

As Amended by House Committee

Session of 2011

SENATE BILL No. 211

By Committee on Ways and Means

2-16

1 AN ACT concerning pharmacists; relating to dispensing prescriptions;
2 amending K.S.A. ~~2010~~2011 Supp. 65-1637 and repealing the existing
3 section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. ~~2010~~2011 Supp. 65-1637 is hereby amended to
7 read as follows: 65-1637. In every store, shop or other place defined in this
8 act as a "pharmacy" there shall be a pharmacist in charge and, except as
9 otherwise provided by law, the compounding and dispensing of
10 prescriptions shall be limited to pharmacists only. Except as otherwise
11 provided by the pharmacy act of this state, when a pharmacist is not in
12 attendance at a pharmacy, the premises shall be enclosed and secured.
13 Prescription orders may be written, oral, telephonic or by electronic
14 transmission unless prohibited by law. Blank forms for written prescription
15 orders may have two signature lines. If there are two lines, one signature
16 line shall state: "Dispense as written" and the other signature line shall
17 state: "Brand exchange permissible." Prescriptions shall only be filled or
18 refilled in accordance with the following requirements:

19 (a) All prescriptions shall be filled in strict conformity with any
20 directions of the prescriber, except:

21 (1) *That a pharmacist may provide up to three-month supply of a*
22 ~~legend~~**prescription drug that is not a controlled substance or**
23 *psychotherapeutic drug when a practitioner has written a drug order to be*
24 *filled with a smaller supply but included sufficient numbers of refills for a*
25 *three-month supply; and*

26 (2) that a pharmacist who receives a prescription order for a brand
27 name drug product may exercise brand exchange with a view toward
28 achieving a lesser cost to the purchaser unless:

29 ~~(A)~~(A) The prescriber, in the case of a prescription signed by the
30 prescriber and written on a blank form containing two signature lines,
31 signs the signature line following the statement "dispense as written," ~~or~~

32 (2)(B) the prescriber, in the case of a prescription signed by the
33 prescriber, writes in the prescriber's own handwriting "dispense as written"
34 on the prescription, ~~or~~

35 ~~(C)~~(C) the prescriber, in the case of a prescription other than one in
36 writing signed by the prescriber, expressly indicates the prescription is to

1 be dispensed as communicated, or

2 ~~(4)(D)~~ the federal food and drug administration has determined that a
3 drug product of the same generic name is not bioequivalent to the
4 prescribed brand name prescription medication.

5 (b) Prescription orders shall be recorded in writing by the pharmacist
6 and the record so made by the pharmacist shall constitute the original
7 prescription to be dispensed by the pharmacist. This record, if telephoned
8 by other than the physician shall bear the name of the person so
9 telephoning. Nothing in this paragraph shall be construed as altering or
10 affecting in any way laws of this state or any federal act requiring a written
11 prescription order.

12 (c) (1) Except as provided in paragraph (2), no prescription shall be
13 refilled unless authorized by the prescriber either in the original
14 prescription or by oral order which is reduced promptly to writing and
15 filled by the pharmacist.

16 (2) A pharmacist may refill a prescription order issued on or after the
17 effective date of this act for any prescription drug except a drug listed on
18 schedule II of the uniform controlled substances act or a narcotic drug
19 listed on any schedule of the uniform controlled substances act without the
20 prescriber's authorization when all reasonable efforts to contact the
21 prescriber have failed and when, in the pharmacist's professional
22 judgment, continuation of the medication is necessary for the patient's
23 health, safety and welfare. Such prescription refill shall only be in an
24 amount judged by the pharmacist to be sufficient to maintain the patient
25 until the prescriber can be contacted, but in no event shall a refill under
26 this paragraph be more than a seven day supply or one package of the
27 drug. However, if the prescriber states on a prescription that there shall be
28 no emergency refilling of that prescription, then the pharmacist shall not
29 dispense any emergency medication pursuant to that prescription. A
30 pharmacist who refills a prescription order under this subsection (c)(2)
31 shall contact the prescriber of the prescription order on the next business
32 day subsequent to the refill or as soon thereafter as possible. No
33 pharmacist shall be required to refill any prescription order under this
34 subsection (c)(2). A prescriber shall not be subject to liability for any
35 damages resulting from the refilling of a prescription order by a
36 pharmacist under this subsection (c)(2) unless such damages are
37 occasioned by the gross negligence or willful or wanton acts or omissions
38 by the prescriber.

39 (d) If any prescription order contains a provision that the prescription
40 may be refilled a specific number of times within or during any particular
41 period, such prescription shall not be refilled except in strict conformity
42 with such requirements.

43 (e) If a prescription order contains a statement that during any

1 particular time the prescription may be refilled at will, there shall be no
2 limitation as to the number of times that such prescription may be refilled
3 except that it may not be refilled after the expiration of the time specified
4 or one year after the prescription was originally issued, whichever occurs
5 first.

6 (f) Any pharmacist who exercises brand exchange and dispenses a
7 less expensive drug product shall not charge the purchaser more than the
8 regular and customary retail price for the dispensed drug.

9 Nothing contained in this section shall be construed as preventing a
10 pharmacist from refusing to fill or refill any prescription if in the
11 pharmacist's professional judgment and discretion such pharmacist is of
12 the opinion that it should not be filled or refilled.

13 Sec. 2. K.S.A. ~~2010~~**2011** Supp. 65-1637 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.

16