "Dispenser" means a practitioner or pharmacist who delivers a scheduled substance or drug of concern to an ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner or other authorized person who administers such a substance;

(3) a registered wholesale distributor of such substances; or

(4) a veterinarian licensed by the Kansas board of veterinary examiners who dispenses or prescribes a scheduled substance or drug of concern; or

~~(4)~~ a practitioner who has been exempted from the reporting requirements of this act in rules and regulations promulgated by the board.

(5)

(d) "Drug of concern" means any drug that demonstrates a potential for abuse and is designated as a drug of concern in rules and regulations promulgated by the board.

(e) "Patient" means the person ~~or animal~~ who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(f) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(g) "Practitioner" means a person licensed to practice medicine and

Prepared by the Revisor of Statutes
(NKF) February 7, 2008

surgery, dentist, podiatrist, ~~veterinarian,~~ optometrist ~~licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee~~ or other person authorized by law to prescribe or dispense ~~controlled substances~~ scheduled substances and drugs of concern.

(h) "Scheduled substance" means controlled substances included in schedules II, III or IV of the schedules designated in K.S.A. 65-4107, 65-4109 and 65-4111, and amendments thereto, respectively, or the federal controlled substances act (21 U.S.C. 812).

Sec. 3. (a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the information that each dispenser shall submit to the board. Such information may include, but not be limited to:

(1) The dispenser identification number;

(2) the date the prescription is filled;

(3) the prescription number;

(4) whether the prescription is new or is a refill;

(5) the national drug code for the drug dispensed;

(6) the quantity dispensed;

(7) the number of days supply of the drug;

(8) the patient identification number;

(9) the patient's name;

(10) the patient's address;

(11) the patient's date of birth;

(12) the prescriber identification number;

(13) the date the prescription was issued by the prescriber;

(14) the person who receives the prescription from the dispenser, if other than the patient; and

(15) the source of payment for the prescription.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

Sec. 4. The board shall not impose any charge for the establishment or maintenance of the prescription monitoring program database on a

1-2

registered wholesale distributor, pharmacist, dispenser or other person authorized to prescribe or dispense ~~controlled substances~~. The board shall not charge any fees for the transmission of data to the database or for the receipt of information from the database, except that the board may charge a fee to an individual who requests the individual's own prescription monitoring information in accordance with procedures adopted by the board.

Sec. 5. (a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of ~~controlled substances~~, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c), (d) and (e).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c), (d) and (e).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense ~~controlled substances~~, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of ~~controlled substances~~;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing ~~controlled substances~~;

(5) designated representatives from the Kansas health policy authority regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program; and

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

1-3

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A 65-4101 et seq., and amendments thereto.

(d) The board is hereby authorized to provide data in the prescription monitoring program to local, state and federal law enforcement officials who request such data in accordance with procedures established by the board only if such request relates to a person who is the subject of an active investigation being conducted by the officer's employing government entity and such request contains an approval by a supervisor of the officer's employing government entity.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

Sec. 6. The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in section 5, and amendments thereto, and shall be subject to the penalties specified in section 14, and amendments thereto, for unlawful acts.

Sec. 7. All information collected for the prescription monitoring program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity or an entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of ~~controlled substances~~ has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

Sec. 8. No person authorized to prescribe or dispense ~~controlled substances~~ shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense ~~controlled substances~~ did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing ~~a controlled substance~~ to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense ~~controlled substances~~ to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing ~~a controlled substance~~ to such patient.

Sec. 9. For every prescription for ~~a controlled substance~~ dispensed

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

scheduled substances and drugs of concern

a scheduled substance or drug of concern

14

in this state or dispensed to an address in this state, notice shall be provided to the patient that information regarding their prescription has been submitted to the prescription monitoring program and that the patient may obtain such information from the board upon request. The board shall promulgate rules and regulations specifying the form of such notice.

Sec. 10. (a) There is hereby created the prescription monitoring program advisory committee which, subject to the oversight of the board, shall be responsible for the operation of the prescription monitoring program. The advisory committee shall consist of at least nine members appointed by the board as follows:

(1) Two licensed physicians nominated by the Kansas medical society;

(2) two licensed pharmacists nominated by the Kansas pharmacists association;

(3) one person representing the Kansas bureau of investigation nominated by the attorney general;

(4) one person representing the university of Kansas school of medicine nominated by the dean of such school;

(5) one person representing the university of Kansas school of pharmacy nominated by the dean of such school;

(6) one licensed dentist nominated by the Kansas dental association; and

(7) one person representing the Kansas hospital association nominated by such association. The board may also appoint other persons authorized to prescribe or dispense ~~controlled substances~~ scheduled substances and drugs of concern, recognized experts and representatives from law enforcement.

(b) The appointments to the advisory committee shall be for terms of three years.

(c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.

(d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.

(f) Members of the advisory board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 11. (a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of

those persons engaged in the prescribing or dispensing of ~~controlled substances~~ to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.

(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.

(c) The advisory committee shall work with the Kansas bureau of investigation to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.

Sec. 12. In consultation with and upon recommendation of the prescription monitoring program advisory committee, the board shall review the effectiveness of the prescription monitoring program and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

Sec. 13. The board is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this act.

Sec. 14. (a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

Sec. ~~15.~~ This act shall take effect and be in force from and after its publication in the statute book.

scheduled substances and drugs of concern

See the attached sheet for Sections 15 and 16.

(17)

1-6

Sec. 15. (a) There is hereby established a methamphetamine precursor scheduling task force which shall study the possibility and practicability of making methamphetamine precursors schedule III or IV drugs and its impact on consumer access and cost.

(b) The task force shall consist of 9 members as follows: The attorney general or the attorney general's designee, one member appointed by the Kansas health policy authority, one member appointed by the director of the Kansas bureau of investigation, one member appointed by the board of pharmacy, one member appointed by the board of healing arts, one member appointed by the Kansas medical society, one member appointed by the Kansas association of osteopathic medicine, one member appointed by the Kansas pharmacists' association, and one member appointed by the Kansas task force of the pharmaceutical research and manufacturing association representing the pharmaceutical industry.

(c) The appointments shall be made within 30 days after the effective date of this act. The initial meeting of the task force shall be convened within 60 days after the effective date of this act by the board of pharmacy at a time and place designated by the board. The task force shall elect a chairperson and may elect any additional officers from among its members necessary to discharge its duties. All task force members shall serve without compensation.

(d) The task force shall report its findings and conclusions to the legislature on or before January 12, 2009.

Sec. 16. (a) There is hereby established the veterinary prescription monitoring program task force which shall study and determine whether to require veterinarians to report to a prescription monitoring program under this act. Such study shall include appropriate methods and procedures of reporting by the veterinarians with the necessary database field information. The task force shall utilize nationally available resources afforded by the American association of veterinary state boards and the American veterinary association state legislative and regulatory affairs in development of the plan in consultation with the advisory committee .

(b) The task force shall consists of 3 members as follows: one member appointed by the prescription monitoring program advisory committee, one member appointed by the Kansas board of veterinary examiners and one member appointed by the Kansas veterinary medical association.

(c) Appointments shall be made within 120 days after the effective date of this act. The initial meeting of the task force shall be convened within 180 days after the effective date of this act. The task force shall elect a chairperson and may elect any additional officers from among its members. All task force members shall serve without compensation.

(d) The task force shall report its findings and progress to the prescription monitoring program advisory committee at least annually or when requested by the advisory committee. The task force shall report its progress to the senate committee on public health and welfare and the house committee on health and human services, if requested, and report its conclusions and recommendations to such committees within five years after the effective date of this act. Based on the recommendation by the task force this act shall be amended to include the veterinarians as practitioners.

