

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./~~pm~~ on February 25, 1983 in room 526-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Norman Furse and Bill Wolff

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Kenneth Schafermeyer, Kansas Pharmacists Association
Lynelle King, Kansas State Nurses Association
Dr. Lois Scibetta, Kansas State Board of Nursing
Paul Klotz, Community Mental Health Centers of Kansas
Norman Furse, Revisor of Statutes office

Others present: see attached list

SB 320 - pharmacy act dispensing physicians and pharmacy intern section
reconciliation

Jerry Slaughter testified in support of SB 320, with the amendment offered by the Kansas State Nurses Association. He stated that this bill is the result of meetings this summer between the Kansas Pharmacists Association and the Kansas Medical Society, and moves forward the temporary provision that was worked out last year.

Kenneth Schafermeyer, Kansas Pharmacists Association, testified in support of SB 320, and distributed testimony stating that this bill addresses two issues: clarification of statutory requirements for registration of pharmacy interns; and limitation on physician delegation of authority to dispense prescription drugs. The following points have been incorporated into this bill: it prohibits physician's delegation of dispensing to nurses; provides a grandfather clause allowing approximately 13 physicians in towns without a pharmacy to continue delegating; nurse dispensing must be done under the supervision of the physician; and it is the physician, and not his office, that it grandfathered. KPhA stated that though they support this legislation addressing the issue of delegation, they have not changed their opposition to physician dispensing. (Attachment #1).

Lynelle King, Kansas State Nurses Association, testified in support of SB 320, and distributed testimony asking that in lines 38 and 48 the word "supervision" be changed to "direction". (Attachment #2).

Dr. Lois Scibetta, Kansas State Board of Nursing, testified in support of SB 320, but expressed concern that the types of drugs were not specified, and whether the nurses would be expected to dispense controlled drugs. Ken Schafermeyer replied that it is really the physician who is dispensing, and the nurse would be dispensing only under supervision.

Paul Klotz, Community Mental Health Centers of Kansas, testified that this bill would affect the Sedgwick County Mental Health Center, and asked if an amendment could be worked out to allow nurses at that center to dispense drugs. Senator Meyers said that this bill pertains only to those places where there are no pharmacies, and that the center would not be affected by this bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 10 a.m. ~~8:30~~ on February 25, 1983, 19

SB 247 - medication aides required to register with Secretary of Health and Environment

Senator Ehrlich moved that SB 247 be amended by striking lines 108-111, Page 3, and inserting the amendment proposed by Keith Landis, Christian Science Committee on Publication for Kansas. Senator Vidricksen seconded the motion and it carried.

Senator Ehrlich moved that SB 247 be reported favorably, as amended. Senator Vidricksen seconded the motion. Senator Ehrlich withdrew his motion.

Senator Ehrlich moved that SB 247 be amended in New Section 5 by incorporating the suggestions made by the Department of Health and Environment. Senator Bogina seconded the motion and it carried.

Senator Ehrlich moved that SB 247 be reported favorably, as amended. Senator Vidricksen seconded the motion and it carried.

SB 251 - investigation of reports of abuse or neglect of adults

Senator Vidricksen moved that SB 251 be amended by adopting the amendment proposed by Keith Landis, Christian Science Committee on Publication for Kansas. Senator Ehrlich seconded the motion and it carried.

Senator Ehrlich moved that SB 251 be reported favorably, as amended. Senator Roitz seconded the motion.

Senator Johnston made a substitute motion that the word "solely" be deleted from line 92, Page 3. Senator Chaney seconded the motion and it carried.

Senator Ehrlich moved that SB 251 be reported favorably, as amended. Senator Roitz seconded the motion and it carried.

Senator Meyers announced that there would be a meeting at noon on Monday, February 28, immediately following the Senate session.

SB 285 - creating a state health care commission

Norman Furse, Revisor of Statutes office, briefly reviewed SB 285, and noted the major changes in each section. Some of these changes relate to what the commission studies; powers of the commission; composition of the commission; annual report to the governor and legislature; and expiration date.

There was discussion concerning the difference between SB 87 and SB 285. Senator Meyers said that SB 87 allows the commission to regulate hospital rates and that SB 285 is a study commission and not a regulatory commission.

SB 245 - practice of optometry, contact lenses

Norman Furse reviewed SB 245, and said this bill defines "release of prescription" and sets out other guidelines; provides that persons may dispense ophthalmic materials; makes it unlawful for any person to dispense lenses without having a prescription from a physician; and lists areas where the board cannot restrict a licensee.

