

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2153

By Committee on Health and Human Services

1-30

1 AN ACT concerning the utilization of unused medications act; relating to  
2 donating entities, unused medications; authority and rules and  
3 regulations of the state board of pharmacy; repealing the cancer drug  
4 repository program; amending K.S.A. 2012 Supp. 65-1636, 65-1669,  
5 65-1670, 65-1671 and 65-1674 and repealing the existing sections; also  
6 repealing K.S.A. 2012 Supp. 65-1664, 65-1665, 65-1666 and 65-1667.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2012 Supp. 65-1636 is hereby amended to read as  
10 follows: 65-1636. (a) Except as otherwise provided in this act, the sale and  
11 distribution of drugs shall be limited to pharmacies operating under  
12 registrations as required by this act, and the actual sale or distribution of  
13 drugs shall be made by a pharmacist or other persons acting under the  
14 immediate personal direction and supervision of the pharmacist.

15 ~~(b) The donation, acceptance, transfer, distribution or dispensing of~~  
16 ~~any drug in compliance with the provisions of the cancer drug repository~~  
17 ~~program established by K.S.A. 2012 Supp. 65-1664 through 65-1667, and~~  
18 ~~amendments thereto, and any rules and regulations promulgated~~  
19 ~~thereunder shall not constitute a violation of this section.~~

20 (e) (b) The donation, acceptance, transfer, distribution or dispensing  
21 of any drug in compliance with the provisions of the utilization of unused  
22 medications act and any rules and regulations promulgated thereunder  
23 shall not constitute a violation of this section.

24 Sec. 2. K.S.A. 2012 Supp. 65-1669 is hereby amended to read as  
25 follows: 65-1669. As used in the utilization of unused medications act:

26 (a) "Adult care home" has the same meaning as such term is defined  
27 in K.S.A. 39-923, and amendments thereto.

28 (b) "Community mental health center" has the same meaning as such  
29 term is defined in K.S.A. 75-3307c, and amendments thereto.

30 (c) "Donating entities" means adult care homes, mail service  
31 pharmacies, *institutional drug rooms* and medical care facilities who elect  
32 to participate in the program.

33 (d) "Drug" has the same meaning as such term is defined in K.S.A.  
34 65-1626, and amendments thereto.

35 (e) "Federally qualified health center" means a center which meets  
36 the requirements for federal funding under 42 U.S.C. § 1396d(1) of the

1 public health service act, and amendments thereto, and which has been  
2 designated as a "federally qualified health center" by the federal  
3 government.

4 (f) "Indigent health care clinic" has the same meaning as such term is  
5 defined in K.S.A. 75-6102, and amendments thereto.

6 (g) *"Institutional drug room" has the meaning as such term is defined*  
7 *in K.S.A. 65-1626(bb)(1)(A), and amendments thereto.*

8 ~~(g)~~ (h) "Mail service pharmacy" means a licensed Kansas pharmacy  
9 that ships, mails or delivers by any lawful means a lawfully dispensed  
10 medication in tamper-resistant packaging to residents of this state or  
11 another state.

12 ~~(h)~~ (i) "Medical care facility" has the same meaning as such term is  
13 defined in K.S.A. 65-425, and amendments thereto.

14 ~~(i)~~ (j) "Medically indigent" has the same meaning as such term is  
15 defined in K.S.A. 75-6102, and amendments thereto.

16 ~~(j)~~ (k) "Medication" means a prescription drug or drug as defined by  
17 this section.

18 ~~(k)~~ (l) "Mid-level practitioner" has the same meaning as such term is  
19 defined in K.S.A. 65-1626, and amendments thereto.

20 ~~(l)~~ (m) "Practitioner" has the same meaning as such term is defined in  
21 K.S.A. 65-1626, and amendments thereto.

22 ~~(m)~~ (n) "Prescription drug" means a drug which may be dispensed  
23 only upon prescription of a practitioner or mid-level practitioner  
24 authorized by law and which is approved for safety and effectiveness as a  
25 prescription drug under section 505 or 507 of the federal food, drug and  
26 cosmetic act (52 Stat. 1040 (1938), 21 U.S.C.A. § 301), ~~and amendments~~  
27 ~~thereto.~~

28 ~~(n)~~ (o) "Qualifying center or clinic" means an indigent health care  
29 clinic, federally qualified health center or community mental health center.

