

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 211

As Amended by House Committee on Health
and Human Services

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 prescription 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.

Background

The only current statutory exception 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. As stated, this bill would add a second exception.

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

*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>

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 Kansas Association of Chain Drug Stores and United Health Group offered testimony in support of the bill before the House Committee on Health and Human Services. The Kansas Pharmacists Association offered neutral testimony. There were no opponents. The proponents testified that this legislation would benefit consumers by saving time and trips to the pharmacy to refill prescriptions.

The House Health and Human Services Committee amended the bill, changing the term "legend drug" to the term "prescription drug" to make the bill consistent with the defined terms in the Pharmacy Act. The House Committee also made technical amendments.

The original fiscal note on the original bill prepared by the Division of the Budget in 2011 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 2011 estimate includes one-time

expenditures of \$15,000 for a vehicle, \$100 for a cellular phone, \$200 for a printer, \$2,093 for a laptop and connection fee, 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 was not reflected in *The FY 2012 Governor's Budget Report*.

The updated fiscal note prepared by the Division of the Budget on January 25, 2012, states that the bill would have no fiscal impact.