

Approved 3-25-86
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m. ~~p.m.~~ on March 18, 1986 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Representative Kathryn Sughrue
Secretary Barbara Sabol, Kansas Department of Health and Environment
Marla Williams, Kansas Society for Medical Technology
Terri Rosselot, KSNA
Tom Bell, Kansas Hospital Association
Jerry Slaughter, Kansas Medical Association
Michael Byington, Kansas Association of the Blind
Topeka Resource Center for Handicapped
Dwight Young, Great Bend
George Puckett, Kansas Restaurant Association
Steve Page, Kansas Department of Health and Environment
Susan Miringoff, KSNA

Others attending: See attached list

Minutes for March 3, 4, 5, 6 and 7 were presented for approval or correction. Senator Francisco moved that the minutes be accepted as presented. Senator Hayden seconded the motion and the motion carried.

Representative Sughrue appeared and presented written testimony to introduce and support HB-2681. Attachment I Supporting letter from Ron Hein, Attachment I-A. Representative Sughrue's testimony was heard prior to HB-2663 as the Representative desired to be on the house floor to vote on several impending bills.

HB-2663 An Act relating to the Kansas act on credentialing; concerning the procedure of credentialing of health care personnel;

Secretary Sabol appeared and presented written testimony in support of HB-2663. Attachment II KDHE presented a proposed amendment balloon which is included in the attachment. The amendment would require that all applications pending on the effective date of this action and upon which a final report has not been submitted by the Secretary to the Legislature be returned to the applicant and no further consideration of the request be entertained until such time as a new application in accordance with the provisions of this action be received.

Marla Williams testified and presented written testimony on HB-2663. Attachment III Concern was expressed about the amendment by the House Committee and it was requested that following "the laws of this state." on line 0089 "or holding certification in health care as defined in this act." be added. Ms. Williams also stated that their group had an application waiting for review for some length of time and it was hoped they would not be forced to start over.

Terri Rosselot testified and presented written testimony in support of HB-2663. It was pointed out that the definition of certification as used in HB-2663 does not speak to the issue of initial entry level of practice. Attachment IV

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m. ~~pm~~ on March 18, 1986.

Tom Bell testified and presented written testimony in support of HB-2663 with no modifications. Attachment V

Jerry Slaughter testified stating that the Kansas Medical Association supports HB-2663.

Michael Byington testified and presented written testimony on HB-2663. Attachment VI Concern was expressed that use of words certification, registration and licensure could result in confusion as to whether the qualification was from a non-governmental organization or the state of Kansas. Several other suggestions were stated in the testimony.

Dwight L. Young testified and presented written testimony concerning HB-2663. Attachment VII Numerous changes Mr. Young felt were needed are outlined in his written testimony.

HB-2681 - An Act concerning the Kansas food, drug and cosmetic act; declaring certain foods to be adulterated.

George Puckett testified and presented written testimony in support of HB-2681 as amended. Attachment VIII Mr. Puckett stated that the KRA has encouraged the voluntary elimination of sulfites and felt that Kansas should expedite the elimination of the use of sulfiting agents as food fresheners in the retail food services.

Steve Page testified and presented written testimony with KDHE supporting HB-2681. It was stated that passage of this bill declaring certain foods adulterated if containing sulfites will eliminate compounds from salad bars and other foods intended to be eaten raw. During questioning Mr. Page said that they could, through regulations adopt a rule to cover this situation. Attachment IX

Susan Miringoff testified and presented written testimony. Attachment X KSNA supports HB-2681 stating that there are adequate substitutes that may be used for preservation and sulfiting agents could be eliminated.

Meeting adjourned at 11:01 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 3-18-86

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Marilyn Brodt
 Frances Masnick
 Dick Hummel
 GEORGE RUCKETT
 Steve Paige
 B.J. SABA
 Carol [unclear]
 Michael [unclear]
 [unclear]
 Terry [unclear]
 SUSAN [unclear]
 Dwight [unclear]
 Dub [unclear]
 Tom Bell

WINA
 Ks Food [unclear]
 KHCA
 Ks RESTAURANT ASSN
 KDHE
 "
 "
 Topical [unclear]
 KANA
 KSNA
 Ks State [unclear]
 Ks. Org. of Prof. Radiologists
 Assoc. of Com. Mental Hlth Ctrs.
 KHA

3-18-86

STATE OF KANSAS

KATHRYN SUGHRUE
REPRESENTATIVE 116TH DISTRICT
FORD COUNTY
1809 LA MESA DRIVE
DODGE CITY, KANSAS 67801



TOPEKA

HOUSE OF
REPRESENTATIVES

March 18, 1986

COMMITTEE ASSIGNMENTS
MEMBER FEDERAL AND STATE AFFAIRS
ENERGY AND NATURAL RESOURCES
GOVERNMENTAL ORGANIZATION

Mr. Chairman and members of the Senate Public Health and Welfare Committee.