30 (p) *"Samples of medications or injectables" means a unit of drug that*  
31 *is not intended to be sold and is intended to promote the sale of the drug.*

32 Sec. 3. K.S.A. 2012 Supp. 65-1670 is hereby amended to read as  
33 follows: 65-1670. (a) The board of pharmacy shall establish and  
34 implement a program consistent with public health and safety through  
35 which unused drugs, ~~other than drugs defined as controlled substances,~~  
36 may be transferred from donating entities that elect to participate in the  
37 program for the purpose of distributing the unused medications to Kansas  
38 residents who are medically indigent.

39 (b) A qualifying center or clinic in consultation with a pharmacist  
40 shall establish procedures necessary to implement the program established  
41 by the utilization of unused medications act.

42 (c) The state board of pharmacy shall provide technical assistance to  
43 entities who may wish to participate in the program.

1 Sec. 4. K.S.A. 2012 Supp. 65-1671 is hereby amended to read as  
2 follows: 65-1671. The following criteria shall be used in accepting unused  
3 medications for use under the utilization of unused medications act:

4 (a) The medications shall have come from a controlled storage unit of  
5 a donating entity;

6 (b) only medications in their original or pharmacist sealed unit dose  
7 packaging or in tamper evident packaging, unit of use or sealed, unused  
8 injectables, *including samples of medications or injectables*, shall be  
9 accepted and dispensed pursuant to the utilization of unused medications  
10 act;

11 (c) expired medications shall not be accepted;

12 (d) a medication shall not be accepted or dispensed if the person  
13 accepting or dispensing the medication has reason to believe that the  
14 medication is adulterated;

15 (e) no controlled substances shall be accepted; ~~and~~, *unless the state*  
16 *board of pharmacy designates certain controlled substances as accepted*  
17 *medications in the adoption of rules and regulations pursuant to K.S.A.*  
18 *65-1674, and amendments thereto; and*

19 (f) subject to the limitation specified in this section, unused  
20 medications dispensed for purposes of a medical assistance program or  
21 drug product donation program may be accepted and dispensed under the  
22 utilization of unused medications act.

23 Sec. 5. K.S.A. 2012 Supp. 65-1674 is hereby amended to read as  
24 follows: 65-1674. (a) The state board of pharmacy shall adopt rules and  
25 regulations ~~by December 1, 2008~~, to implement the utilization of unused  
26 medications act. Such rules shall:

27 (1) Include standards and procedures for transfer, acceptance and safe  
28 storage of donated medications;

29 (2) include standards and procedures for inspecting donated  
30 medications to ensure that the medications are in compliance with the  
31 utilization of unused medications act and to ensure that, in the professional  
32 judgment of a pharmacist, the medications meet all federal and state  
33 standards for product integrity;

34 (3) establish standards *and procedures* for acceptance of unused  
35 medications from donating entities; ~~and~~

36 (4) *establish standards and procedures for designating certain*  
37 *controlled substances as accepted donated medications;*

38 (5) *establish standards and procedures for a qualifying center or*  
39 *clinic to prepare any donated medications for dispensing or*  
40 *administering; and*

41 (6) establish, in consultation with the department of health and  
42 environment and the department on aging, any additional rules and  
43 regulations, and standards and procedures it deems appropriate or

1 necessary to implement the provisions of the utilization of unused  
2 medications act.

3 (b) In accordance with the rules and regulations and procedures of the  
4 program established pursuant to this section, a resident of an adult care  
5 home, or the representative or guardian of a resident may donate unused  
6 medications, ~~other than prescription drugs defined as controlled~~  
7 ~~substances~~, for dispensation to medically indigent persons.

8 Sec. 6. K.S.A. 2012 Supp. 65-1636, 65-1664, 65-1665, 65-1666, 65-  
9 1667, 65-1669, 65-1670, 65-1671 and 65-1674 are hereby repealed.

10 Sec. 7. This act shall take effect and be in force from and after its  
11 publication in the statute book.