

SESSION OF 2005

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2077**

As Agreed to March 28, 2005

Brief *

The bill would enact a new law requiring the Board of Pharmacy to establish a cancer drug repository program that would provide donated cancer drugs to eligible cancer patients. The program would accept and dispense by prescription, cancer drugs donated to the program. The donated drugs would have to meet packaging and other requirements enumerated in the bill. The drugs would be dispensed by individuals currently authorized to dispense drugs pursuant to a prescription. A "cancer drug" would be defined by the bill to be any prescription drug used to treat cancer or its side effects or the side effects of those drugs.

Under the bill's provisions:

- Anyone could donate drugs to the program.
- Drugs would be collected at doctors' offices, pharmacies, hospitals, and clinics that volunteer to participate in the program.
- An entity authorized by the bill to accept cancer drugs would have to comply with all applicable federal and state laws that address storage and distribution of dangerous drugs and would have to inspect the drugs prior to dispensing them to determine that the drugs are not adulterated.
- An entity that dispenses donated drugs could charge patients who receive the donate drugs a handling fee that would be established in rules and regulations by the State Board of Pharmacy.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

- Donated drugs could not be resold.
- Licensed physicians who are dispensing practitioners and licensed pharmacists would be authorized to dispense donated cancer drugs.
- Cancer drugs could only be dispensed pursuant to a valid prescription.

The bill would limit the liability of persons who, in good faith, donate, accept and dispense cancer drugs pursuant to the Act. A drug manufacturer whose cancer drugs are part of the program would have limited liability for injury or death related to donation, acceptance or dispensing of drugs under the program. No liability limitation created by the bill would extend to injury or death that results directly from the willful, wanton, malicious or intentional misconduct of the donor, manufacturer, or person accepting or dispensing cancer drugs pursuant to the Act.

The Board of Pharmacy would be required to adopt rules and regulations to implement the program. Issues that would be addressed in those regulations would include standards and procedures for accepting, sorting and dispensing cancer drugs and for inspecting the drugs to ensure that they are safe; forms for recipients to sign; a formula for determining handling fees; categories of drugs to be included in the program; and other regulations deemed necessary by the Board.

Conference Committee Action

The Conference Committee agreed to the Senate Committee amendments to the bill and agreed to further amend the bill to include language limiting the liability of persons who accept cancer drugs under the program (the provision parallels the liability provision included by the Senate Committee for donors and dispensers of cancer drugs). The Conference Committee also agreed to amend the bill to include language limiting the liability of drug manufacturers whose drugs are donated, accepted, or dispensed under the bill in certain circumstances. Finally, the Conference Committee agreed to remove from the bill two definitions that are not necessary.

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Background

Two sponsors of the bill and the American Cancer Society presented testimony in support of the bill to the House Committee on Health and Human Services. A representative of the Kansas Trial Lawyers presented testimony in opposition to the bill at the House Committee hearing. The representative of the Kansas Pharmacy Coalition presented testimony neither supporting nor opposing the bill.

In the Senate Committee hearing, one of the sponsors and a representative of the Kansas Division of the American Cancer Society appeared in support of the bill. The Senate Committee amendments were, in part, technical and, in part, reflective of other state law and policies as well as constitutional considerations.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill states that the bill would have a fiscal impact on the Board of Pharmacy. The Board would be responsible for establishing eligibility standards for persons who could receive the donated drugs and for organizations dispensing those drugs; and creating a new license for organizations dispensing donated drugs. The Board would have to complete more inspections; inspect donated drugs to ensure compliance with the statute's standards; and develop rules and regulations for the new program. Finally, the Board would have to enforce those rules and regulations and prosecute violations. The fiscal note states that an estimate of the cost of those new responsibilities and activities cannot be made.