

Approved Feb. 12, 1987
Date 22

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Vice-Chairman, Frank Buehler at
Chairperson

1:30 h/h/p.m. on February 11, 1987 in room 423-S of the Capitol.

All members were present except:

Chairman Littlejohn, excused
Representative O'Neal, absent

Committee staff present:

Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee SEcretary

Conferees appearing before the committee:

Representative Sandy Duncan
Tom Hitchcock, Executive Secretary, Board of Pharmacy
Ken Schafermeyer, Kansas Pharmacists Association
Terry Rosselot, Kansas Nurses Association
David Couch, Burlington, Kansas ARNP
Lynette Hindsy, Erie, Kansas ARNP
Charlotte Peake, Belleville, Kansas ARNP
Patrick Parker, Director of Pharmacy-Lawrence Memorial Hospital
Jerry Slaughter, Kansas Medical Society

Vice-Chairman called meeting to order, noting hearings would be held on HB 2166, and HB 2187.

Representative Sandy Duncan, a member of the committee that requests this bill spoke in support of HB 2187. He explained in comprehensive detail all the changes that are recommended in the Pharmacy Act in regard to changing the drug dronabinol from Schedule I and placed under Schedule II. He defined Schedule I as drugs that are street drugs, and Schedule II as drugs that can be prescribed and are useful to health. He answered questions, i.e., yes, this drug is now being used by physicians to help patients with side effects from chemotherapy; yes, other states do have other ways to change laws of this type rather than have the State Legislator make the revision in the law, but their Constitutions are different than Kansas. Our State Constitution requires these changes be done by amending the statutes by the Legislative body; periodically the rules and regulations committee reviews the statutes and this bill speaks to doing just that for some regulations of Board of Pharmacy. It was discussed that this committee acts on faith towards the recommendations from the rules and regulations committee.

Representative Duncan then drew attention to HB 2166, and (Attachment No.1), a balloon of proposed changes, i.e., "pharmacist" will be changed to "preceptor", and language deletions, and additions are detailed in Attachment.

Tom Hitchcock, Executive Director of Board of Pharmacy gave hand-out, (see Attachment No.2), for details. He complimented Rep. Duncan for the comprehensive explanation of recommended changes in HB 2187 and HB 2166. By placing the drug dronabinol, he said, under Schedule II, it then can be prescribed and dispensed under certain restrictions. Dronabinol has been federally rescheduled from Schedule I to Schedule II. Page 7, line 0697 allows the Board to charge re-registration fees. Page 10, lines 0787-0814 give the Board the statutory authority to modify a registration and charge a fee. This also indicates when registration terminates and allows registrants to change their name by filing notification of change with the Board. It also prohibits the transfer of registrations. He urged for favorable passage of HB 2187. He answered questions with the assistance of Mr. Pat Parker, of Lawrence Memorial Hospital Pharmacy, i.e., up to the present time a pharmacist had to work one on one with their support personnel monitoring their work in pharmacy. The pharmacist has been the only one (under statute) with authority to count and pour. Helpers could not count and pour. The intent here they said, is not to over-regulate, however language to clear up the problem of the pharmacist being allowed to have more than one helper, if that helper is doing other lesser important tasks at the pharmacy and not counting and pouring is brought out in this legislation.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m./p.m. on February 11, 1987

Hearings on HB 2166:

Ken Schafermeyer, Executive Director of Ks. Pharmacists Association spoke in support of amendments by Mr. Duncan and Mr. Hitchcock as presented. He understands however there may be amendments proposed by the Nurses Association and he would ask to speak to them later today. He stated language in the statutes was changed last year to clear up interpretations of who can prescribe and dispense prescriptions medications. It is difficult for pharmacists to know when a prescription is legally written. Their Association has no problem with amending it back if the "authority" is indeed that of the Nurse Practitioner to prescribe. He stated they would like this authority to change be given to the Legislature and not to the Attorney General.