Senator Johnston moved that the minutes of February 24, 1983, be approved. Senator Ehrlich seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 2-25-83

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Harry + Parthena Longberg Council Grove	
Mary Pat Clausson	Optometric Supply
Rebecca Kepper	KHA
Rick Myrick	Opticians Assoc of Kansas
GAYNELL OWENS	Opticians Assoc of Kansas
Gary Robbins	KS OPT ASSN
Sam L. Littlejohn	Kansas Optometric Assn
Dick Hummel	Ks Health Care Assn
KETH R LAUDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
OT MUMY	Dufferin Optical Co
John Peterson	Ks Opticians Assn
Harold Beeson	Ks Optician Assn
Jane Mitchell	Kansas Pharmacist Assn
Jerry SAUNDERS	KS MEDICAL SOCIETY
AROLD E. RIEM	Ks Assn of OSTEOPATHIC MED
Carl Schmittmeyer	Ks Dental Assn
Guillermo Barreto-Vega	HSANEK
Dr Lois Lich Schmitt	KSBN - Topeka
Sue Greenberg	Greensburg, Ks
Dick Morrissey	HDIA+E
Paul Kutz	ASSOC. of CMHC - Ks
B. V. V. V.	AP
Daryl Crofts	Opticians Assoc of Ks

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your committee on Public Health and Welfare

Recommends that Senate Bill No. 247

"AN ACT providing for the registration of medication aides; providing for administration of the act by the secretary of health and environment; authorizing the establishment of fees and granting authority to enjoin violations; amending K.S.A. 65-1124 and repealing the existing section."

Be amended:

On page 1, in line 23, by inserting before "this" the following: "sections 1 to 8, inclusive, of"; in line 36, by striking "A fee of \$10 shall be charged for the" and inserting in lieu thereof "The"; also in line 36, by inserting after "registration" the following: "fee shall be fixed by rules and regulations of the secretary in accordance with this subsection (a)"; in lines 38 and 39, by striking "but shall not exceed \$10" and inserting in lieu thereof "in accordance with this subsection (a)"; also in line 39, by inserting after the period the following: "The secretary by rules and regulations shall fix fees under this subsection in amounts adequate to cover the cost of the registration of medication aides under this act.";

On page 2, in line 68, by striking all after the semicolon; in line 70, by striking the period and inserting in lieu thereof a semicolon; following line 70, by inserting the following:

"(6) the person assumes duties or responsibilities for which such person has not been trained;

(7) the person inaccurately records, falsifies or alters information in a patient's or resident's medical record; or

(8) the person diverts or ingests medication intended for a patient or resident.";

On page 3, by striking all of lines 108 to 111, inclusive,

and inserting in lieu thereof the following:

"(c) caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;"

And the bill be passed as amended.

_____Chairperson

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your committee on Public Health and Welfare

Recommends that Senate Bill No. 251

"AN ACT concerning abuse and neglect of adults; directing the investigation of reports of such abuse and neglect by the department of social and rehabilitation services; providing for protective services."

Be amended:

On page 2, following line 54, by inserting the following:

"No person shall be considered to be abused or neglected for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.";

On page 3, in line 92, by striking "solely";

And the bill be passed as amended.

_____Chairperson



THE KANSAS PHARMACISTS ASSOCIATION

1308 WEST 10TH

PHONE (913) 232-0439

TOPEKA, KANSAS 66604

KENNETH W. SCHAFERMEYER, M.S., CAE
PHARMACIST
EXECUTIVE DIRECTOR

DATE: February 25, 1983

TO: Senate Committee on Public Health & Welfare

FROM: Kenneth W. Schafermeyer, M.S., CAE
Executive Director

SUBJECT: SB 320

The Kansas Pharmacists Association supports passage of SB 320.

This bill addresses two separate issues:

1. A technical clarification of statutory requirements for registration of pharmacy interns; and
2. A strict limitation on physician delegation of authority to dispense prescription drugs.

Regarding the first issue, there were two bills (SB 783 and SB 761) passed and signed into law which both affected KSA 65-1643. These bills were not in total agreement since the language in SB 320 on lines 134-137 regarding registration of pharmacy interns was included in one bill but inadvertently omitted on the other. SB 320 clarifies this technical error. There will be essentially no change in the way the Board of Pharmacy operates -- only a clarification of existing law.

