

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

1:45 ~~xx~~ p.m. on January 26, 1984 in room 531N of the Capitol.

All members were present except:

Senator Hein
Senator Gaines

Committee staff present:

Bruce Kinzie - Revisor
Julian Efird - Research

Conferees appearing before the committee:

Harley Duncan - Department of Revenue
Robert Bugg - Department of Revenue
Gary Robbins - Kansas Optometric Assn.

The Chairman called the meeting to order. The purpose of the meeting was to consider abolishing the Medical Advisory Board. It was stated that the Medical Advisory Board was not functioning and that there had been problems in getting any information on it.

A letter from the Governor was distributed to the Committee requesting the continuation of the Medical Advisory Board. (Exhibit A) It was pointed out that this Board voluntarily disbanded as a result of a court ruling which would jeopardize their anonymity and it was felt that continuation of the Medical Advisory Board would be beneficial in determining guidelines for certain situations. The Governor requested cooperation in not eliminating this board until his Administration had time to resolve the issue.

Harley Duncan addressed the Committee and requested that all references to the Medical Advisory Board be stricken from S.B. 479 and that the Board be continued in existence. (Exhibit B)

Robert Bugg gave statistical information from the Medical Advisory Board stating that it was very important to the functioning of the Department of Revenue.

The Kansas Optometric Associated presented testimony stating that they believed it was important to continue the Medical Advisory Board as it serves as a necessary function to assist the director in making determinations on borderlines cases and those involving medical conditions. (Exhibit C)

The Chairman recommended that the Committee take no action on the Medical Advisory Board at this time in respect for the Governor's request and asked that Mr. Duncan and/or Mr. Bugg report back to the Committee in six weeks.

A motion to approve the minutes was made by Senator Mulich with a seconded from Senator Francisco. Motion carried.

The meeting was adjourned at 2:20 p.m.

GUEST LIST

COMMITTEE: Senate Governmental Organization DATE: JAN. 24, 1984

NAME	ADDRESS	COMPANY/ORGANIZATION
Laurie Hull	503 Kansas Ave, Suite 328	KACMAA
Anna Crodner	" " " "	" "
Phil Anderson		BUDGET DIV.
Harley Dancer	Topeka KS	Dept. of Revenue
Robert Bugg	Topeka KS	Dept of Rev.
Gary Roblin	Topeka	Ks Optometric Assn
Pat Mann	Topeka	Intern

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590

John Carlin Governor

January 26, 1984

Senator Ben Vidricksen
Chairman, Senate Governmental
Organization Committee
Room 143-N
State House

Dear Senator Vidricksen:

I request your special consideration for continuation of the Medical Advisory Board. This Board, although currently not operating, is an important mechanism used by the Division of Motor Vehicles to determine the medical status of drivers licensees who suffer from seizure-oriented diseases.

It has come to my attention that this Board voluntarily disbanded in 1982 as a consequence of a court ruling which would have jeopardized their anonymity. In the interim, the Division of Motor Vehicles has been forced to make determinations, absent the recommendations of medical advisors, using guidelines established by The American Medical Association. My office, as of late, has been contacted on several occasions by those whose licenses have been revoked under these provisions, and I feel it may be necessary to reestablish the operation of a Medical Advisory Board. My staff is beginning discussions with the Secretary of the Department of Revenue to address this problem. It is important that state policy in this area be clear and equitable.

I would appreciate your cooperation in not eliminating this Board until my Administration has had time to resolve this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "John Carlin".

JOHN CARLIN
Governor

JC:cw

Ex. A

EXHIBIT A



Kansas
DEPARTMENT OF REVENUE

State Office Building
Topeka, KS 66625

MEMORANDUM

January 25, 1984

TO: The Honorable Ben Vidricksen, Chairman
Senate Committee on Governmental Organization

FROM: Harley T. Duncan
Secretary of Revenue *Harley T. Duncan*

SUBJECT: Senate Bill 479 -- Medical Advisory Board

Senate Bill 479 as introduced would abolish the Medical Advisory Board attached to the Division of Vehicles on July 1, 1984. I appear before you to ask that you reject that position and strike all references to the Board that appear in the bill.

The Medical Advisory Board is to be appointed by the Secretary of Revenue and is to consist of at least a licensed ophthalmologist, licensed optometrist, licensed psychiatrist, and a licensed physician specializing in internal medicine. The Department has generally utilized the services of a neurologist as the fifth member.