Terry Rosselot, Kansas Nurses Association gave hand-out, (Attachment No.3). She said they request definition language change in HB 2166, of "practitioner" on Page 4, line 0147. Practitioner means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise authorized by law to administer, prescribe and use prescription-only drugs in the course of professional practice or research. She called attention to other attachments which detail testimony. Proposed amendment, (Attachment 3-A), Board of Pharmacy position statement by Lynn Ebel, (Attachment 3-B), A.G.'s opinion, (Attachment 3-C), Minutes of Board of Pharmacy, (Attachment 3-D), "previous opinion" shown in (Attachment 3-B). She stated under the definition section of Prescription orders, Page 5, line 0166 (y) there are two definitions, i.e., An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner in the authorized course of professional practice, or, an order transmitted to a pharmacist through word of mouth, note, telephone, or other means of communication directed by such practitioner. She gave examples of when registered nurses actually dispense drugs. She urged for favorable consideration of their proposed amendment in HB 2166. She answered questions, i.e., there is some misunderstanding in light of the A.G.'s opinion which goes against the Board of Pharmacy. If the language is changed back, some (not all) nurses would be authorized to prescribe. Yes, this change would help to solve our problem she said, however, there will still be gray areas remain.

David Couch, Advanced Registered Nurse Practitioner (ARNP) gave hand-out, (see Attachment No.4), for details. He outlined the functions of a Nurse Practitioner. He would like to see the definition changed back to the old definition having it read as Ms. Rosselot detailed in her testimony. He then detailed the functions of the Nurse Practitioner, (see in Attachment No.4). Current ARNP regulations allow nurses' to have interdependent relationships with physicians. This may include prescribing medications based on standing orders and protocols. He urged for favorable consideration of changing the definition language back to the way it was previously. He answered questions, i.e., yes, the protocols we follow were developed jointly between he and the Doctor he works with; no, I do not know the number of ARPN's in the state, but the numbers are growing. Yes, if I follow the current A.G.'s opinion, I must call the physician each time for a prescription consultation.

Lynette Handshy, ARPN, gave hand-out, (see Attachment No.5), for details. She works with her husband who is a certified family physician in a medically underserved area in Kansas in two clinics in two small towns. She states there is controversy regarding what a nurse practitioner does. She outlined all these duties. If a definite diagnosis is reached, she proceeds to treat, and sometimes treatment involves the use of non-controlled prescription medications. Now since she does not have authority to do this, the patient must wait for the doctor, increased costs of health care due to the doubling of phone calls, drive 18-20 miles to visit the physician when he comes in. She answered questions, i.e., no the patients, pharmacists and physicians do not object to her practice, but she has had problems with people on the State level question her practice and her license has been threatened; yes the liability issue is covered in the physician's malpractice insurance as it is in mine she said.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a/m./p.m. on February 11, 1987

Hearings continue on HB 2166:

Charlotte Peake, ARPN, gave hand-out, (see Attachment No.6), for details. She works in a collaborative practice arrangement in Belleville, Ks. with several physicians. There is one pharmacy in their town where she phoned medication orders based on set protocols. The pharmacist now, after reading the A.G.'s opinion feels uneasy on issuing these prescriptions from a ARPN, so is no longer honoring any medications that she has ordered for patients, even though it is based on established protocol. This causes a problem when the physician is in surgery and out of the clinic when she is seeing the patient. These same prescription orders often are issued when the physician is in the office, based on same protocol. She noted the rules and regulations do not state that the physical presence of the physician is not implied when care is given by the ARPN. In summary she said, legislation has been passed granting ARPN the authority to manage the medical plan of care based on protocols and by taking away the ordering of medications by these practitioners with specialized training. In essence, negates this legislation which has already been established. She answered questions, i.e., the physicians she works with are concerned about the problem and want the change in language made. When asked if they welcomed the ARPN's assistance in working with people in the community, she answered, "most of them". I realize all physicians in the State do not go along with this proposed change. When asked, do you actually diagnose and prescribe, she answered, "yes, based on protocol". When asked, "is that not what a family physician does, following his own protocol", she answered, "yes".

At this point there was discussion on the amount of education required to become an ARNP.

