

To: Chairman Morrison and Members of the House Committee on Health and Human Services

From: L J Leatherman on behalf of the Kansas Trial Lawyers Association

Date: February 3, 2005

Re: **HB 2077**

Chairman Morrison and members of the House Committee on Health and Human Services, I appear before you today on behalf of the Kansas Trial Lawyers Association. I am a Kansas attorney and member of KTLA. KTLA is a statewide, nonprofit organization of lawyers who represent consumers and advocate for the safety of families and the preservation of the civil justice system. We appreciate the opportunity to present written and oral testimony on HB 2077.

The Kansas Trial Lawyers Association supports the good intentions behind HB 2077 and is reluctant to bring to the committee's attention the public health and safety issues that we believe the bill presents.

State and federal laws assure the safety of medication from the time the medicine is produced until it reaches the consumer's hands. However, once a drug is dispensed, there are no protections guaranteeing the continuing integrity of the drug, that tampering has not occurred, and that it has been stored properly. Although the bill attempts to limit the dangers, we believe that the unprotected window when the medication is in the consumer's hands make the medication unusable for a second consumer who would have access to the drugs under the cancer drug repository program.

We also believe that if the integrity of the medications can be truly verified and guaranteed, there is no need for the limitations on liability found in section 3 (a) and (b). Further, if the medication's safety is assured, we believe that patients who receive prescriptions from the cancer drug repository program are entitled to the same protections against defective products, negligence, criminal acts and professional misconduct as patients who are the initial consumers of the drugs, and that the limitations on liability are therefore inappropriate.

Despite the laudable goals outlined in the bill, we believe that the health and safety risks to Kansas patients are too great. We respectfully request your opposition to the bill.