H.B. 2681 would amend the Kansas Food Drug and Cosmetic Act to ban the use of sulfites from food service establishments for use as a fruit and vegetable freshner.

Both the Kansas Restaurant Association and National Restaurant Association support the position that if sulfites are dangerous to any consumer they shouldn't be used. The Kansas Restaurant Association has encouraged the voluntary elimination of sulfites and have provided a list of 13 safe substitutes for restaurants to use.

Sulfiting agents may be used as preservatives in any food. These agents delay or prevent undesirable changes in color, flavor or texture, such as browning or discoloration due to oxidation. Sulfites also enhance crispness.

Because sulfites keep fruits and vegetables looking fresh, their use has increased in the last few years with the increasing popularity of salad bars. They are used in other restaurant foods, especially seafoods and potatoes.

Sulfites can cause a hypersensitivity reaction in possibly 1/2 million of the 9 million asthmatics Americans as well as an untold number of non-asthmatics.

I

SYMPTOMS

The "symptoms" associated with sulfite-triggered allergic reactions can include weakness, faintness, severe wheezing, chest-tightness, shortness of breath and a blue discoloration of the skin caused by insufficient oxygen circulation in the blood, which is known as cyanosis. Other manifestations are hives, headaches, gastro-intestinal distress, swelling of the tongue, difficulty swallowing and even loss of consciousness. In addition, the additives have been linked to at least 30 deaths of people who suffered allergic reactions.

Actually the number of people who could have a reaction is not known. The number can be much larger because this type of reaction is not easy to recognize even cause of death might be listed as a severe asthma attack.

F.D.A. INVOLVEMENT

F.D.A. has notified the 50 states, which inspect and regulate restaurants and other retail food outlets, that these establishments should post signs or notify customers on the menus when sulfites are used. The National Restaurant Association has notified its members and believes most have abandoned use of sulfites.

F.D.A. also is reviewing other uses of sulfites to determine if more explicit labeling or other actions are necessary.

While the labeling policy is being implemented, the F.D.A. continues to recommend that sulfites-allergic individuals ask at restaurants whether salads and raw fruit are treated with sulfites.

The Food and Drug Administration is proposing to require a warning statement in the professional labeling of all prescription drugs containing sulfites. This warning will enable physicians to avoid prescribing drug products containing sulfites for patients who are sensitive to these chemicals.

WHAT ARE OTHER STATES DOING?

An article in the Council of State Government lists activity by F.D.A. and action by several states.

The F.D.A. has asked state officials who monitor restaurants and other retail food stores to post signs or label menus to warn consumers if sulfite is used. Several states have taken action. California, Connecticut, Kentucky, Michigan, Missouri, New Hampshire, Oregon, Pennsylvania, and Vermont require labeling. Colorado and Wyoming require restaurants to post signs. Several counties in Arizona ban the use of sulfiting agents as does the city of Chicago. Indiana, Maryland, Montana, and Rhode Island have introduced legislation in 1986.

LAW OFFICES
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627 S. TOPEKA AVENUE
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STEPHEN P. WEIR

TELEPHONE
AREA CODE (913)
232-7263

February 21, 1986

Rep. Kathryn Sughrue
State Capitol
Topeka, Kansas 66612

Re: Our File No. 1138.08

Dear Kathryn:

I just noticed your bill regarding the addition of sulfiting agents to raw vegetables and fruits. I want to offer my wholehearted support for this type of legislation.

I suffer from some serious kidney disease, and I am on a restricted, low-salt diet. When I consume salt, knowingly or unknowingly, I retain water, thus increasing my blood pressure and consequently doing more damage to my kidneys. The more damage done to my kidneys, the less salt that I can have and the more water that I retain. In short, it is a never ending circle unless I keep my salt intake as low as humanly possible. Although it is getting easier to get no salt or low salt food products, it is simply incomprehensible to me that they would deliberately adulterate raw vegetables and fruit with these agents. At any rate, I would offer my support and encouragement, not as a lobbyist, but simply as an individual for your bill and its concept. If I can be of any assistance in any way, or if you would like to make copies of this letter available to any committee members to demonstrate on a first hand basis some of the problems that can result unless legislation such as yours is approved.

Thank you for your cooperation in this matter.

Sincerely,

HIATT & CARPENTER, CHARTERED



Ronald R. Hein

RRH:lc

3/18/86

Attachment I-A

S. PH&W

I-A

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON H.B. 2663 AS AMENDED

PRESENTED TO: SENATE PUBLIC HEALTH AND WELFARE COMMITTEE, MARCH, 1986.