Session of 2008

SENATE BILL No. 491

By Senators V. Schmidt, Allen, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Petersen, Pine, Reitz, D. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson and Wysong

1-28

AN ACT concerning controlled substances; enacting the prescription monitoring program act; creating the prescription monitoring program advisory committee.

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

Section 1. This act shall be known and may be cited as the prescription monitoring program act.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Board" means the state board of pharmacy.

(b) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(c) "Dispenser" means a practitioner or pharmacist who delivers a scheduled substance or drug of concern to an ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner or other authorized person who administers such a substance;

(3) a registered wholesale distributor of such substances; or

(4) a practitioner who has been exempted from the reporting requirements of this act in rules and regulations promulgated by the board.

(d) "Drug of concern" means any drug that demonstrates a potential for abuse and is designated as a drug of concern in rules and regulations promulgated by the board.

(e) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(f) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(g) "Practitioner" means a person licensed to practice medicine and

Senate Committee on Public Health and Welfare
Balloon Amendment Proposed by Sen. Journey
February 13, 2008

PUBLIC HEALTH AND WELFARE
DATE: 02/13/08
ATTACHMENT: 2

Prepared by the
Revisor of Statutes
(NKF)

surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee or other person authorized by law to prescribe or dispense controlled substances.

(h) "Scheduled substance" means controlled substances included in schedules II, III or IV of the schedules designated in K.S.A. 65-4107, 65-4109 and 65-4111, and amendments thereto, respectively, or the federal controlled substances act (21 U.S.C. 812).

Sec. 3. (a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the information that each dispenser shall submit to the board. Such information may include, but not be limited to:

(1) The dispenser identification number;
(2) the date the prescription is filled;
(3) the prescription number;
(4) whether the prescription is new or is a refill;
(5) the national drug code for the drug dispensed;
(6) the quantity dispensed;
(7) the number of days supply of the drug;
(8) the patient identification number;
(9) the patient's name;
(10) the patient's address;
(11) the patient's date of birth;
(12) the prescriber identification number;
(13) the date the prescription was issued by the prescriber;
(14) the person who receives the prescription from the dispenser, if other than the patient; and
(15) the source of payment for the prescription.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

Sec. 4. The board shall not impose any charge for the establishment or maintenance of the prescription monitoring program database on a

registered wholesale distributor, pharmacist, dispenser or other person authorized to prescribe or dispense controlled substances. The board shall not charge any fees for the transmission of data to the database or for the receipt of information from the database, except that the board may charge a fee to an individual who requests the individual's own prescription monitoring information in accordance with procedures adopted by the board.

Sec. 5. (a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c), (d) and (e).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c), (d) and (e).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing controlled substances; subject to the requirements in K.S.A. 22-2502, and amendments thereto

(5) designated representatives from the Kansas health policy authority regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena or court order in a criminal action; , inquisition subpoena

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program; and

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A 65-4101 et seq., and amendments thereto.

(d) ~~The board is hereby authorized to provide data in the prescription monitoring program to local, state and federal law enforcement officials who request such data in accordance with procedures established by the board only if such request relates to a person who is the subject of an active investigation being conducted by the officer's employing government entity and such request contains an approval by a supervisor of the officer's employing government entity.~~

~~(e)~~ The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

Sec. 6. The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in section 5, and amendments thereto, and shall be subject to the penalties specified in section 14, and amendments thereto, for unlawful acts.

Sec. 7. All information collected for the prescription monitoring program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity or an entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

Sec. 8. No person authorized to prescribe or dispense controlled substances shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense controlled substances did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing a controlled substance to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense controlled substances to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing a controlled substance to such patient.

Sec. 9. For every prescription for a controlled substance dispensed

2-4

in this state or dispensed to an address in this state, notice shall be provided to the patient that information regarding their prescription has been submitted to the prescription monitoring program and that the patient may obtain such information from the board upon request. The board shall promulgate rules and regulations specifying the form of such notice.

Sec. 10. (a) There is hereby created the prescription monitoring program advisory committee which, subject to the oversight of the board, shall be responsible for the operation of the prescription monitoring program. The advisory committee shall consist of at least nine members appointed by the board as follows:

(1) Two licensed physicians nominated by the Kansas medical society;

(2) two licensed pharmacists nominated by the Kansas pharmacists association;

(3) one person representing the Kansas bureau of investigation nominated by the attorney general;

(4) one person representing the university of Kansas school of medicine nominated by the dean of such school;

(5) one person representing the university of Kansas school of pharmacy nominated by the dean of such school;

(6) one licensed dentist nominated by the Kansas dental association; and

(7) one person representing the Kansas hospital association nominated by such association. The board may also appoint other persons authorized to prescribe or dispense controlled substances, recognized experts and representatives from law enforcement.

(b) The appointments to the advisory committee shall be for terms of three years.

(c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.

(d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.

(f) Members of the advisory board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 11. (a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of

those persons engaged in the prescribing or dispensing of controlled substances to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.

(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.

(c) The advisory committee shall work with the Kansas bureau of investigation to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.

Sec. 12. In consultation with and upon recommendation of the prescription monitoring program advisory committee, the board shall review the effectiveness of the prescription monitoring program and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

Sec. 13. The board is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this act.

Sec. 14. (a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.

2-6

Session of 2008

SENATE BILL No. 491

By Senators V. Schmidt, Allen, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Petersen, Pine, Reitz, D. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson and Wysong

1-28

AN ACT concerning controlled substances; enacting the prescription monitoring program act; creating the prescription monitoring program advisory committee.

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

Section 1. This act shall be known and may be cited as the prescription monitoring program act.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Board" means the state board of pharmacy.

(b) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(c) "Dispenser" means a practitioner or pharmacist who delivers a scheduled substance or drug of concern to an ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner or other authorized person who administers such a substance;

(3) a registered wholesale distributor of such substances; or

(4) a practitioner who has been exempted from the reporting requirements of this act in rules and regulations promulgated by the board.

(d) "Drug of concern" means any drug that demonstrates a potential for abuse and is designated as a drug of concern in rules and regulations promulgated by the board.

(e) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(f) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(g) "Practitioner" means a person licensed to practice medicine and

Senate Committee on Public Health and Welfare
Balloon Amendments Proposed by KMS

medical care facility as defined in K.S.A 65-425, and amendments thereto,

Prepared by the Revisor of Statutes
(NKF)
February 7, 2008

PUBLIC HEALTH AND WELFARE
DATE: 02/13/08
ATTACHMENT: 3

surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee or other person authorized by law to prescribe or dispense controlled substances.

(h) "Scheduled substance" means controlled substances included in schedules II, III or IV of the schedules designated in K.S.A. 65-4107, 65-4109 and 65-4111, and amendments thereto, respectively, or the federal controlled substances act (21 U.S.C. 812).

Sec. 3. (a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the information that each dispenser shall submit to the board. Such information may include, but not be limited to:

(1) The dispenser identification number;
(2) the date the prescription is filled;
(3) the prescription number;
(4) whether the prescription is new or is a refill;
(5) the national drug code for the drug dispensed;
(6) the quantity dispensed;
(7) the number of days supply of the drug;
(8) the patient identification number;
(9) the patient's name;
(10) the patient's address;
(11) the patient's date of birth;
(12) the prescriber identification number;
(13) the date the prescription was issued by the prescriber;
(14) the person who receives the prescription from the dispenser, if other than the patient; and
(15) the source of payment for the prescription.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

Sec. 4. The board shall not impose any charge for the establishment or maintenance of the prescription monitoring program database on a

3-2

registered wholesale distributor, pharmacist, dispenser or other person authorized to prescribe or dispense controlled substances. The board shall not charge any fees for the transmission of data to the database or for the receipt of information from the database, except that the board may charge a fee to an individual who requests the individual's own prescription monitoring information in accordance with procedures adopted by the board.