The second issue - physician dispensing - is more complex and this Committee has discussed this issue at length in previous years. Rather than review the history of this entire issue, I will recap only last year's activities which led up to this bill. I will go into the history if you wish and Dr. Jere Matchett, who is with me today has been thoroughly involved with this issue and can answer questions also.

Last year SB 667 which would have allowed nurses to dispense under the direction of a physician was introduced by Senator Harder at the request of two dispensing physicians in Moundridge. KPhA opposed this bill and it was killed by the Committee only to be resurrected as a floor amendment on SB 783 and amended again in conference committee. The final bill allows delegation only in those towns where there is no pharmacy until July 1, 1983. At the request of the Legislature, both the Medical Society and Pharmacists Association agreed to work out a compromise on this issue before this year's legislative session. A committee of both KPhA and KMS was set up to work out a compromise. Dr. Matchett served as co-chairperson of that committee.



After four meetings, it was apparent that the two organizations could not agree on the larger issue of physician dispensing, itself; only the issue of physicians delegating the authority of prescription dispensing to nurses. Both groups are opposed to allowing nurses to dispense prescription drugs. The grandfather clause is a "necessary evil".

SB 320, agreed to by both KMS and KPhA resembles language passed last year. The following points have been incorporated into this bill:

1. It prohibits physician's delegation of dispensing to nurses.
2. For practical purposes, it provides a grandfather clause allowing approximately thirteen physicians who were delegating as of July 1, 1982 in towns without a pharmacy to continue delegating. If a pharmacy opens in the town, delegation must cease.
3. Nurse dispensing must be done under the supervision of the physician. Some nurses may be opposed to the word "supervision" but this bill is not part of the nurse practice act - but the pharmacy practice act which already states that a pharmacist is responsible for the "supervision of supportive personnel and confining the activities of such personnel to non-judgemental functions." The pharmacy practice act also states that a "pharmacist must be on duty at all times during which the pharmacy is open." We do not want a pharmacy operating in the doctor's office when he is out - just the same as a pharmacy can't operate without a pharmacist on duty.
4. Finally, it is the physician, not his office that is grandfathered.

While we did agree with the Medical Society to jointly support legislation addressing only the issue of delegation this year, we feel that we must clearly point out that we have not changed our strong opposition to physician dispensing. We feel that physicians who dispense are in competition with pharmacists today and have a serious conflict of interest. We are certain that only a small but vocal minority of physicians would disagree with this. We also feel very strongly that the Board of Healing Arts must assure proper compliance with the dispensing physician regulations and take appropriate disciplinary action when necessary. KPhA will closely monitor the Board's action (or lack thereof) and KMS agreed to do likewise.

Nevertheless, KPhA and KMS, after years of disagreement have agreed on at least one small part of this issue. We negotiated very hard, at your request, and we hope that you will support this bill. Thank you.

KS:lu

KSNA

the voice of Nursing in Kansas

To: Senate Public Health and Welfare Committee
From: Kansas State Nurses' Association, Lynelle King,
Executive Director
Date: February 25, 1983
Subject: S.B. 320 Physicians delegating to RNs Med
Dispensing

As you will recall from hearings last year KSNA has several concerns about the use of RNs to substitute for pharmacist's roles of dispensing, particularly in physicians offices in isolated areas. Safety of patient care, misutilization of nurses, lack of checks and balances in the proposed system, lack of C.E. for such nurses are among the broad categories of concern. We do not think it is in the interest of rural patients for there to be no pharmacist involved in dispensing prescriptions.

On the positive side, we note the limited number of physicians to whom this bill would apply, and that it would phase out over time.

If this bill is passed we would ask for the following amendment, which has been discussed with lobbyists for both the Pharmacy Association and the Medical Society:

line 0038 ~~under~~ upon the . . . supervision delegation of . . .

line 0048 "~~supervision~~" "Delegation" means guidance and direction of the dispensing . . .

Rationale: "Supervision" of a R.N. by a physician is a red flag term; this Committee has had years of testimony about that particular term.

Neither the Nurse Practice Act nor the Healing Arts Act use that term in describing any relationship between RNs and MDs. The Healing Arts Act does allow physicians to delegate acts to nurses or others, thus there is precedence for the term "delegation". The definition of "delegation" would apply only to

Atch. - 2

(over

"this subsection".

We would surely appreciate your assistance with this request, should you decide to pass this bill.

LK/lw