This is the official position taken by the Kansas Department of Health and Environment on H.B. 2663 as amended by the House Public Health and Welfare Committee.

BACKGROUND INFORMATION:

The main reason the State of Kansas credentials specific health occupations is to protect the public's health, safety and well-being by assuring quality care, competency, and public accountability. In 1980, the Kansas legislature created the Kansas Act on Credentialing (K.S.A. 65-5001 et. seq.) which requires health care personnel seeking to be credentialed (licensed or registered) by the state to submit an application to be reviewed by a technical committee, the Statewide Health Coordinating Council (SHCC), and the Secretary of Health and Environment.

The purpose of the review process is to provide the Legislature with a thorough analysis of the application and to make recommendations on whether there is a need for credentialing and if so, what level of credentialing is appropriate.

Presently, six health occupational groups have completed the review process and recommendations have been forwarded to the Legislature. The applications that have completed the review process concerned Naturopathic Physicians, Occupational Therapists, Respiratory Therapists, Master's Level Psychologists, Professional Counselors, and Dietitians. (See Attachment I for more information.) Currently, four applications are awaiting review and another three occupational groups have been approved to submit an application. A decision to approve two other groups requesting to submit an application is pending. (See Attachment II for additional information.)

The Kansas Department of Health and Environment supports H.B. 2663 as amended because it strengthens the credentialing review process. The specific characteristics of this bill are as follows:

STRENGTHS:

The bill clearly sets out the role of the technical committee, SHCC, and the Secretary in the review process. The bill allows other types of regulation besides registration and licensure that can be recommended to protect the public.

WEAKNESSES:

It is not feasible to expect a committee of volunteers to meet over a three to four hour span, twenty times a year, which is what would be required to review four applications annually. It is more realistic to expect that the standing committee could review a maximum of two applications a year. However,

only reviewing two applications per year as has been done in the past has resulted in a backlog of applications waiting to be reviewed. Currently, there is a backlog of four applications waiting to be reviewed while another five occupational groups desire to submit applications in the near future.

DEPARTMENT'S POSITION:

KDHE supports the bill as amended. Also, KDHE would support amending the bill to require that all pending applications be required to be reviewed under the statutes as revised by this bill. (See Attachment III for proposed amendment.)

Presented by: Barbara J. Sabol, Secretary
Kansas Department of Health and Environment

Attachment I

RECOMMENDATION ON NEED FOR AND LEVEL OF CREDENTIALING BY TECHNICAL COMMITTEE,
STATEWIDE HEALTH COORDINATING COUNCIL,
AND KDHE SECRETARY, 1981-1986.

| Credentialing Sought For | Level of Credentialing Requested | Technical Committee's Recommendation | Statewide Health Coordinating Council Recommendation | KDHE Secretary's Recommendation | Legislative Action |
|--------------------------------------|----------------------------------|--------------------------------------|--|---------------------------------|---------------------------|
| 1. Naturopathic Physicians | Licensure | Denied | Denied | Denied | No action |
| 2. Occupational Therapists | Licensure | Approved-Licensure | Approved-Licensure | Approved | H.B. 2498 introduced '85. |
| 3. Respiratory Therapists | Licensure | Denied | Denied | Approved | H.B. 2533 introduced '85. |
| 4. Master's Level Psychologists | Licensure | Approved-Registration | Approved-Registration | Approved-Registration | |
| 5. Professional Counselors | Licensure | Approved-Licensure | Approved-Licensure | Approved-Licensure | |
| 6. Dieticians | Licensure | Approved-Licensure | Approved-Licensure | Approved-Registration | |
| 7. Opticians | Licensure | (Awaiting review) | | | |
| 8. Marriage and Family Therapists | Licensure | (Awaiting review) | | | |
| 9. Clinical Laboratory Professionals | Licensure | (Awaiting review) | | | |
| 10. Athletic Trainers | Licensure | (Awaiting review) | | | |

Attachment II

CREDENTIALING ACTIVITIES

Applications Waiting To Be Reviewed

1. Opticians
2. Marriage and Family Therapists
3. Clinical Laboratory Professionals
4. Athletic Trainers

Occupational Groups Requesting Approval to Submit an Application
(Approved or Denied Letter of Intent)

Approved

1. Radiological Technologists
2. Sanitarians
3. Midwives

Denied

1. Therapeutic Recreational Therapists
2. Exercise Physiologists
- *3. Dental Assistants (requesting appeal to SHCC)

* Speech Audiologists and Pathologists (pending decision)

0046 unlawful.

0047 (d) (e) "Health care personnel" means those persons whose
0048 principal functions, customarily performed for remuneration, are
0049 to render services, directly or indirectly, to individuals for the
0050 purpose of:

- 0051 (1) Preventing physical, mental or emotional illness;
- 0052 (2) detecting, diagnosing and treating illness;
- 0053 (3) facilitating recovery from illness; or
- 0054 (4) providing rehabilitative or continuing care following ill-
0055 ness;

0056 and who are qualified by training, education or experience to do
0057 so.