Sec. 5. (a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c), (d) and (e).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c), (d) and (e).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing controlled substances;

(5) designated representatives from the Kansas health policy authority regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program; and

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A 65-4101 et seq., and amendments thereto.

(d) The board is hereby authorized to provide data in the prescription monitoring program to local, state and federal law enforcement officials who request such data in accordance with procedures established by the board only if such request relates to a person who is the subject of an active investigation being conducted by the officer's employing government entity and such request contains an approval by a supervisor of the officer's employing government entity.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

Sec. 6. The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in section 5, and amendments thereto, and shall be subject to the penalties specified in section 14, and amendments thereto, for unlawful acts.

Sec. 7. All information collected for the prescription monitoring program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity or an entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

Sec. 8. No person authorized to prescribe or dispense controlled substances shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense controlled substances did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing a controlled substance to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense controlled substances to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing a controlled substance to such patient.

Sec. 9. For every prescription for a controlled substance dispensed

in this state or dispensed to an address in this state, notice shall be provided to the patient that information regarding their prescription has been submitted to the prescription monitoring program and that the patient may obtain such information from the board upon request. The board shall promulgate rules and regulations specifying the form of such notice.

Sec. 10. (a) There is hereby created the prescription monitoring program advisory committee which, subject to the oversight of the board, shall be responsible for the operation of the prescription monitoring program. The advisory committee shall consist of at least nine members appointed by the board as follows:

(1) Two licensed physicians nominated by the Kansas medical society;

(2) two licensed pharmacists nominated by the Kansas pharmacists association;

(3) one person representing the Kansas bureau of investigation nominated by the attorney general;

(4) one person representing the university of Kansas school of medicine nominated by the dean of such school;

(5) one person representing the university of Kansas school of pharmacy nominated by the dean of such school;

(6) one licensed dentist nominated by the Kansas dental association; and

(7) one person representing the Kansas hospital association nominated by such association. The board may also appoint other persons authorized to prescribe or dispense controlled substances, recognized experts and representatives from law enforcement.

(b) The appointments to the advisory committee shall be for terms of three years.

(c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.

(d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.

(f) Members of the advisory board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 11. (a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of

3-25

those persons engaged in the prescribing or dispensing of controlled substances to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.

(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.

(c) The advisory committee shall work with the Kansas bureau of investigation to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.

Sec. 12. In consultation with and upon recommendation of the prescription monitoring program advisory committee, the board shall review the effectiveness of the prescription monitoring program and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

Sec. 13. The board is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this act.

Sec. 14. (a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 491

By Senators V. Schmidt, Allen, Barnett, Barone, Betts, Brownlee, Bruce, Brungardt, Donovan, Emler, Francisco, Gilstrap, Goodwin, Haley, Hensley, Jordan, Journey, Kelly, Lee, Lynn, McGinn, Morris, Petersen, Pine, Reitz, D. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Wagle, Wilson and Wysong

1-28

AN ACT concerning controlled substances; enacting the prescription monitoring program act; creating the prescription monitoring program advisory committee.

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

Section 1. This act shall be known and may be cited as the prescription monitoring program act.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Board" means the state board of pharmacy.

(b) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(c) "Dispenser" means a practitioner or pharmacist who delivers a scheduled substance or drug of concern to an ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner or other authorized person who administers such a substance;

(3) a registered wholesale distributor of such substances; or

(4) a practitioner who has been exempted from the reporting requirements of this act in rules and regulations promulgated by the board.

(d) "Drug of concern" means any drug that demonstrates a potential for abuse and is designated as a drug of concern in rules and regulations promulgated by the board.

(e) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(f) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(g) "Practitioner" means a person licensed to practice medicine and

Senate Committee on Public Health and Welfare
Balloon Amendments Proposed by NACDS & KPC

Prepared by the Revisor of Statutes
(NKF)
February 7, 2008

PUBLIC HEALTH AND WELFARE
DATE: 02/13/08
ATTACHMENT: 4

surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee or other person authorized by law to prescribe or dispense controlled substances.

(h) "Scheduled substance" means controlled substances included in schedules II, III or IV of the schedules designated in K.S.A. 65-4107, 65-4109 and 65-4111, and amendments thereto, respectively, or the federal controlled substances act (21 U.S.C. 812).

Sec. 3. (a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the information that each dispenser shall submit to the board. Such information may include, but not be limited to:

(1) The dispenser identification number;
(2) the date the prescription is filled;
(3) the prescription number;
(4) whether the prescription is new or is a refill;
(5) the national drug code for the drug dispensed;
(6) the quantity dispensed;
(7) the number of days supply of the drug;
(8) the patient identification number;
(9) the patient's name;
(10) the patient's address;
(11) the patient's date of birth;
(12) the prescriber identification number;
(13) the date the prescription was issued by the prescriber; and
(14) ~~the person who receives the prescription from the dispenser, if other than the patient; and~~
~~(15)~~ the source of payment for the prescription.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

Sec. 4. The board shall not impose any charge for the establishment or maintenance of the prescription monitoring program database on a

nationally recognized telecommunications format to be used for submission of

registered wholesale distributor, pharmacist, dispenser or other person authorized to prescribe or dispense controlled substances. The board shall not charge any fees for the transmission of data to the database or for the receipt of information from the database, except that the board may charge a fee to an individual who requests the individual's own prescription monitoring information in accordance with procedures adopted by the board.

Sec. 5. (a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c), (d) and (e).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c), (d) and (e).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing controlled substances;

(5) designated representatives from the Kansas health policy authority regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program; and

4-3

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A 65-4101 et seq., and amendments thereto.

(d) The board is hereby authorized to provide data in the prescription monitoring program to local, state and federal law enforcement officials who request such data in accordance with procedures established by the board only if such request relates to a person who is the subject of an active investigation being conducted by the officer's employing government entity and such request contains an approval by a supervisor of the officer's employing government entity.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

Sec. 6. The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in section 5, and amendments thereto, and shall be subject to the penalties specified in section 14, and amendments thereto, for unlawful acts.

Sec. 7. All information collected for the prescription monitoring program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years. Such information and records shall then be destroyed unless a law enforcement entity or an entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of controlled substances has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board.

Sec. 8. No person authorized to prescribe or dispense controlled substances shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense controlled substances did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing a controlled substance to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense controlled substances to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing a controlled substance to such patient.

~~Sec. 9. For every prescription for a controlled substance dispensed~~

~~in this state or dispensed to an address in this state, notice shall be provided to the patient that information regarding their prescription has been submitted to the prescription monitoring program and that the patient may obtain such information from the board upon request. The board shall promulgate rules and regulations specifying the form of such notice.~~

Sec. 10. (a) There is hereby created the prescription monitoring program advisory committee which, subject to the oversight of the board, shall be responsible for the operation of the prescription monitoring program. The advisory committee shall consist of at least nine members appointed by the board as follows:

(1) Two licensed physicians nominated by the Kansas medical society;

(2) two licensed pharmacists nominated by the Kansas pharmacists association;

(3) one person representing the Kansas bureau of investigation nominated by the attorney general;

(4) one person representing the university of Kansas school of medicine nominated by the dean of such school;

(5) one person representing the university of Kansas school of pharmacy nominated by the dean of such school;

(6) one licensed dentist nominated by the Kansas dental association; and

(7) one person representing the Kansas hospital association nominated by such association. The board may also appoint other persons authorized to prescribe or dispense controlled substances, recognized experts and representatives from law enforcement.

