

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Jan Meyers at
Chairperson

10 a.m./~~p.m.~~ on February 22, 1983 in room 526-S of the Capitol.

All members were present except:

Senators Francisco and Gordon, both excused

Committee staff present:

Emalene Correll, Norman Furse, and Bill Wolff

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Harold E. Riehm, Kansas Association of Osteopathic Medicine
Sherman A. Parks, Jr. Kansas Chiropractic Association
Elizabeth Carlson, Kansas State Board of Healing Arts
Frances Kastner, Kansas Food Dealers' Association

Others present: see attached list

Senator Ehrlich called the meeting to order and welcomed the nurses who were visiting today.

SB 294 - professional advertising under the Healing Arts Act

Jerry Slaughter, Kansas Medical Society, testified in support of SB 294, and distributed testimony stating the reason KMS requested this bill. The Board of Healing Arts has not enforced sanctions against inappropriate advertising. Portions of the statute were declared unconstitutional and the board revoked its regulations prohibiting certain advertising practices. KMS amendments would put in place those restrictions currently allowed by case law, include definitions of "false advertisement" and "advertisement", and provide for unusual circumstances. (Attachment #1).

Harold E. Riehm, Executive Director, Kansas Association of Osteopathic Medicine, testified in support of SB 294. He distributed an excerpt from the Code of Ethics of KAOM, which included discretionary guidelines relating to advertising. (Attachment #2).

Sherman A. Parks, Jr., Kansas Chiropractic Association, testified in support of SB 294. He stated that this bill is a result of federal case law, and KCA has no problems with the basic issues as long as the bill follows the case law. KCA recommends that SB 294 be amended by striking the rest of the definition of "false advertisement" in line 134, immediately following the word "respect". He said this would give the Board of Healing Arts more flexibility and that some of the language is unnecessary.

Senator Meyers returned to chair the remainder of the meeting.

In response to a question from Senator Roitz as to why chiropractors advertise the way they do, while other physicians don't, Mr. Parks replied that chiropractors are in a minority profession, and advertising gives them public exposure, but that only a minority of chiropractors do advertise.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10 a.m. ~~pm~~ on February 22, 1983

Senator Meyers asked how the Kansas Chiropractors Association deals with anyone who uses inappropriate or offensive advertising. Mr. Parks stated that they would censure them. Jerry Slaughter said KMS felt they could not sanction any member for any type of advertising as long as it was not false, fraudulent, misleading, or deceptive.

Elizabeth Carlson, Kansas Board of Healing Arts, testified in support of SB 294. She said the Board had not been using any part of the law which was considered unconstitutional. They use the words handed down by the federal court.

In response to a question by Senator Morris as to why this bill was needed, Ms. Carlson replied that there was a need to clarify the language in the act.

Senator Meyers concluded the hearing on SB 294.

SCR 1621 - concerning sanitary facilities

Frances Kastner, Director, Governmental Affairs, Kansas Food Dealers' Association, testified in support of SCR 1621, and distributed testimony stating KFDA's support of this resolution. (Attachment #3).

Senator Morris moved that in lines 92 and 93 the words "located in grocery stores" be stricken. Senator Roitz seconded the motion and it carried.

Senator Vidricksen moved that SCR 1621 be reported favorably, as amended. Senator Roitz seconded the motion and it carried.

Senator Morris moved that the minutes of February 21, 1983, be approved. Senator Hayden seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-22-83