0058 (e) (f) "Council" means the statewide health coordinating
0059 council created by K.S.A. 65-4705 *and amendments thereto*.

0060 (f) (g) "Secretary" means the secretary of health and envi-
0061 ronment.

0062 Sec. 2. K.S.A. 65-5002 is hereby amended to read as follows:

0063 65-5002. (a) Health care personnel seeking to be credentialed by
0064 the state shall submit a credentialing application to the secretary
0065 upon forms approved by the secretary. **The application shall be**
0066 **accompanied by an application fee of \$2,500.** The secretary shall
0067 not accept a credentialing application unless such application is
0068 **accompanied by the application fee and is signed by less than**
0069 **one hundred (100) 100 or more** Kansas resident proponents of
0070 credentialing the health care occupation or profession seeking to
0071 be credentialed. All credentialing applications accepted by the
0072 secretary shall be referred to the council for review and recom-
0073 mendation in accordance with the provisions of this act *and rules*
0074 *and regulations adopted by the secretary*.

0075 (b) The secretary shall remit all moneys received from fees
0076 under this section to the state treasurer at least monthly. Upon
0077 receipt of each such remittance, the state treasurer shall deposit
0078 the entire amount thereof in the state treasury.

0079 Sec. 3. K.S.A. 65-5003 is hereby amended to read as follows:

0080 65-5003. (a) A separate technical committee shall be appointed

0081 the chairperson of the council to examine and investigate

0082 each credentialing application referred by the secretary. Not

(c) All applications for credentialing pending on the effective date of this act and upon which a final report has not been submitted by the secretary to the legislature shall be returned to the applicant and any further consideration of the request of the group of health care personnel shall be based upon a new application filed in accordance with the provisions of this act.

THE KANSAS SOCIETY FOR MEDICAL TECHNOLOGY

Testimony on H.B. No. 2663 to
Senate Committee on Public Health and Welfare
March 18, 1986
Presented by Marla Williams, KSMT President

Mr. Chairman and members of the committee, the Kansas Society for Medical Technology represents approximately 400 members who are clinical laboratory scientists in this state. Repeatedly we have voiced our support for the Kansas Credentialing Program.

We recognize that modifications to this act are intended to facilitate the review of applications in a timely, consistent and objective process. That process should then evaluate one basic question: is the credentialing of this health-care group in the best interest of the general public? This consideration is even more important now in a medical cost-containment era so that quality of care is insured.

At this time we would like to emphasize one of the concerns that we have about this bill as amended by the House Committee. The selection of health-care personnel for the technical committee should not be limited to only those few groups currently credentialed in Kansas, as stated in Sec. 3 (a) lines 0087-89. We request that this statement be revised to read:

"Three members of the technical committee shall be health-care personnel currently credentialed under the laws of this state or holding certification in health care as defined in this act."

The appointment to serve on the technical committee requires a one year commitment and should not exclude the many other health-care providers who are credentialed by nationally recognized certification. This change would allow the chairperson of the council more flexibility in appointing qualified members of the technical committee. The applicant groups to be reviewed are known by either their letter of intent or pending application so that conflicts of interest can be ruled-out during selection.

Thank you for this opportunity to comment and answer any questions.



For Further Information Contact:

TERRI ROSSELOT, R.N.
Executive Director
(913) 233-8638
March 18, 1986

HB 2663 Credentialing

Mr. Chairman, members of the Public Health and Welfare Committee, my name is Terri Rosselot and I am a registered nurse and represent the Kansas State Nurses' Association. There are over 22,000 R.N.'s licensed in Kansas, we are the most populated health care group recognized by licensure in Kansas. The KSNA has reviewed HB 2663 and would like to commend the Special Committee on Public Health and Welfare and the research staff for sorting out the issues and problems with the current credentialing laws and addressing them in HB 2663. Kansas nurses work in a variety of settings with most if not all types of health care personnel that would seek credentialing.

KSNA supports the mechanical refining of the credentialing process and in particular the:

- "clear and convincing evidence" standard which is easily interpreted for those pursuing credentialing and the members of the technical committee, SHCC and the Secretary of Health and Environment;
- specific direction to the three groups involved in the process and their responsibilities for recommendations, hearings and deliberations. The information received and reported by each group will serve both applicants and others, such as nurses in the workplace with them;
- Section 6 changes in criteria reduce ambiguity and increases elements of measureability for those considering application.