(b) The appointments to the advisory committee shall be for terms of three years.

(c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.

(d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.

(f) Members of the advisory board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 11. (a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of

And by renumbering the remaining sections accordingly.

those persons engaged in the prescribing or dispensing of controlled substances to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.

(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.

(c) The advisory committee shall work with the Kansas bureau of investigation to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.

Sec. 12. In consultation with and upon recommendation of the prescription monitoring program advisory committee, the board shall review the effectiveness of the prescription monitoring program and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services.

Sec. 13. The board is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this act.

Sec. 14. (a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.

Kathy
Damron

(785) 235-2525
(785) 354-8092 FAX
E-MAIL: MKDTopeka@aol.com

919 SOUTH KANSAS AVENUE

Topeka, Kansas 66612-1210

To:	Senate Public Health and Welfare Committee
From:	Kathy Damron, on behalf of Sanofi-Pasteur
Re:	Support for SB 529
Date:	February 13, 2008

Thank you for hearing this measure to increase awareness in our state regarding meningitis and the importance of vaccinations in preventing this disease. SB 529, if enacted, would place Kansas among 14 other states where similar legislation has successfully been implemented.

It is important to point out that bill does not mandate vaccinations or in any way require that adolescents become immunized. But it does something very important and that is provide information to students and parents in our state about meningitis and meningitis vaccinations.

Recently the Centers for Disease Control and Prevention updated its recommended immunization schedule for persons aged 7 to 18 years. I have attached a copy of this to my testimony. By immunizing young Kansans before they leave home for college, we stand a much greater chance of boosting our immunization rates and enhancing public health in our state.

Several years ago I was involved in the public policy debate surrounding meningitis vaccinations as students enter college residence halls. At the University of Kansas we developed policy that required students living in the dorms to be vaccinated against meningitis. The policy was adopted as a result of a tragic incident involving a young man who at that time was a KU student. You'll get to hear from him next and I am certain you will share my pride in his accomplishments and his passion.

We are grateful for the time you have given to this matter and urge you to support Senate Bill 529.

Recommended Immunization Schedule for Persons Aged 7–18 Years—UNITED STATES • 2007

Vaccine ▼ / Age ▶	7–10 years	11–12 YEARS	13–14 years	15 years	16–18 years
Tetanus, Diphtheria, Pertussis[1]	see footnote 1	Tdap	Tdap		
Human Papillomavirus[2]	see footnote 2	HPV (3 doses)	HPV Series		
Meningococcal[3]	MPSV4	MCV4	MCV4[3] / MCV4		
Pneumococcal[4]	PPV				
Influenza[5]	Influenza (Yearly)				
Hepatitis A[6]	HepA Series				
Hepatitis B[7]	HepB Series				
Inactivated Poliovirus[8]	IPV Series				
Measles, Mumps, Rubella[9]	MMR Series				
Varicella[10]	Varicella Series				

Range of recommended ages

Catch-up immunization

Certain high-risk groups

This schedule indicates the recommended ages for routine administration of currently licensed childhood vaccines, as of December 1, 2006, for children aged 7–18 years. Additional information is available at **http://www.cdc.gov/nip/recs/child-schedule.htm.** Any dose not administered at the recommended age should be administered at any subsequent visit, when indicated and feasible. Additional vaccines may be licensed and recommended during the year. Licensed combination vaccines may be used whenever any components of the combination are indicated and other components of the vaccine are not contraindicated and if approved by the Food and Drug Administration for that dose of the series. Providers should consult the respective Advisory Committee on Immunization Practices statement for detailed recommendations. Clinically significant adverse events that follow immunization should be reported to the Vaccine Adverse Event Reporting System (VAERS). Guidance about how to obtain and complete a VAERS form is available at **http://www.vaers.hhs.gov** or by telephone, **800-822-7967**.

1. Tetanus and diphtheria toxoids and acellular pertussis vaccine (Tdap).
(Minimum age: 10 years for BOOSTRIX® and 11 years for ADACEL™)
- Administer at age 11–12 years for those who have completed the recommended childhood DTP/DTaP vaccination series and have not received a tetanus and diphtheria toxoids vaccine (Td) booster dose.
- Adolescents aged 13–18 years who missed the 11–12 year Td/Tdap booster dose should also receive a single dose of Tdap if they have completed the recommended childhood DTP/DTaP vaccination series.

2. Human papillomavirus vaccine (HPV). *(Minimum age: 9 years)*
- Administer the first dose of the HPV vaccine series to females at age 11–12 years.
- Administer the second dose 2 months after the first dose and the third dose 6 months after the first dose.
- Administer the HPV vaccine series to females at age 13–18 years if not previously vaccinated.

3. Meningococcal vaccine. *(Minimum age: 11 years for meningococcal conjugate vaccine [MCV4]; 2 years for meningococcal polysaccharide vaccine [MPSV4])*
- Administer MCV4 at age 11–12 years and to previously unvaccinated adolescents at high school entry (at approximately age 15 years).
- Administer MCV4 to previously unvaccinated college freshmen living in dormitories; MPSV4 is an acceptable alternative.
- Vaccination against invasive meningococcal disease is recommended for children and adolescents aged ≥2 years with terminal complement deficiencies or anatomic or functional asplenia and certain other high-risk groups. See *MMWR* 2005;54(No. RR-7):1–21. Use MPSV4 for children aged 2–10 years and MCV4 or MPSV4 for older children.

4. Pneumococcal polysaccharide vaccine (PPV). *(Minimum age: 2 years)*
- Administer for certain high-risk groups. See *MMWR* 1997;46(No. RR-8):1–24, and *MMWR* 2000;49(No. RR-9):1–35.

5. Influenza vaccine. *(Minimum age: 6 months for trivalent inactivated influenza vaccine [TIV]; 5 years for live, attenuated influenza vaccine [LAIV])*
- Influenza vaccine is recommended annually for persons with certain risk factors, health-care workers, and other persons (including household members) in close contact with persons in groups at high risk. See *MMWR* 2006;55 (No. RR-10):1–41.
- For healthy persons aged 5–49 years, LAIV may be used as an alternative to TIV.
- Children aged <9 years who are receiving influenza vaccine for the first time should receive 2 doses (separated by ≥4 weeks for TIV and ≥6 weeks for LAIV).

6. Hepatitis A vaccine (HepA). *(Minimum age: 12 months)*
- The 2 doses in the series should be administered at least 6 months apart.
- HepA is recommended for certain other groups of children, including in areas where vaccination programs target older children. See *MMWR* 2006;55 (No. RR-7):1–23.

7. Hepatitis B vaccine (HepB). *(Minimum age: birth)*
- Administer the 3-dose series to those who were not previously vaccinated.
- A 2-dose series of Recombivax HB® is licensed for children aged 11–15 years.

8. Inactivated poliovirus vaccine (IPV). *(Minimum age: 6 weeks)*
- For children who received an all-IPV or all-oral poliovirus (OPV) series, a fourth dose is not necessary if the third dose was administered at age ≥4 years.
- If both OPV and IPV were administered as part of a series, a total of 4 doses should be administered, regardless of the child's current age.

9. Measles, mumps, and rubella vaccine (MMR). *(Minimum age: 12 months)*
- If not previously vaccinated, administer 2 doses of MMR during any visit, with ≥4 weeks between the doses.

10. Varicella vaccine. *(Minimum age: 12 months)*
- Administer 2 doses of varicella vaccine to persons without evidence of immunity.
- Administer 2 doses of varicella vaccine to persons aged <13 years at least 3 months apart. Do not repeat the second dose, if administered ≥28 days after the first dose.
- Administer 2 doses of varicella vaccine to persons aged ≥13 years at least 4 weeks apart.

