

SESSION OF 2011

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 211**

As Recommended by Senate Committee on  
Public Health and Welfare

**Brief\***

SB 211 would amend the Pharmacy Act to add a second exception to the requirement that pharmacists fill all prescriptions in strict conformity with the directions of the prescriber. The new exception would allow a pharmacist to provide up to a three-month supply of a legend drug that is not a controlled substance or a psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but the prescription includes enough refills to fill a three-month supply. (A legend drug is any drug that requires a prescription, and its label is required to bear the statement "Rx only".)

The exception under current law allows a pharmacist who receives a prescription order for a brand name drug to substitute a different brand in order to achieve a lesser cost to the purchaser, unless the prescriber has instructed that the prescription be dispensed as written or as communicated, or the federal Food and Drug Administration has determined that the generic prescription medication is not bioequivalent to the prescribed brand name prescription medication.

**Background**

The bill was introduced by the Senate Committee on Ways and Means. A representative of Prescription Solutions, testifying in favor of the bill, stated that the bill would, with

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

some limitations, allow pharmacists to use professional judgment to dispense up to a ninety-day supply of medication when there are refills written on the prescription that allow it. The representative further stated the bill would reduce the direct cost to the patient by allowing the pharmacist to increase the quantity dispensed when it makes sense to do so and cited maintenance medications as an example of such an instance. No other proponents testified at the hearing. There was no testimony opposing the bill at the Senate Committee hearing. Written neutral testimony was provided by a representative of the Kansas Pharmacists Association who indicated that while the bill has the potential to save time and ease aggravation for both patients and pharmacists by allowing the pharmacist to fill prescriptions for up to ninety days, the bill has the potential to assume the physician's reasoning for prescribing a thirty-day dosage by allowing a pharmacist to fill the prescription for up to ninety days.

The fiscal note on the bill prepared by the Division of the Budget states the Pharmacy Board estimates the bill would increase expenditures from the Pharmacy Fee Fund by \$101,420 in FY 2012 because the Board would need an additional Pharmacist Inspector to review additional prescriptions and investigate additional complaints. This estimate includes one-time expenditures of \$15,000 for a vehicle, \$100 for a cellular phone, \$200 for a printer, and \$2,093 for a laptop and connection fee and annual expenditures of \$81,333 for salary and wages of a 1.00 Pharmacist Inspector FTE position, \$960 for cellular phone service, \$600 for internet service, \$1,000 for travel expenses, \$84 for postage, and \$50 for supplies. Any fiscal effect associated with the bill is not reflected in *The FY 2012 Governor's Budget Report*.