3/18/86
Attachment IV
S. PH&W

HB 2663 Credentialing
Page 2
March 18, 1986

KSNA would like to recommend consideration of the following technical changes in the bill to further clarify criteria and direction for the groups considering applications for credentialing:

Section 6
line 0258

, a formal period of advanced study and training, ~~and~~ or the public needs and will benefit by assurances of initial and continuing occupational or professional ability.

This section has been changed dramatically by the deletion of "and" and insertion of the word "or".

The definition of certification as used in this bill does not speak to the issue of initial entry level of practice. Certification is a process by which a non-governmental agency or association certifies that an individual licensed to practice a profession has met certain predetermined standards specified by that profession for specialty practice. Its purpose is to assure various publics that an individual has mastered a body of knowledge and acquired skills in a particular setting.

The best examples I can give you regarding this issue are Certified Public Accountants, Board Certified Internal Medicine Physicians, and Certified Registered Nurses Anesthetists. These groups have exceeded the minimal level of entry into practice and meet higher standards. The certification process has traditionally been used for this purpose.

Thank you for consideration of these matters.

KANSAS HOSPITAL ASSOCIATION
TESTIMONY TO
THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
CONCERNING HOUSE BILL 2663
March 18, 1986

Presented by Thomas L. Bell

I appreciate the opportunity to appear before you in support of House Bill 2663, Credentialing of Health Care Personnel.

We have reviewed the bill in great detail and can support it without any modifications. The bill, as it is written, more clearly defines a process which, heretofore, has been difficult to apply consistently and we would like to commend the Interim Study Committee on their work.

We agree with the reaffirmation of the importance of the credentialing process and the responsibility of the health occupations to show why further regulatory requirements would be in the public's best interest.

We'd be happy to respond to any questions you might have.
Thank you.



TOPEKA RESOURCE CENTER
FOR THE HANDICAPPED
MITCH COOPER, L.M.S.W.
Executive Director

TOPEKA RESOURCE CENTER FOR THE HANDICAPPED

West Tenth Professional Building
1119 West Tenth, Suite 2
Topeka, Kansas 66604-1105

Telephone
913-233-6323

March 18, 1986

TO: Senate Committee on Public Health and Welfare

FROM: Michael J. Byington

SUBJECT: Testimony on HB2663

I come before the Committee concerning this bill principally in the capacity of Outreach Advocate/Case Manager for the Topeka Resource Center for the Handicapped. I also, however, lobby from time to time for the Kansas Association for the Blind and Visually Impaired Inc., and I must state that this organization also has an interest in credentialing legislation. Furthermore, I have a personal interest in HB2663 and related legislation as I practice drama therapy.

I must start by complementing those Committee members who served on the interim study committee which reviewed Proposal #49. HB2663 represents a job well done by that Committee. As a conferee before that Committee, I appreciate that my input clearly had impact, and I thus rise in support of HB2663. This support is expressed for the bill in its present amended form, and if the Committee chooses to move this bill along without further amendments, this action would be acceptable to me and the organizations I represent. If the Committee, however, chooses to go into the bill to make further amendments, then I shall suggest two.

The definitions of the words certification, registration, and licensure are quite appropriate. In one aspect, however, they will result in confusion. Many nongovernmental agencies and associations call their certification or recognition process "Registration." The new definition of certification thus adds fuel to the longstanding confusion as to whether an individual who has completed a certification or recognition process called "registration" by a nongovernmental agency or association, and not by the State of Kansas, may legally use the term, "Registration." To clear this up, I recommend that a new Section 2 be added starting with line 62. The existing HB2663 Section 2 would then become Section 3 and so on. The new section would read:

The above definitions are in no way intended to restrict the use of the word, "Registration" in situations where that word is used

by a nongovernmental agency or association or the federal government in granting recognition to an individual who has met certain predetermined qualifications specified by the nongovernmental agency or association or the federal government."

I must suggest that the word "minimal" be removed from line 281 and replaced with the words, "virtually nonexistent." The word minimal is not defined in the definitions section. It thus is left open to a rather varied and broad potential range of interpretations throughout the credentialing processes. This could result in severe infringements on scopes of practice related to extremely specialized fields, and such infringements could result in the provision of less appropriate or less comprehensive health and human services. I shall provide some examples.

To my knowledge, there are only seven rehabilitation teachers for the blind practicing in the State of Kansas. Statistically, this is not a significant number; it is minimal, but if the scope of practice of another profession were to infringe upon the rehabilitation teaching for the blind area, the result would be less appropriate and less specialized services. (The rehabilitation teachers for the blind practicing in Kansas are all legally blind individuals specially skilled in providing independent living skills, recreation therapy, and occupational therapy related services to blind and visually impaired individuals.)