The Recommended Immunization Schedules for Persons Aged 0–18 Years are approved by the Advisory Committee on Immunization Practices (http://www.cdc.gov/nip/acip), the American Academy of Pediatrics (http://www.aap.org), and the American Academy of Family Physicians (http://www.aafp.org).

SAFER • HEALTHIER • PEOPLE™

CS100131

5-2

Four years I had two smooth, tan arms that each ended in five fingers. I had two intact feet that allowed me to run and play the sports I loved. But all that was taken from me by bacterial meningitis one day in April of 2004. Within hours, a disease I had barely heard of left me fighting for survival and ultimately maimed for life.

It started as a simple shiver the night before. Soon after that first shiver I was bathed in cold sweats, nauseous and miserable. But all my symptoms that night were consistent with the flu, and the thought that I might have something more serious never crossed my mind. I prescribed for myself a good night's rest and left it at that.

I should have known by the next morning, though, that something was seriously wrong. That's when I woke up with my throat parched and could barely make it to the kitchen because my feet hurt so bad – a prickly, pins and needles feeling like I was walking on a cactus. That's also when I noticed an odd rash on my arms, thousands of little purple polka dots from my elbows to my fingertips. But I didn't know what that rash meant. All I knew was that it hurt to walk and I wanted to go back to bed.

I would have died in that bed at the University of Kansas if my friend Clay hadn't checked on me a few hours later and insisted I see a doctor. He and another friend carried me to his car and took me to the student health center. I still would not have survived that day except that the doctor on duty, Leah Luckeroth, recognized that purple rash and immediately knew how serious it could be.

By 5 o'clock that night I had been Life-flighted to KU Med in critical condition. The infection was ravaging my bloodstream, ripping holes in my vessels and leaking the life out of me. My vital signs were off the charts and I had to be intubated because I couldn't breathe on my own. Doctors told my parents that they should expect me to be on dialysis the next day because my kidneys would have failed completely.

Meningoccocal bacteria had made my blood toxic and I was in septic shock, a condition that carries a mortality rate of approximately 50 percent, regardless of medical treatment. My body had completely broken down in less than 24 hours.

I spent three weeks in a drug-induced coma with machines breathing for me, but thanks to the staff at KU Med and prayers from across the country, I survived. The tissue on my arms and legs, however, did not. When I left intensive care and entered the KU Med burn unit I had skin damage equal to third degree burns over 30 percent of my body.

To save my arms and legs I went through debridement, the standard treatment for severe

burns, for the better part of three months. Every other day I was taken to a sauna-like room called "the tank," where wound techs and occasionally surgeons wet down my blackened limbs and then sliced away the dead tissue until I bled. For three months I watched pieces of my body float down the drain and gritted my teeth as the heavy pain medication I was on became less and less effective.

Some parts of my body couldn't be saved. My fingers and toes were so badly damaged that they had to be amputated. These procedures were done in the operating room under full anesthesia, but the aftermath was horrific, physically and emotionally. It doesn't look like anyone here knows what the post-surgical pain is like after an amputation and I'm not sure I can adequately describe it. Suffice it to say, it is intense, and I got to experience it multiple times.

All told, I spent four-and-a-half months straight in the hospital, a period of more than 130 consecutive days and nights. The next 13 months were consumed with rehabilitation, as my parents drove me back and forth to hospitals and clinics so I could learn to walk, shower, dress and do all the other things that I used to be able to do without thinking. In a very real sense I was 23-year-old trapped in a toddler's helpless body. Few scenarios could be more frustrating.

Four years after that first shiver I've managed to get most of my life back, but there are some things meningitis stole that I may never get back. I miss the feeling of running a two-on-one fast break in a game of pick-up basketball. I miss being able to hold a girl's hand as we walk down the street together, and I miss being able to go out in public without trying to hide my mangled hands as much as possible.

I have a new life, though, and it is a good life. One of my central missions now is promoting meningitis awareness so that someday, when a kid develops that same rash I had, he will know what it means and will get to a doctor in time to save his hands and feet. I also promote the current vaccine, Menactra, which has the power to prevent 80 percent of meningitis cases.

My dream is that someday researchers will develop a comprehensive vaccine and we can wipe meningoccocal disease off the face of the earth. It is a little-known, little-publicized disease because it is rare, but those of us who have survived it know that few things are more frightening.

Meningitis kills. It maims. It causes brain damage, hearing loss, or organ failure. And it does it's horrible work in a matter of hours, not months or years like other, more well-known diseases. Waiting until you get meningitis to get educated about it is not an option – by then it is often too late. Because of my ignorance I lost part of my limbs. If not for the quick action of friends and doctors I would have lost everything. What happened to me must not happen again.

KANSAS

DEPARTMENT OF HEALTH
AND ENVIRONMENT
Division of Health

Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

www.kdheks.gov

Testimony on SB 529

Presented to
Senate Public Health and Welfare Committee

By
Brenda E. Walker, Director
Bureau of Disease Control and Prevention

February 13, 2008

Chairman Barnett, and members of the committee, my name is Brenda Walker and I am the Director of the Bureau of Disease Control and Prevention for the Department of Health and Environment. Thank you for the opportunity to present written testimony in support of Senate Bill 529.

Meningococcal is a severe, acute bacterial infection that occurs most often in persons 17-20 years of age.

The national Advisory Committee on Immunization Practices (ACIP) recommends immunization against meningitis for all children and adolescents aged 11-18 years and college freshmen living in dormitory settings.

Senate Bill 529 is an act relating to educational awareness of meningitis vaccines in grades six through twelve.

It is our anticipation that this educational awareness will prompt more students to choose to receive vaccination against meningitis, thus lowering the disease incidence in Kansas.

OFFICE OF THE DIRECTOR OF HEALTH
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 210, TOPEKA, KS 66612-1274
Voice 785-368-6427 Fax 785-296-4197

PUBLIC HEALTH AND WELFARE
DATE: 02/13/08
ATTACHMENT: 7

For these reasons the Department supports passage of SB 529 which provides for information on the disease, its prevention, and additional resources for education for parents and guardians of students in grades six through 12.

It is noteworthy to mention that the Board of Regents' meningitis policy (approved September 15, 2006) states: "Effective from the start of the 2006-07 academic year, all of the state universities shall have in place policies and procedures requiring that all incoming students residing in university housing be vaccinated for meningitis. Such policies shall include appropriate waiver procedures for those who refuse to take the vaccine."

Increasing the awareness of the importance of the vaccine during grades 6-12 will result in higher rates of immunization against meningitis in the adolescent and young adult age groups.

Thank you for the opportunity to appear before the committee today. I will now stand for questions.

KANSAS MEDICAL SOCIETY
KMS

623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

www.KMSonline.org

To: Senate Committee on Public Health & Welfare

From: Dan Morin
Director of Government Affairs

Date: February 13, 2008

Subject: SB 529; An act concerning vaccinations; relating to educational awareness of meningitis vaccines.

The Kansas Medical Society appreciates the opportunity to comment on SB 529, which would require that if a local board of education provides information on vaccinations to parents of students in grades six through 12, the board must also provide information about meningococcal meningitis and its vaccine.

One of the major historical public health advancements has been the development of vaccines that prevent people from getting certain diseases. Universal vaccination (a vaccine given to every person) has resulted in the virtual worldwide elimination of smallpox and enhanced vaccination efforts could also result in global eradication of polio.

