

SESSION OF 2005

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2155**

As Amended by Senate Committee on  
Public Health and Welfare

**Brief\***

The bill would amend existing law to allow pharmacists to refill certain prescriptions on an emergency basis without the prescriber's authorization. The new authorization would apply only to prescriptions for drugs that are not listed on Schedule II of the Uniform Controlled Substances Act or are not a narcotic drug listed on any schedule of the Uniform Controlled Substances Act.

Under the bill, unless the prescriber prohibits an emergency refill of a prescription, a pharmacist could refill a prescription order issued on or after the effective date of the act, without prior authorization, when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgement, continuation of the medication is necessary for the patient's health, safety, and welfare. Under those circumstances, the prescription could be refilled only in an amount sufficient to last until the prescriber can be contacted. Any such refill could be only for one package of the drug.

The bill would require the pharmacist refilling a prescription order to contact the prescriber on the next business day subsequent to the refill or as soon thereafter as possible. The bill would not require a pharmacist to refill a prescription order on an emergency basis. Further, the bill would relieve a prescriber from liability for any damages resulting from the refilling of a prescription order unless such damages were the result of gross negligence or willful or wanton acts or omissions by the prescriber. The bill would become effective on publication in the *Kansas Register*.

---

\*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>

## **Background**

Introduction of the bill by the House Committee on Health and Human Services was requested by the State Board of Pharmacy. A representative of Board presented testimony to the House Committee in support of the bill. A representative of the Kansas Medical Society presented testimony requesting an amendment to limit prescribers' liability in a situation in which a prescription is filled on an emergency basis.

The House Committee amended the bill to include the suggestion made by the Medical Society and to provide for emergency dispensing of a unit of medication even if that unit would constitute more than a seven-day supply.

The Senate Committee on Public Health and Welfare further amended HB 2155 by permitting the emergency refill of prescription orders issued on or after the effective date of the act; prohibiting pharmacists from refilling prescription orders for any narcotic drug listed on any schedule of the Uniform Controlled Substances Act; and by permitting the refill of only one package of the drug. The amendments also require the pharmacist refilling a prescription order to contact the prescriber on the next business day subsequent to the refill or as soon thereafter as possible and does not require the pharmacist to refill a prescription order. Further, the amendments would relieve a prescriber from liability for any damages resulting from the refilling of a prescription order unless such damages were the result of gross negligence or willful or wanton acts or omissions by the prescriber. The effective date of the act was amended to become effective on publication in the *Kansas Register*.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill states that passage would have no fiscal effect on the state, pharmacies, physicians, or patients. The House Committee's amendment would not materially alter the assessment of potential fiscal impact.