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Jayne Yarnall 2521 N Melbudo #1536 Wichita, KS 67215	NS/WSU
Robin Scheffler 1322 N. Woodlawn, #15 Wichita, KS 67208	NS/WSU
Julia Kline Wichita, KS 67208	WSU / Nurse-Midwest
Susan Muellegger Wichita, KS	WSU NSQ Student
Olaf Snyder Wichita, KS	WSU Nursing Student
Ellen Coester, St. Scott, Mo	KSNA Dist #21
Kelli Ross Wichita, KS	WSU NSQ Student
Madysa Alvarado Wichita, KS	WSU Dog Student
Versa Rumlle Syracuse, KS	RN - KSNA
Reneida Connell 101 Ohio Topeka	Stewart Vail Nursing Student
Dawn Cummings 125 1/2 Tjls Topoka	Stewart Vail NS
Kate Schuckofsky 2517 13th Topoka	Stewart Vail NS
Kim Shaddy 2924 W. 31st Ct. #302 Topoka	Stewart Vail NS
Pat Russell Topoka	Budget Director
Wanda Ladage 501 Custer Rd. Parsons	RN. KSNA Dist #3
Julia Martin 1801 Jewell Topoka	Washburn U. Nursing Student
ARTA Fowler 15511 Poplar Basehor 66009	KSNA Dist 2
Mary Wells 315 E. 12th Tonganoxie, KS. 66066	KSNA Dist. 7
Liz Bessette 1825 Cheyenne Rd Topoka 66604	RN KSNA Dist #1
Phyllis Zeffner 401 Research Manhattan, KS 66502	RN KSNA Dist #18
Paul Williamson 717 Kearney Manhattan, KS 66502	RN KSNA Dist #18
Karen R Landis TOP SKR	CHRISTIAN SCIENCE COMMITTEES ON PUBLICATION FOR KANSAS
FRANCES KASTNER TOPOKA	KSNA

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SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-22-83

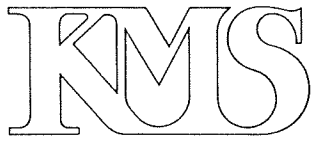
(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Carol A. Lee ^{Wichita, KS.} 1317 Westlark
 Evelyn Smith Wichita, Ks
 Isabelle Schaeke Lawrence
 Norma Davis Lawrence
 JAN MADSEN Topeka
 Pamela A. Doyle Holton, Ks.
 Lois Bartley Topeka
 Carole Denton Topeka
 Jimmy Cagle Topeka
 Keoni Puch Topeka
 Peggy Sealy Lawrence
 Jimmy Cagle Topeka
 Becky Whallon Topeka
 Brenda Hill Topeka
 Tomi Glen Leavenworth
 Jean DeDUNDER Emporia, Ks
 Brenda Heikel Emporia, Ks
 Kathi Nunn 2064 Washburn
 Debbie Hostmas 1546 McAlister
 Patty Murphy Manhattan
 Donna Brewer St. Paul
 Jan Bergman Seneca
 Jewel Bergman Topeka

WSLU
 WSO
 RN Dist # 11
 RN Dist # 19
 RN KSNA Stormont-Vail School
 RN Stormont Vail School of Nsg.
 SVNS Nsg.
 Stormont-Vail Sch of Nursing
 Stormont Vail " " "
 Stormont Vail Sch. of Nursing
 KSNA Dist 19 (RN)
 Stormont Vail Sch of Nsg.
 Washburn U. school of nsg.
 Washburn U. Sch of Nursing
 Stormont Vail Sch of Nursing
 KSNA - Dist. 11 - Lyon Co Health Dept
 Lyon Co Health Dept
 Washburn Un. School of Nursing
 Washburn U. school of nursing
 Washburn U. student
 WU Nsg student
 KSNA Dist # 13
 Washburn U. School of Nsg.

2-22-83
H. 1



Kansas Medical Society

Incorporated 1859

February 22, 1983

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter
Director of Governmental Affairs

SUBJECT: SB 294; Concerning Advertising

The Kansas Medical Society has requested this bill for one basic reason: for the past couple of years the Board of Healing Arts has not enforced sanctions against inappropriate advertising by licensees of the board. When portions of the statute were declared unconstitutional two years ago, the board revoked its regulations prohibiting certain advertising practices.

Our admendments to the law would simply put in place those restrictions currently allowed by case law. There has been a long succession of Supreme Court decisions, and administrative interpretations by the FTC, which make the standard of "false and fradulant" applicable across the country. We have included definitions of "false advertisement" and "advertisement" to further clarify the law, and provide for unusual circumstances.

We encourage you to report the bill favorably, and I would be happy to respond to questions. Thank you.