Meningococcal disease is a potentially life-threatening bacterial infection causing fluid to surround the brain and spinal cord or the presence of bacteria in the blood. Meningococcal disease strikes thousands of Americans each year, leading to death in approximately 10-15 percent of cases. The disease can result in permanent brain damage, hearing loss, learning disability, amputation, and kidney failure. Anyone can get meningococcal disease, but it is most common in infants less than one year of age. College freshmen that live in dormitories, and teenagers 15-19 have an increased risk of getting the disease. The CDC's Advisory Committee on Immunization Practices recommends all adolescents between ages 11 and 18 should now routinely receive a dose of meningococcal conjugate vaccine (MCV4). Because school aged children frequently assemble in large groups, medical experts consider them at higher risk for meningitis. The illness can be spread through coughing, sneezing or direct contact with infected people

Not only do vaccines save lives and prevent disease, they also save society many millions of dollars in health related costs. Vaccinations continue to be the best overall prevention strategy and the most effective way to prevent transmittable disease. The Kansas Medical Society is encouraged by the public policy included in SB 529.

Session of 2008

SENATE BILL No. 529

By Committee on Public Health and Welfare

1-31

Senator Barnett
Balloon Amendment
February 11, 2008

AN ACT concerning vaccinations; relating to educational awareness of ~~meningitis~~ infectious disease vaccines.

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

Section 1. If, at the beginning of a school year, a board of education for a local school district provides information on immunizations, infectious diseases, medications or other school health issues to parents and guardians of students in grades six through 12, such board of education shall also provide the following information about ~~meningococcal meningitis disease and its vaccine~~ each infectious disease and each such disease's vaccines:

(a) A description of ~~its~~ causes, symptoms and means of transmission;

(b) a list of sources for additional information; and

(c) related recommendations issued by the national centers for disease control and prevention.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

PUBLIC HEALTH AND WELFARE
DATE: 02/13/08
ATTACHMENT: 9

1

Revisor of Statutes Office: RJ
H:1Drafts/Balloons/z529g1.pdf

MedImmune, Inc Statement to Kansas State Legislature Bill 548

This document summarizes MedImmune's comments to the Kansas Legislature on Bill 548 February 13, 2008. It is provided to the Kansas Legislature in support of its efforts to increase education on influenza vaccination in children 6 months to 5 years of age as well as to evaluate feasibility of school-based influenza vaccination in all school-aged children.

Allyn Bandell, Pharm.D.
Director, Medical Science
Infectious Disease
MedImmune, Inc
One MedImmune Way
Medical Affairs
Gaithersburg MD 20878

For additional questions please contact:
Karen Lancaster
Public Relations – FluMist
301 398 5864

Acknowledgement and support of the bill:

Senator Barnett and members of the Kansas Senate, it is an honor to be here today to represent MedImmune's support of Kansas Senate Bill 548:

- The Centers for Disease Control and Prevention's (CDC) Advisory Committee on Influenza Practices (ACIP) underscored the importance of childhood influenza vaccination with the implementation of guidelines to vaccinate all children six months to 59 months of age, their household contacts, and out-of-home caregivers.
- For the 2006-2007 flu season, the ACIP expanded the populations for whom influenza vaccination is recommended. Previously, ACIP recommended flu vaccination for those between the ages of 6 and 23 months. The expanded recommendations include children between the ages of 6 and 59 months of age (or 5 years of age), their household contacts, and out-of-home caregivers
- In addition, all eligible children six months up to 17 years of age can receive annual influenza immunization through the federal Vaccines for Children (VFC) program and all Americans who wish to be protected against influenza are encouraged to be vaccinated.
- Still, there is work to be done. According to the statistics from the CDC, in 2006:
  - Only 11 percent of healthy household contacts (of high-risk persons) that are 5 – 17 years of age were vaccinated
  - In addition, only 28 percent of the target recommended population (6 months of age or older) were fully vaccinated.

With Kansas State Bill 548, it is clear that the legislature has identified education on influenza vaccination in young children as a critical issue for the health of children in Kansas. Vaccination of school-aged children against influenza is gaining support in the medical community because of the need to help protect this age group, which has the highest influenza attack rate. The flu is most prevalent in school-age children, as the

virus travels easily from person to person and because children in this age group spend a large part of their day in close contact with other children. School-age children are twice as likely to get influenza than adults, including the elderly. During a widespread outbreak, the rate of flu infections can exceed 30 percent in school-age children. School-age children respond well to influenza vaccine, and by supporting education as well as a pilot program to vaccinate children against influenza in an organized setting, Kansas is among the more progressive states in the movement towards vaccination of all children against influenza.

About vaccines in schools:

MedImmune strongly supports the expansion of ACIP recommendations to include all school-age children to receive influenza vaccinations. As children are often the primary spreaders of influenza in the home and in the community, effective vaccination programs directed at immunizing school-age children will not only offer protection to those children, but may offer protection to their siblings and parents at home. Ideally, all healthy and high-risk school-age children would be vaccinated against influenza in their medical home. However, this is not being adequately accomplished and/or is not an option for many children without a medical home. For such children, school-based vaccination could provide an efficient mechanism for access to vaccination Finally, establishment of a school-based infrastructure for routine seasonal influenza vaccination would enhance the nation's pandemic preparedness by providing a familiar and accessible place and a practiced protocol for vaccination against pandemic influenza.

Senate Bill No. 548

To whom it may concern:

Immunizations arguably have done more for a child health and well being than any other invention in health care. Influenza due to its very nature is an aggressive virus that mutates rapidly and thus must be accounted for every year. Through Senate Bill No. 548 parents would have access to information about this dangerous virus and the importance of annual immunization. I have participated in school-based influenza vaccine programs here in Topeka, Kansas. With the help of the Auburn-Washburn school district 437, we have for the last two years made flu vaccines available to school age children. Children could get a flu vaccine, without having to leave school or have parents miss work time to bring them to a clinic. Parents continually expressed their appreciation to not have to miss work to have this service provided. We truly need to move forward with this across all school districts in Kansas.

A study needs to be conducted to examine all parts of a school-based influenza vaccination program. I am confident that Kansas can be a front-runner in fight against influenza. I know that a school-based program can work, more children can be vaccinated, and Kansas can be the state to do it. Thank you for your time and consideration in this important endeavor.

Sincerely,

Dr. Daniel Reynolds D.O.

KANSAS
DEPARTMENT OF HEALTH
AND ENVIRONMENT
Division of Health

Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

www.kdheks.gov

Testimony of SB 548

Presented to
Senate Public Health and Welfare Committee

By
Brenda E. Walker, Director
Bureau of Disease Control and Prevention

February 13, 2008

Chairman Barnett, and members of the committee, I am Brenda Walker, Director of the Bureau of Disease Control and Prevention for the Department of Health and Environment. Thank you for this opportunity to present testimony in support of Senate Bill 548.

Senate Bill 548 relates to the Department of Health and Environment conducting a school-based influenza vaccination pilot program; providing for a study. KDHE would conduct such study of the feasibility of establishing a school-based influenza vaccination pilot program. The study will include examination of costs, benefits, barriers and solutions for implementation. Findings and recommendations of the study would be reported to the joint committee on health policy oversight before the 2009 legislature convenes.

