



LEAVENWORTH COUNTY ATTORNEY OFFICE

TODD G. THOMPSON

COUNTY ATTORNEY

Leavenworth Justice Center
601 S. Third Street, Suite 3069
Leavenworth, KS 66048-2868

Phone: (913) 684-0480
Fax: (913) 684-1050

JOHN J. BRYANT
DEPUTY COUNTY ATTORNEY

ROGER L. MARRS
ASSISTANT COUNTY ATTORNEY

NANCY M. THEIS
ADMINISTRATOR, CHILD SUPPORT DIVISION

CHERYL A. MARQUARDT
ASSISTANT COUNTY ATTORNEY

MICHAEL G. JONES
ASSISTANT COUNTY ATTORNEY

Joan L. Lowdon
ASSISTANT COUNTY ATTORNEY

Adam Y. Zentner
ASSISTANT COUNTY ATTORNEY

February 1, 2012

Representative Colloton, Chair
House Corrections and Juvenile Justice Committee

Re: House Bill 2232, Illegalization of Prescription Pills

Dear Chairwoman Colloton and Members of the Committee,

Misuse of prescription pills is fast becoming a major issue in not only Leavenworth County, but throughout the State of Kansas and indeed the Nation. When prosecuting certain types of drug cases we noticed what we believe was an oversight in legislation. I say I believe it to be an oversight because most people, including myself, have always believed it to be illegal to possess someone else's prescription medication. We have been prosecuting specific types of prescription drugs cases due to their highly addictive properties, but we are finding that people are now resorting to taking any prescription pills they can find in an effort to "get high". Children are having "pharm parties". Basically a "pharm party" is where people obtain all the prescription medications they can, share them among the other "party" goers, take several pills and wait to see how it effects them. We have seen a rise in the number of arrestees, on non drug offenses, possessing prescription medications belonging to someone other than themselves. I believe there is a reason why pharmacists and doctors require a license to dispense prescription drugs. Their training and expertise makes them very aware of the danger any medication poses if taken indiscriminately or recklessly. It is illegal to sell prescription medications "over the counter" and it should be just as illegal for anyone other than the person to whom the medication is prescribed to possess that medicine.

Please note that we are not asking to change any of the pills that are already viewed to be illegal to possess without a valid prescription. We also attached an balloon amendment as an exception for prescription holders to allow a third party to posses their medication for safety reasons. Example: a parent for a child, a child for an elderly parent, a caregiver for a homebound patient, etc.

Sincerely,

Todd Thompson
County Attorney
Leavenworth County, Kansas

House Corrections and Juvenile Justice
Committee
2012 Session
Date 2-2-12
Attachment # 2-1

K.S.A. 21-5708
21-5708. Unlawfully obtaining and distributing a prescription-only drug

(a) Unlawfully obtaining a prescription-only drug is:

- (1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner;
- (2) distribution of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
- (3) possession of a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
- (4) providing false information, with the intent to deceive, to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug; or

~~(b) Possession of a prescription-only drug without a valid prescription order, or without the authority of the holder of a valid prescription order, or~~

(c) Unlawfully selling a prescription-only drug is unlawfully obtaining a prescription-only drug, as defined in subsection (a), and:

- (1) Selling the prescription-only drug so obtained;
- (2) offering for sale the prescription-only drug so obtained; or
- (3) possessing with intent to sell the prescription-only drug so obtained.

(c)(1) Violation of subsection (a) or (b) is a class A nonperson misdemeanor, except that:

- (2) Unlawfully obtaining a prescription-only drug is a severity level 9, nonperson felony if that person has a prior conviction of paragraph (1) or K.S.A. 21-4214, prior to its repeal.
- (3) Unlawfully selling a prescription-only drug is a severity level 6, nonperson felony.

(d) As used in this section:

- (1) "Pharmacist," "practitioner," "mid-level practitioner" and "prescription-only drug" shall have the meanings ascribed thereto by K.S.A. 65-1626, and amendments thereto.
- (2) "Prescription order" means an order transmitted in writing, orally, telephonically or by other means of communication for a prescription-only drug to be filled by a pharmacist. "Prescription order" does not mean a drug dispensed pursuant to such an order.
- (3) "Holder of a valid prescription order" means the person to whom the prescription order was issued or that person's designee.

(e) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under K.S.A. 21-5705 or 21-5706, and amendments thereto.

Comment [p1]: Removed 4. to new subsection (b). Moved former (b) to (c). Changed (c)(1) to include penalty for new subsection (b).

Comment [p2]: New language to deal with authority from the holder of the prescription.