The purpose of the Board is to render advisory opinions to the Director of Vehicles regarding the advisability of issuing a driver license to a person whose license has been suspended or revoked by the Director due to mental or physical disabilities. In actual practice, the Board has been utilized to advise the Director on "borderline" medical cases where the driver just fails to meet the Department's standards, but may through medication, special lenses or the like not present a danger to the rest of the driving public. In many cases, the Board is utilized to interpret the medical information supplied by the driver's personal physician. The most common types of cases reviewed by the Board include: (a) drivers who can attain only a 20-60 corrected vision rather than the general 20-60 standard; (b) seizure disorders where controlling medication or other extenuating circumstances might call for deviation from the general standard of one year seizure-free prior to obtaining a license; and (c) the degree of impairment to driving abilities caused by psychiatric or mental conditions.

The Board is the only source of medical advice available to the Department to assist in making such technical/judgmental decisions. In the absence of the Board, the Department must resort to rigidly adhering to its general standards (which have been recommended by the American Association of Motor Vehicle Administrators) and allow no deviations for fear of exposing the state to a

EXHIBIT B

Ex. B

liability claim. This is an inflexible system even though qualified interpretation of available medical evidence and judgment might indicate that issuance of a license is not inadvisable.

As you are aware, the Department has operated without a Medical Advisory Board since February 8, 1983. At that time, all members of the Board resigned when a District Court ordered that names of the Board members be made public. Board members feared harassment at their private practice by persons having cases before the Board. As I indicated earlier, we have since that time adhered strictly to the promulgated standards.

As an alternative to securing private physicians, we have recently attempted to secure on a voluntary basis the services of state-employed physicians to serve as members of the Board. The Kansas Optometric Association has indicated that an optometrist is willing to serve on the Board, and the Department has secured commitments to serve by an SRS employed internist and psychiatrist. We will be approaching the Kansas University Medical Center to secure the services of a neurologist shortly. I am quite hopeful that the Board can be re-established.

When it was operative the Board met monthly and handled approximately 30-45 cases at each meeting. From July 1981 to February 1983, only one meeting had fewer than 3 persons attending. Annual costs to the Department were less than \$2,000.00 although that is likely to increase because certain of the new Board members will require travel payments.

In short, the Medical Advisory Board is extremely valuable to the Department and I urge you to continue it in existence.

HTD:p/S377

January 26, 1984

Mr. Chairman and Members of the Committee:

I am Gary Robbins, Executive Director of the Kansas Optometric Association. I appreciate the opportunity to appear this afternoon to discuss Senate Bill 479. Before I start, I want to commend the interim committee on Efficiency in State Government. I think that the committee did an excellent job in studying some difficult issues that needed to be examined by the legislature. We recognize that Senate Bill 479 was drafted to provide the Legislature with an opportunity to review the activities of advisory boards and to justify their continued existence. The Kansas Optometric Association applauds this approach and feels that this is a healthy process. My comments this afternoon will be limited to the Medical Advisory Board for Drivers' Licenses to the Director of Motor Vehicles.

The Kansas Optometric Association believes it is important to continue the Medical Advisory Board and that it serves as a useful and necessary function to assist the director in making determinations on borderline cases and those involving medical conditions.

We believe it is important that the director be able to call on qualified experts to provide him with assistance in making determinations on drivers' licenses. The advisory opinions that this board offers are very helpful and even essential on borderline cases.

At the end of last session before a meeting of a sub-committee of the House Government Organization Committee, we explored and discussed a wide variety of possibilities in this area including abolishing the Medical Advisory Board if it was not possible to find other sources of medical experts for Mr. Bugg to rely on in making final determinations. I made several suggestions before the committee because our major concern is the willingness of doctors to serve on the board and still have some protection from personal liability. We encourage any efforts that would provide liability protection for those serving on the advisory board. There are two changes that could be made in the operation and composition of the board. The first change that I recommended last session was that all of the cases that are presented to the Medical Advisory Board be by case number only with all references to the individual doctors, the patient, and the city involved stricken from the record. The Medical Advisory Board would only receive the actual patient records and accompanying information pertinent to making a medical decision on the case. This would hopefully encourage doctors to serve on the board. This would hopefully prevent allegations of favoritism and prevent personalities from becoming involved in any of these cases.

The second recommendation that I would encourage the director to consider, would be rotating the membership on the board. In the past, members have remained on the board for over eight years in several instances. I think it is important to have continuity but it might be useful to rotate the doctors on a two or three year basis. The rotation of board members could make it easier to

recruit doctors to serve if they knew it was not a life sentence.

We strongly believe that the board needs to be there to provide professional input for the director on these cases. We recognize the difficulty in obtaining doctors who are willing to serve. We would hope that the board would be continued for vision problems even if it is not possible to find experts for all the areas needed on the board. It is ironic that this advisory board saves the state a significant amount of money by providing medical opinions on over 350 cases each year while the state asks the private individuals on the advisory board to assume the liability for these decisions. I appreciated the opportunity to appear before the committee and would be willing to answer any questions you have.