- The impact of influenza illness on the United States is significant, with annual estimates of
  - 31.3 million influenza cases
  - 11.3 million outpatient visits
  - 226,000 hospitalizations
  - 36,000 deaths
  - $11 billion in economic costs associated with healthcare and lost time from work and school

- Influenza affects to 5-20% of the US population each year.
- Over 8 million children and adolescents 2-18 years of age have at least one medical condition placing them at high risk for complications of the flu.
- Children are the major pathway for the spread of influenza infection to others.
- Approximately 75% of the US population is adults, but more than half of the cases of influenza infection occur in individuals under 19 years of age

Childhood and adolescent immunization may represent an important step in protecting the rest of the population from illness, hospitalization and death. A recent study demonstrated that if an 80% influenza immunization rate is achieved for children under the age of 19 years in the US population, over 32,000 deaths and 100,000 hospitalizations could be prevented in the elderly population. (See Chart 1)

- A Japanese study demonstrated that mandatory influenza immunization of school children 7-15 years of age decreased deaths attributed to pneumonia and influenza for the general population. In 1957 Japan experienced a severe epidemic of the Asian flu in which approximately 8000 people died from flu-related causes. This was the largest influenza-related death toll ever recorded in Japan. Consequently, Japan began immunizing school children against influenza in 1962 and made immunization mandatory in 1977. During the years the immunization program was in effect (from about 1977–1987), an estimated 37,000-49,000 lives/year were saved.
  In 1987, however, legislation was relaxed, and by 1994, the program was discontinued entirely. When the program was terminated, the increase in deaths accelerated. The increase in influenza-related deaths after termination of the program lends further support for the importance of vaccinating school-aged children against influenza. (See Chart 2)

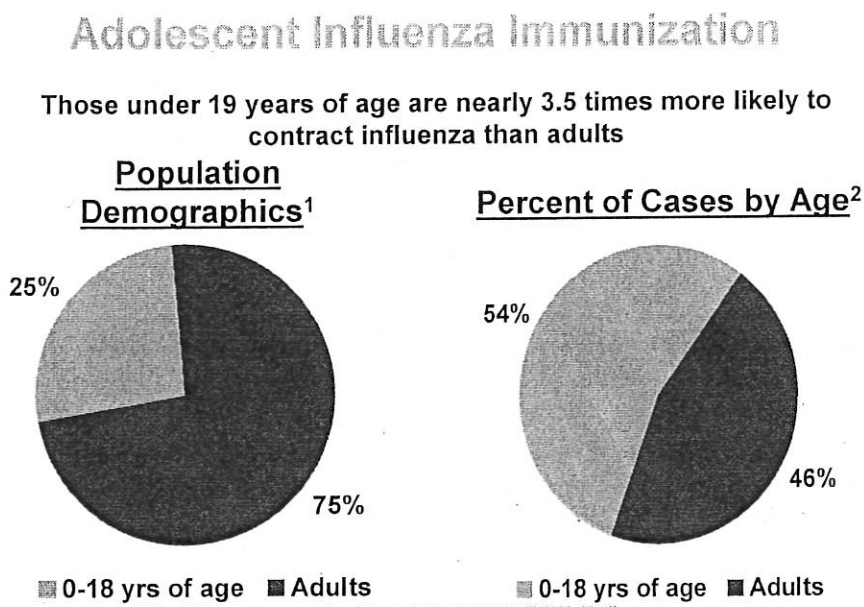
- The benefit of the activity proposed in the pilot looks beyond the illness and death of those being immunized. Immunizing this target population has public health value for the entire population.
- Immunizing children against influenza has greater far-reaching effects than simply preventing disease in the vaccinated group: it has the potential to substantially reduce the burden of disease for thousands of other people by providing herd immunity.
- Increasing the number of childhood influenza immunizations makes solid medical and economic sense.

- Assessing the feasibility of the delivery of influenza immunizations in the school setting is an important first step.

It is for these reasons that the KDHE supports this bill. Thank you for the opportunity to appear before the committee today. I will now stand for questions.

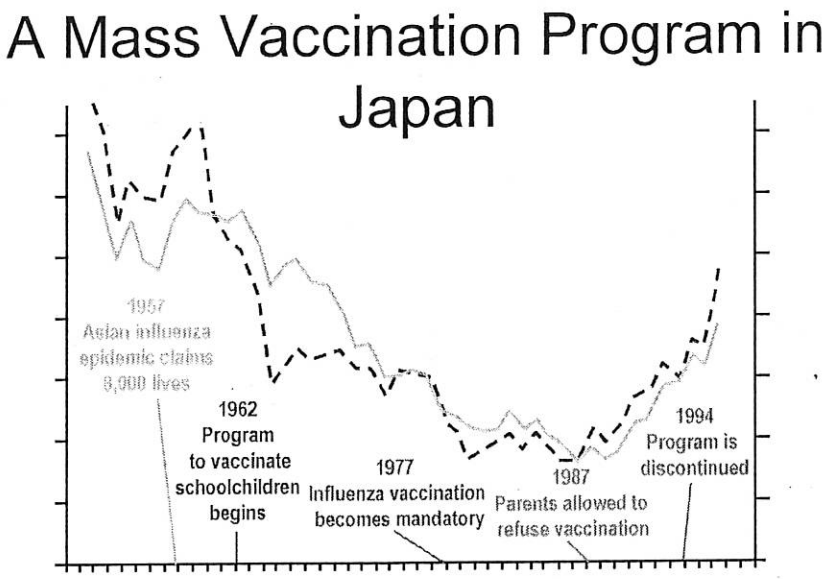
Attachments to SB 548

Chart 1



1. US Census Bureau. Available at: http://www.census.gov/population/projections/nation/detail/d2001_10.pdf. Accessed April 2004. 2. Adapted from Weycker D, et al. *Vaccine*. 2005;23:1284.

Chart 2



Adapted with permission from Reichert TA, et al. *N Engl J Med*. 2001;344:889-896.

Slide courtesy of W. Paul Glezen, MD
National Campaign for Influenza Prevention

KANSAS HEALTH INSTITUTE

For additional information contact:

Gianfranco Pezzino, M.D., M.P.H.
Associate Director of Public Health Systems
212 SW Eighth Avenue, Suite 300
Topeka, Kansas 66603-3936
Tel. 785.233.5443 Fax 785.233.1168

School-based influenza vaccination pilot program
SB 548
February 13, 2008

Senate Committee on Public Health and Welfare

Gianfranco Pezzino, M.D., M.P.H.
Associate Director of Public Health Systems
Kansas Health Institute

Information for policymakers. Health for Kansans.

The Kansas Health Institute is an independent, non-profit health policy and research organization based in Topeka, Kansas. Established in 1995 with a multiyear grant from the Kansas Health Foundation, the Kansas Health Institute conducts research and policy analysis on issues that affect the health of Kansans.

My name is Dr. Gianfranco Pezzino. I am a board-certified public health physician with experience working at the federal, state and local levels. Currently I am the Associate Director of Public Health Systems at the Kansas Health Institute, and also the Health Officer for Shawnee County in Topeka.

I want to congratulate this committee for its attempt to address through SB 548 the important public health issue of how to most effectively vaccinate Kansas children against influenza.

Children play a special role in the epidemiology of influenza for two reasons. First, children who contract influenza can develop complications which in some cases can be fatal. Second, there is a growing body of evidence showing that children represent a reservoir for the community-wide outbreaks of influenza that we experience every year.

Children get infected early during the influenza season and can transmit the infection to others for up to 6 days before they become sick, compared to the average 1– 2 days for adults. Because children spend a lot of their time in close contact with other individuals in their families or in schools and day care settings, they have the potential to infect many people.

Transmission of influenza in schools plays a major role in propagating influenza outbreaks. Cases among students often rise rapidly after holiday recess. In addition, studies have shown that school absenteeism often increases just before an increase in absenteeism in other work places, suggesting that students may become infected first and pass the virus on to their parents.

Does vaccinating children make a difference? Recent studies and the experience in other countries certainly suggest that this is the case. A study conducted in 11 sites across our country in 2004–2005 involving more than 15,000 school children showed that vaccination against influenza reduced disease both in the children who received the vaccine and, most interestingly, in their families, confirming the importance of children in the chain of transmission of this disease. In Japan, where vaccination of school children against influenza was widespread for some years, a substantial reduction in influenza deaths was reported among the elderly. Unfortunately, when the Japanese government decided to discontinue the vaccination of children, the number of deaths in the community increased again.