To my knowledge, there are only three quadraplegics in Kansas professionally engaged in teaching other orthopedically handicapped individuals how to manage attendant care. This is certainly not a significant number; it is minimal, but if the scope of practice of another profession were to infringe upon the practice area of these three individuals, thus restricting or terminating their practice, the result would be less appropriate and less specialized services. Credentialing must not inadvertently bind the professional peer counselor/trainer in his/her ability to serve other disabled individuals.

To my knowledge, there are only about ten people in the State of Kansas currently practicing drama therapy. Again, this is not a significant number; it is minimal. Nonetheless, the practice of drama therapy is highly specialized. While other scopes of practice might infringe upon the drama therapy area, no other practitioner can practice drama therapy at a level of competence equaling those specifically trained in this area. The effect of credentialing on the practice must thus be made virtually nonexistent.

Thank you for an opportunity to address the Committee. Again, this is basically a good bill. The amendments here proposed, however, will vastly improve it.

HOUSE BILL NO. 2663

PRESENTATION TO THE SENATE COMMITTEE
ON PUBLIC HEALTH AND WELFARE

by
Dwight L. Young
5815 Broadway, Great Bend, Ks. 67530
(316) 792-2544

March 18, 1986

Concerns And Recommendations Regarding The Bill As Amended

Line 0066 - \$2,500 is excessive as a fee for a service by a governmental entity. It is not enough money to pay the cost of the service and it is too much money to pay for what is merely an opinion. These groups will face expenses beyond this process because the results are not binding. This fee appears to be intended to discourage frivolous attempts at legal recognition and that could be accomplished at a lower figure such as a \$1,000.

Line 0082 - "each" should be replaced by "the" and "application" should be made plural (applications) to make this section consistent with Sec. 3 (b). The naming of a standing committee should help avoid the problem of having people with vested interest apply to sit on the committee which is to review the application for which they have a conflict of interest. However, this will never be eliminated because personal interest (as identified in Line 0092) can only be identified by the person.

Line 0134 - "The evidence required to sustain this burden of proof shall be more that hypothetical examples or testimonials" should be stricken. The State should not require that actual damage take place before the State will act. If hypothetical and testimonial evidence had been given more weight then perhaps the space shuttle tragedy would have been avoided.

Line 0176 & 0219 - "which was more than hypothetical examples or testimonials" should be stricken bearing in mind that if these issues were completely "clear and convincing" this process would not be necessary.

Line 0162 - should have the wording in Lines 0234-0238 added to this section which would call for the technical committee to recommend an agency to be responsible for the credentialing process, the level or levels of credentialing and "such matters as the technical committee deems appropriate...." because the technical committee is the only

element in the process that actually has contact with the principles involved and their input could be vital up the line. It should not be restricted to a "yes" or "no" vote on criteria.

Line 0196 - "Within 120 day" is absolutely vital to the system working because it has taken as long as a year to get a final report from the Secretary with no inquiry or explanation for the delay.

Line 0239 - The Legislature retaining its' responsibility and authority is understandable, but some consideration to abandoning this credentialing process in favor of a required interim study for each group should be considered. At least in that forum the presentation is made to a group that will be directly involved in the final decision. Under this system the applicant faces both a bureaucratic process and a political process. A sunset provision would provide the opportunity to see if these changes reduce or expand the burdens of either the bureaucratic or the political process.

Line 0282 - "nationally" should be omitted because it requires that a service provider develop a national recognition before a state recognition can be granted. Therefore if a group of providers develop on a local level this wording would prohibit the State from becoming involved. This would also hold true where a provider group separated from a larger national group and differed with that national group regarding standards. The national organization may not be right, they may just be bigger and more powerful.

Line 0316 - "and a recourse for registering complaints when those services are substandard." should be added because this is an important function of this type of legislation. Consumers need to have an option for filing complaints other than entering the court system and the providers should have a fair hearing on those complaints. Should the complaints be adequately supported then corrective action can be taken. Therefore, consumer protection is served.

Line 0360 - Since there are several groups which will be caught between the law under which their application was processed and this law it would be helpful to clarify what effect this statute will have on those applications. Staff at the Department of Health have said that they do not know how that will handled.

MY NAME IS GEORGE PUCKETT, AND I REPRESENT THE KANSAS RESTAURANT ASSOCIATION, A STATEWIDE GROUP OF FOODSERVICE MANAGERS AND OWNERS REPRESENTING THE FOODSERVICE INDUSTRY.

