



December 27, 1962

H. M. Hardwicke, M.D.
Acting Director
Division of Health
State Office Building
Jefferson City, Missouri

Dear Dr. Hardwicke:

You inquire as to whether Chapter 195, RSMo 1959, permits the sale of more than two fluid ounces of the described preparation to an individual for use by several members of his family when the apothecary making the sale can by reasonable diligence ascertain that the request is made in good faith, and further that records are maintained as required by Section 195.090-6.

We have located no appellate court case which answers this question. However, we believe that the question which you submit must be answered in the affirmative. We do not believe that the legislature could possibly have had in mind requiring small children to make their own purchases. At the same time the legislature did not prohibit sales for the use of children. So, if children are permitted to use these preparations, it must necessarily follow that their parents and others similarly situated must be permitted to make the purchases under the circumstances above indicated. We believe that this conclusion is supported by Paragraph 2(1) of Section 195.080, RSMo 1959, wherein it prohibits a sale if the seller "knows, or can by reasonable diligence ascertain," that such sale will provide the purchaser with an excessive amount of the drug involved.

Yours very truly,

THOMAS F. EAGLETON
Attorney General