CHAPTER 121

HOUSE BILL No. 2077*

AN ACT concerning the state board of pharmacy, establishing a cancer drug repository program.

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

Section 1. (a) For the purposes of this act:

(1) "Cancer drug" means a prescription drug used to treat:

(A) Cancer or its side effects; or

(B) the side effects of a prescription drug used to treat cancer or its side effects.

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

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

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

(5) "Unit dose" means a packaging system that:

(A) Contains individual sealed doses of a drug;

(B) may or may not attach the sealed doses to each other by placement in a card or other container; and

(C) is nonreusable.

(6) "Person" means any individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(b) The state board of pharmacy shall establish the cancer drug repository program to accept and dispense prescription-only cancer drugs donated for the purpose of being dispensed to cancer patients who are residents of this state and meet eligibility standards established in rules and regulations adopted by the board under section 4, and amendments thereto. Only cancer drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed. The packaging must be unopened, except that cancer drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed. A cancer drug that bears an expiration date that is less than six months after the date the cancer drug is being donated shall not be accepted or dispensed. A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated or misbranded.

Sec. 2. (a) Any person may donate prescription cancer drugs to the cancer drug repository program. The cancer drugs must be donated at a physician's office, pharmacy, hospital or nonprofit clinic that elects to participate in the cancer drug repository program. Participation in the cancer drug repository program is voluntary. Nothing in this act or any other statutes of this state requires a physician's office, pharmacy, hospital or nonprofit clinic to participate in the program.

(b) The cancer drugs shall be dispensed by the following persons who are authorized pursuant to K.S.A. 65-1635, and amendments thereto, to dispense drugs: (1) Licensed physicians who are dispensing practitioners pursuant to K.A.R. 100-21-1 and (2) licensed pharmacists. The cancer drug may be dispensed only pursuant to a prescription issued by a person authorized to prescribe drugs. A pharmacy, hospital or nonprofit clinic that accepts donated cancer drugs shall comply with all applicable federal laws and laws of this state dealing with storage and distribution of dangerous drugs and shall inspect all cancer drugs prior to dispensing them to determine that they are not adulterated. The pharmacy, hospital or nonprofit clinic may charge individuals receiving donated cancer drugs a handling fee established in accordance with rules and regulations adopted by the board. Cancer drugs donated to the repository may not be resold.

Sec. 3. (a) Any person who in good faith donates cancer drugs without charge to the cancer drug repository program which drugs are in compliance with the provisions of this act at the time donated shall not be subject to criminal or civil liability arising from any injury or death due

to the condition of such drugs unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.

(b) Any person who in good faith accepts cancer drugs, in accordance with the provisions of this act and as part of the cancer drug repository program, which drugs are in compliance with the provisions of this act at the time accepted, shall not be subject to criminal or civil liability arising from any injury or death due to the condition of such drugs unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.

(c) Any person who in good faith dispenses cancer drugs without charge, except as provided in this act, in accordance with the provisions of this act and as part of the cancer drug repository program which drugs are in compliance with the provisions of this act at the time dispensed shall not be subject to criminal or civil liability arising from any injury or death due to the condition of such drugs unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of such person.

(d) A manufacturer of drugs shall not be subject to criminal or civil liability for any injury or death related to the donation, acceptance or dispensing of a cancer drug as part of the cancer drug repository program created under this act which drug was manufactured by the drug manufacturer unless such injury or death is a direct result of the willful, wanton, malicious or intentional misconduct of the drug manufacturer.

Sec. 4. The state board of pharmacy shall adopt rules and regulations governing the cancer drug repository program that establishes the following:

(a) Standards and procedures for accepting, safely storing and dispensing donated cancer drugs;

(b) standards and procedures for inspecting donated cancer drugs to determine that the original unit dose packaging is sealed and tamper-evident and that the cancer drugs are unadulterated, safe and suitable for dispensing;

(c) a form that an individual receiving a cancer drug from the repository must sign before receiving the cancer drug to confirm that the individual understands the immunity provisions of the program;

(d) a form each donor must sign stating the relationship of the person or entity to whom the cancer drug was prescribed;

(e) a formula to determine the amount of a handling fee that pharmacies, hospitals and nonprofit clinics may charge to cancer drug recipients to cover restocking and dispensing costs;

(f) a category of cancer drugs acceptable for dispensing or distribution under the cancer drug repository program; and

(g) any other standards, procedures or matters the board considers appropriate to carry out the provisions of sections 1 through 4, and amendments thereto.

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

Approved April 12, 2005.