KRA SUPPORTS HB 2681, AS AMENDED, AND ALONG WITH THE NATIONAL RESTAURANT ASSOCIATION, CONTINUES TO SUPPORT THE POSITION THAT IF SULFITES POSE A DANGER TO ANY CONSUMER, NO MATTER HOW REMOTE THE POSSIBILITY, THESE AGENTS SHOULD NOT BE USED IN THE RETAIL PREPARATION OF RAW FRUITS AND VEGETABLES. KRA HAS ENCOURAGED THE VOLUNTARY ELIMINATION OF SULFITE USAGE BY ITS MEMBERS SINCE 1983, THROUGH ARTICLES IN THE KANSAS RESTAURANT MAGAZINE, AND IN OUR MONTHLY MEMBERSHIP NEWS BULLETIN. THE ASSOCIATION HAS ALSO PROVIDED ITS MEMBERS WITH A LIST OF ACCEPTABLE SUBSTITUTES FOR THE PURPOSE OF RETAINING FRESHNESS OF RAW FRUITS AND VEGETABLES. THIS LIST OF SUBSTITUTES WAS DEVELOPED BY THE NATIONAL RESTAURANT ASSOCIATION.

THE FOOD AND DRUG ADMINISTRATION (FDA) PROPOSED A RULE LAST AUGUST THAT WOULD BAN SULFITING AGENTS IN RETAIL FOOD PREPARATION NATIONWIDE. IT IS OUR UNDERSTANDING THE PROPOSED RULE WILL LIKELY BECOME EFFECTIVE BY THE MIDDLE OF THIS YEAR. UNTIL SUCH TIME, HOWEVER, KRA SUPPORTS THE POSITION THAT KANSAS SHOULD EXPEDITE THE ELIMINATION OF THE USE OF SULFITING AGENTS AS FOOD FRESHENERS IN THE RETAIL FOODSERVICE BUSINESS, AND THEREFORE SUPPORTS HB 2681 AS AMENDED.

HB 2681, AS KRA INTERPRETS IT, PERTAINS TO BANNING SULFITES FOR RETAIL PREPARATION OF RAW FRUITS AND VEGETABLES, AND DOES NOT ADDRESS MANUFACTURED FOODS, WHICH REMAIN THE RESPONSIBILITY OF THE FDA TO DETERMINE WHAT IS GENERALLY REGARDED AS SAFE (GRAS) AS IT APPLIES TO FOODS MANUFACTURED IN A CONTROLLED ATMOSPHERE ON A NATIONAL BASIS.

3/18/86
Attachment VIII
S. PH&W

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON H.B. 2681

PRESENTED TO: Presented to Senate Committee on Public Health and Welfare, March 18, 1986

This is the official position taken by the Kansas Department of Health and Environment on H.B. 2681.

BACKGROUND INFORMATION:

Over the last 3 to 4 years there has been extensive publicity and controversy surrounding the widespread use of sulfiting agents in the food supply. The controversy stems from sulfites' potential for triggering moderate to severe reactions, including death, in certain sulfite sensitive individuals. Sulfites are not however considered hazardous to the general population.

Sulfiting agents are primarily used to reduce or prevent spoilage and discoloration during the preparation, storage, and distribution of many foods. They are used in many packaged potato products to preserve the vegetables white appearance. Lettuce will not wilt or brown as quickly if treated with sulfites, thus extending its shelf life. Other produce and some seafoods also will not discolor and will retain a fresh appearance as a result of treatment with sulfites. These preservatives are also used in a number of drugs as well as beer and wine.

Asthmatics are the primary population at risk. Some 10 million Americans suffer from asthma and it is estimated that up to one million asthmatics may have a particular sensitivity to sulfites.

Through 1985, the number of complaints alledging adverse reactions reported to the Food and Drug Administration has climbed to over 800 including reports of 20 deaths. Epidemiologic investigations indicate that eight of the deaths were "probably" associated with the consumption of sulfites while four others were considered as "possibly" due to sulfite consumption. Three other deaths are not believed to be related to sulfites. The five remaining deaths are still being investigated. In Kansas, we have had one report to the KDHE of a possible reaction related to sulfite consumption.

The primary symptoms reported by most consumers is difficulty breathing. Wheezing, vomiting, nausea, diarrhea, unconsciousness, abdominal pain, cramps and hives have also been reported. The term sulfiting compounds refers to several sulfur based substances including sulfur dioxide, sodium sulfite, sodium potassium bisulfite and sodium potassium metabisulfite.

On August 14, 1985, the FDA proposed a regulation that would revoke the "generally recognized as safe" status of sulfites used on raw produce. This would ban the use of sulfites on fruits and vegetables that are intended to be eaten raw. The effect of this regulation would eliminate sulfites being used on salads and salad bars in restaurants and would apply to raw produce sold in grocery stores. FDA is expected to act on this proposal this year.

In 1985, the KDHE participated with FDA Region VII States in a survey of businesses to determine the extent of sulfite use. In the survey, 172 food establishments were surveyed. Nine percent of the surveyed establishments indicated voluntarily ceasing the use of sulfites, however, 9 percent of the survey sample had continued using sulfiting compounds. Zero percent of those surveyed and using sulfites had notices posted for consumer information. Three percent of the establishments surveyed indicated the use of substitutes for sulfiting compounds.