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Atch. 1

02/22/83

TO: MEMBERS, SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

FROM: HAROLD E. RIEHM, EXECUTIVE DIRECTOR, KANSAS ASSOCIATION OF
OSTEOPATHIC MEDICINE

SUBJECT: SENATE BILL NO. 294

EXCERPT - CODE OF ETHICS OF THE AMERICAN OSTEOPATHIC ASSOCIATION ADOPTED AS THE
CODE OF ETHICS OF THE KANSAS ASSOCIATION OF OSTEOPATHIC MEDICINE

SECTION 8: A physician shall not solicit patients or commercialize his or her services or associate professionally with, or aid in any manner, individuals or organizations which indulge in such practices.

NOTE: IN LIGHT OF RECENT COURT DECISIONS, THE AMERICAN OSTEOPATHIC ASSOCIATION
ADDED THE FOLLOWING COMMENTARY IN INTERPRETATION OF THE ABOVE SECTION 8.

This section is designed to discourage practices which would lead to false, misleading or deceptive information being promulgated. Section 8 does not prohibit advertising, so long as advertising is designed as making proper factual information available to the public. People seeking health care are entitled to know the names of osteopathic physicians, the type of practice in which they engage, their office hours, place of their offices and other pertinent factual information. On the other hand, the public should be protected from subjective advertising material designed to solicit patients. Such material would include attempts to obtain patients by influence or persuasion, employing statements that are self-laudatory and deceptive, the result of which is likely to lead a patient to a misinformed choice and unjustified expectation.

NOTE: THOUGH NOT SPECIFICALLY ADDRESSING PRICE ADVERTISING OR PUBLICIZING FEES,
THE AMERICAN OSTEOPATHIC ASSOCIATION HAS STATED THAT INFORMATION SUCH AS GENERAL
FEES CHARGED, RANGES OF FEES, ETC., COULD BE INCLUDED IN DIRECTORIES USED FOR
THE PURPOSE OF PUBLICIZING PHYSICIAN LOCATION AND SERVICES. BUT IN PERMITTING
THIS INFORMATION, IT WAS NOTED THAT:

. . . Fee information can be very misleading. . . . care should be exercised to set out variable factors in determining fees. . . . a general rule should be adhered to; this rule is that information should be factual and that adjectival or descriptive material should be avoided. Examples of such material to be avoided (in Directories) would include statements as to the relative quality of care or skill of the physician, or the use of garish or sensational language or format.

NOTE: THE AMERICAN OSTEOPATHIC ASSOCIATION ALSO ADDED, THAT WHEN CONSIDERING ADVERTISING BY PHYSICIANS NOT JUST IN PHYSICIAN DIRECTORIES, THAT:

. . . (such advertising guidelines) should be even more strictly employed with (other forms of media). Throughout, the emphasis should be on brevity and a sense of dignity appropriate for a learned profession.

Atch. 2



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205
PHONE: (913) 384-3838

February 22, 1983

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BOB MACE
TOPEKA

**DIRECTOR OF
GOVERNMENTAL AFFAIRS**

FRANCES KASTNER

SENATE PUBLIC HEALTH & WELFARE COMMITTEE
SCR 1621

EXECUTIVE DIRECTOR
JIM SHEEHAN
SHAWNEE MISSION

Thank you Madam Chairman, and members of the Committee for introducing SCR 1621 which we believe will help our members who were classified as food service establishments last year.

In many of these smaller stores, there is only one employee on duty at a time and it would be difficult to maintain any type of control over supplies kept in the proximity of the employee's restroom if it was required to be open to the public also.

We are in agreement with the language on page three which provides that if no seating arrangements are provided for by the grocery stores, then they will not be required to provide patron access to restroom facilities.

We appreciate your consideration of this matter and respectfully request that you recommend SCR 1621 favorable for passage.

If you have any questions, I will be happy to answer them.

Frances Kastner, Director
Governmental Affairs, KFPA

3310 SW 7th, # 2
Topeka, Kansas 66606

(913) 232-3310