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**Testimony re: HB 2538**  
**House Health and Human Services Committee**  
**Presented by Ronald R. Hein**  
**on behalf of**  
**Kansas Pharmacy Coalition**  
**February 11, 2004**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Pharmacy Coalition (KPC). The Kansas Pharmacy Coalition is an ad hoc coalition comprised of the Kansas Pharmacists Association and the Kansas Federation of Chain Pharmacies.

HB2538 provides for a voluntary drug repository system which, on its face, would appear to be an excellent means to facilitate donated drugs being made available to patients who meet eligibility guidelines to receive drugs which they may not otherwise be able to afford. In short, we believe the intentions of this bill, and of the sponsor, are highly commendable.

In numerous ways, the goals of this legislation are currently being achieved and can be achieved through other mechanisms. Charitable aid for people needing medical assistance is available through countless public and private programs. For starters, our organization will always stand ready to help explore new ways to create better incentives for improving and expanding care.

However, the method suggested in HB2538 is not safe and it would conflict with laws that provide a good system today for ensuring drug safety. In light of that, KPC would oppose passage of this legislation.

The key in programs such as this is having a safe chain of custody. Both federal and state laws set boundaries on how pharmacies may package and distribute medications. Limited options for how any pharmacy may legally re-package medications are carefully defined so that the risk of drug contamination is best avoided.

Even if pharmacies were given broader statutory latitude in re-dispensing drugs under certain conditions, every pharmacy would still have a major liability question to consider. There are numerous unknown, unintentional, and unknowable opportunities for mistakes or illicit tampering injected into the process as the chain of custody gets extended. The

House Health and Human Services

HB 2538

February 11, 2004

Page 2

liability for such uncontrolled factors could easily fall on the re-dispensing pharmacy, despite efforts to provide immunity under the legislation.

Typically, a pharmacy would, understandably, be concerned about the possibility of adulteration or deterioration of product in cases where the drugs to be re-distributed (1) have not come directly from their regulated channels, (2) were initially dispensed by a different pharmacy, or (3) have been handled by unknown entities.

We want to reiterate that the intent of this bill is admirable, and we appreciate the sponsor thinking outside the box to try to find a way to bring unused medications and people who need medications together. However, any such program must satisfy the most important concern, which is public safety. This is not just a liability issue for pharmacies, this is an issue of safety for the patients and for society. Even if pharmacies were guaranteed immunity from legal liability, we would not want to jeopardize any patient's health by supplying medications that may not be safe.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.