STRENGTHS:

Passage of this bill declaring certain foods adulterated if containing sulfites will eliminate sulfiting compounds from salad bars and other foods intended to be eaten raw.

WEAKNESSES:

None

DEPARTMENT'S POSITION:

The KDHE is supportive of HB 2681.

3-18-86



FOR FURTHER INFORMATION:

SUSAN MIRINGOFF J.D., R.N.
ASSISTANT DIRECTOR
913-233-8638

MARCH 18, 1986

HOUSE BILL 2681

MAKING RAW FRUITS AND VEGETABLES TREATED WITH SULFITES
ADULTERATED FOOD

Mr. Chairman, members of the committee, my name is Susan Miringoff and I am here to speak to you today on behalf of the Kansas State Nurses' Association.

As conferees, we supported abolition of sulfiting agents when HB 2681 was heard before the House Committee and we are pleased that the committee amended the bill to include fruits and vegetables treated with sulfiting agents in the category of adulterated foods.

KSNA has adopted a resolution that supports elimination of sulfiting agents in restaurants. The reactions suffered by sensitized individuals range from weakness after ingestion to shortness of breath to death in several cases. The highest consumption of these preservatives occurs in persons ingesting restaurant salads, vegetables, and avacado dips to which are added solutions of potassium metabisulfite. In an age where people are eating out more often and are eating more fruits and vegetables to gain a healthier nutritional status, does it make any sense to add chemicals that for some could kill or render them seriously ill?

3/18/86 Attachment X
S. PH&W

HB 2681--Sulfiting Agents
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Sulfiting chemicals are not the only chemicals that preserve and maintain the natural colors of food. There are other preservatives and additives that can be used to preserve freshness such as ascorbic acid. Most restaurants in Kansas have already eliminated sulfiting agents from their fruits and vegetables. The federal government is scheduled to publish a final rule in June to eliminate the use of sulfiting agents in fresh food and vegetables.

The safety and health of Kansans is of utmost importance. With the passage of this bill you can protect their lives from an unneeded and dangerous chemical. It requires no fiscal considerations, there are already adequate substitutes for food preservation, and we can all feel a lot safer when we go out and feast on a salad bar.

#11. "RESTRICTION OF USE OF SULFITING AGENTS IN FOOD AND DRUGS"

(Submitted by District 18)

WHEREAS, professional nurses are strong proponents of promotional health care, including dietary and drug ingestion practices of people, and

WHEREAS, the elimination of the use of sulfiting agents in foods and drugs can help to prevent allergic reactions, as well as fear of reactions, in 400,000-500,000 susceptible Americans, therefore be it

RESOLVED, that KSNA make known via letter to the Food and Drug Administration, Center for Science in the Public Interest, and American Nurses' Association its members' support of the banning or restriction on the use of sulfiting agents as food and drug additives, and be it further

RESOLVED, that KSNA members be encouraged to disseminate health alerts regarding hazards of the use of sulfiting agents to peers, colleagues, and consumers at every opportunity.

Rationale:

The potential hazards of sulfiting agents to susceptible individuals has only recently been determined and publicized.

It is appropriate for professional nurses to support stricter regulation of such a food and drug additive when its use has been proven to cause allergic reactions from mild to severe degrees in a large segment of the human population.

Background:

A class of food and drug additives called sulfiting agents used to prevent discoloration and bacterial growth cause hypersensitivity reactions in possibly one-twentieth of 8.9 million asthmatic Americans as well as an untold number of non-asthmatics.

Beginning in 1976 physicians have published reports that, among asthma sufferers, the chemicals can cause reactions such as weakness, tightness in the chest, shortness of breath, hives, severe wheezing, and even loss of consciousness.

The highest consumption of these preservatives occurs in persons ingesting restaurant salads, vegetables, and avocado dips to which are added solutions of potassium metabisulfite. Although the chemicals have been added to foods and beverages for centuries, today their use appears to be mostly a matter of convenience since other preservatives can be used in fruit and vegetable juices, alcoholic beverages, and eliminated entirely from salad bar ingredients.

Some of the drugs used currently to treat asthma symptoms also contain sulfiting agents.

In July of 1982, the Food and Drug Administration proposed to classify the group of sulfiting agents "generally recognized as safe" until Center for Science in the Public Interest (a non-profit consumer group advocating improved national policies on health issues) petitioned the FDA to deny safe status to these additives, calling for a ban or severe restriction on their use in restaurant food, dried fruit, seafood, processed food, alcoholic beverages, and drugs, and the issuance of a public health alert advising asthmatics and others with lung problems of the hazard posed by sulfiting agents and of the foods and drugs to avoid.

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