So it appears that vaccinating school-aged children against influenza can be an important preventive measure to reduce disease and deaths from this infection. Does it make sense to vaccinate the children in the school setting? There are several arguments in favor of this approach. Schools are an environment where disease is transmitted. In a school-based immunization program, administration costs are lower and vaccination can be achieved with minimal time commitment from parents, which in turn can increase vaccination coverage and reduce the indirect cost of the program. An analysis published in the journal *Health Affairs* in January showed that school-based vaccination could be a cost-effective option for preventing influenza among children and their families, and that the cost of the program would be less than the direct and indirect flu-related costs. According to the researchers, school-based immunization of 47 percent of students could save an estimated $171.96 per student-household over the course of a flu season, and the saving could be higher if more children could be vaccinated.

School-based campaigns also represent excellent opportunities to test the readiness of our public health system to respond to an influenza pandemic or to other public health emergencies that would require the vaccination of many people in a short period of time.

Based on this body of evidence, the CDC is updating its current recommendations for influenza vaccination (putting more emphasis on the importance of vaccinating school children), and at least one state (New Jersey) is requiring flu shots for pre-school children.

Implementing broad vaccination campaigns in schools may present logistical and procedural challenges. In some communities, the use of volunteers can play an important role, while in others public health and school staff may be able and willing to take the full charge for the program. Some administrative and billing requirements and procedures from insurance payers also may conflict with the attempt to deliver vaccines in schools in the quickest and most cost-effective way. It is important that these issues be studied further and that communities be given sufficient flexibility to implement the best program most suitable for their needs.

As a final comment, I want to notice that there are two types of vaccine available for children. Both have an excellent record of safety and efficacy. The two vaccines have different indications and contra-indications. Once again, it is important to give local and state public health officials

flexibility in deciding which vaccine to use given that circumstances may be different from community to community.

Thank you for your attention. I will be glad to answer any questions that you may have.

SHULER EDUCATION CENTER
5928 SW 53rd Street
Topeka, KS 66610-9451
(785) 339-4000
(785) 339-4025 (Fax)
www.usd437.net

Auburn Washburn
UNIFIED SCHOOL DISTRICT 437

February 12, 2008

For the past two years the Auburn-Washburn School District has conducted a flu clinic for our students. The purpose of the clinics was to provide immunization for students to reduce the negative impact of flu especially as it relates to attendance. The goal was to immunize as many students as possible with a minimum loss of class time.

The clinics were held at each of the district's nine school locations with a make-up day for students who couldn't attend on the designated date. Each year the district immunized approximately 500 students. Two types of immunizations were given. Most students received the quick, painless nasal inhalant mist. Students who were unable to take the mist, for a variety of medical reasons, were given a traditional injection.

The district worked with a local pediatrician who provided oversight during the clinics. The doctor was a patron of the district and volunteered his services. Nursing assistance was provided the first year by students at the Washburn University School of Nursing. The students were not available on the second year due to a last minute schedule change for the clinic. The change was caused by a shortage of vaccine. The district hired outside nursing services instead.

Families were notified in advance of the immunizations and had to sign up to have their children receive the vaccine. Students were charged $20 each to cover the cost of the vaccine. The Auburn-Washburn Board of Education did not want cost to be a deterrent. The first year a third party grant funded the vaccine for students who had already qualified for free and reduced priced meals. The second year the district planned to use Medicaid funds but were not able to navigate the paperwork to make this happen. In the end the district provided the vaccine for Medicaid qualified students.

While we felt that it was a benefit to our students, the district does not plan to hold the flu clinic again. We learned that we are not set up to act as a medical clinic. The obstacles include acquiring the vaccine at the right time and at the right quantities, coordinating nursing services, and coordinating payment options through insurance and Medicaid.

We would love to work with a medical provider to host a clinic in our district but don't feel that we have the necessary resources to conduct our own.

Sincerely,

Dr. Ann Elliott
Director of Student Services

PUBLIC HEALTH AND WELFARE
DATE: 02/13/08
ATTACHMENT: 14

To Whom It May Concern-

As a rural Kansas pediatrician, I would like to voice my support for SB548. Influenza is an important disease and needs to be more widely discussed in our state in order to increase education and prevention.

Many people realize that widespread vaccination has greatly diminished the spread of what were once deadly childhood illnesses. Diptheria, polio, even meningitis from Haemophilus bacteria are now rarely encountered. Unfortunately, the public, and even many healthcare workers, do not realize that influenza is even more deadly than these now rare illnesses. We commonly hear of deaths from pertussis (whooping cough), which may kill a few hundred children per year. The public does not realize that influenza is actually the most deadly of ALL the vaccine preventable illnesses- causing over 36,000 deaths in the United States alone each year. Even more costly, approximately 200,000 hospitalizations and over 15 million infections are attributed to influenza in the U.S. each year!

How is influenza spread? It is spread through respiratory secretions, coughing, sneezing, runny nose, etc. Who are the largest culprits in this action? I'm a pediatrician- let me tell you- it's kids!! We laugh about how easily children spread germs, but it is true! Children are the most important vector in spreading influenza. Children also produce more viral particles and are capable of shedding more virus than an adult. If one stops to think about the many people a typical school-age child comes into contact with it can be sobering to think of the "shed and spread" capabilities: other children in school, teachers, day-care providers, siblings, parents, grandparents, other family members, etc.
The best way to stop the spread is to prevent the illness!

It is widely known that influenza vaccination is effective in preventing the spread of illness. Routine vaccination of school-age children has been shown in many studies throughout the world to be effective in preventing influenza infection across society as a whole! School vaccine programs are effective and an excellent opportunity to vaccinate otherwise healthy children who may not have an opportunity to visit with a doctor or clinic. High risk children, and adults, should be encouraged to continue vaccination as well.

Thank you for your concern for the health of the children of Kansas.
Increased education and disease prevention statewide is exciting for those of us "in the trenches."
Please consider SB548 to help improve the health of the children we serve.

Sincerely,
Ellen Losew, M.D., F.A.A.P.
The Medical Center, P.A.
Hutchinson, Kansas

Ellen Losew, M.D., F.A.A.P.
The Medical Center
1100 N. Main
Hutchinson, Ks. 67501

KANSAS MEDICAL SOCIETY
KMS

623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

www.KMSonline.org

To: Senate Committee on Public Health & Welfare

From: Dan Morin
Director of Government Affairs

Date: February 13, 2008

Subject: SB 548; AN ACT relating to the department of health and environment; a school based influenza vaccination pilot program; providing for a study.

The Kansas Medical Society appreciates the opportunity to comment on SB 548, which would allow the Department of Health and Environment to provide influenza information for day care facilities and study the feasibility of a school based influenza vaccination pilot program.

Influenza vaccination is the most effective method for preventing influenza virus infection and its potentially severe complications. Influenza vaccine reduces the likelihood of becoming ill with influenza or transmitting influenza to others. People recommended for vaccination based on their risk of complications from influenza include children aged 6 months until their 5th birthday. While infants younger than 6 months are a high-risk group, they cannot be vaccinated, so vaccinating people around them (like family members, caregivers and any other close contacts) is recommended. Health officials urge people to get flu shots before it's too late. It takes about two weeks for the vaccine to become fully protective.

Two hundred thousand people are hospitalized with the flu every year and approximately 35,000 Americans die each year from the flu. Not only do flu vaccines keep people healthy, they save the lives of our most vulnerable residents. The Kansas Medical Society is encouraged by the public policy included in SB 548.