Jerry Slaughter, Kansas Medical Society spoke to HB 2166, saying they met with nurses earlier this year, have been involved (their Society), in developing the regulations of the ARNP regulations and at no time during the entire raft of administrative hearings, and legislative testimony was the subject of prescribing drugs ever included as part of what ARNP's routinely do. I don't believe they have the training to independently issue prescriptions. The Medcial Society believes that no non-physician personnel should be issuing prescription orders. We believe this is a very important part of what medical practice is. We do recognize there are areas of supervision, protocol, standing order, prior arrangements, whether they are written or verbal are at times exceptions to the rule, but the whole intent of the change in language last year was to clear up inconsitencies that existed. He stated he feels the Pharmacy Board erred when it says that a ARNP in a remote location with incidental physician supervision could write prescriptions. We do not believe the law was written to accommodate that. We believe that no one other than a physician should be writing prescriptions. There are many other groups that are lined up waiting to be able to write prescriptions, this group is just one.

At this point, Vice-Chairman invited testimony to be continued on HB 2187.

Tom Hitchcock, Ks. Board of Pharmacy gave hand-out, (see Attachment No. 7), for details. He defined changes proposed in comprehensive detail, then answered questions, i.e., whether the Federal or State regulations are the most restrictive, then that one would take precedent.

Vice-Chair noted we will hear Mr. Schafermeyer's bill request during meeting tomorrow, and there will be action taken on some bills previously heard.

Meeting adjourned at 2:55 p.m.

18-11-8

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W
W

0194 (3) causing any drug, medicine, chemical or poison to be
0195 adulterated or mislabeled, knowing the same to be adulterated or
0196 mislabeled;

0197 (4) intentionally falsifying or altering records or prescrip-
0198 tions; or

0199 (5) unlawful possession of drugs and unlawful diversion of
0200 drugs to others.

0201 Sec. 2. K.S.A. 1986 Supp. 65-1631 is hereby amended to read
0202 as follows: 65-1631. (a) It shall be unlawful for any person to
0203 practice as a pharmacist in this state unless such person is
0204 licensed by the board as a pharmacist. *Except as otherwise*
0205 *provided in subsection (d), every applicant for examination and*
0206 *licensure as a pharmacist shall have attained legal age, shall be*
0207 *of good moral character and temperate habits, shall be a graduate*
0208 *of a school or college of pharmacy or department of a university*
0209 *recognized and approved by the board, and shall file proof*
0210 *satisfactory to the board, substantiated by proper affidavits, of a*
0211 *minimum of one year of pharmaceutical experience, acceptable*
0212 *to the board, under the supervision of a pharmacist preceptor*
0213 *and shall pass an examination administered by the board. Phar-*
0214 *maceutical experience as required in this section shall be under*
0215 *the supervision of a licensed pharmacist preceptor and shall be*
0216 *predominantly related to the dispensing of prescription medica-*
0217 *tion, compounding prescriptions, preparing pharmaceutical*
0218 *preparations and keeping records and making reports required*
0219 *under state and federal statutes (A school or college of pharmacy*
0220 *or department of a university recognized and approved by the*
0221 *board under this subsection (a) shall have a standard of educa-*
0222 *tion not below that of the university of Kansas school of phar-*
0223 *macy.)*

add language

0224 (b) All applications for examinations shall be made on a form
0225 to be prescribed and furnished by the board and shall be filed
0226 with the board at least 30 days before ~~any meeting of the board at~~
0227 ~~which~~ examinations are to be held. Each application must be
0228 accompanied by an examination fee fixed by the board as pro-
0229 vided in K.S.A. 65-1645 and amendments thereto. The examina-
0230 tion fee established by this section immediately prior to the

← delete

0268 given by the board and has failed to complete it successfully
0269 shall be considered for licensure by reciprocity within one year
0270 ~~of~~ from the date such applicant sat for the examination.

0271 (g) All applicants for reciprocal licensure shall file their ap-
0272 plications on a form to be prescribed and furnished by the board
0273 and such application shall be accompanied by a fee of \$250.

0274 (h) ~~In determining moral character under this section,~~ The
0275 board shall take into consideration any felony conviction of such
0276 person, but such conviction shall not automatically operate as a
0277 bar to licensure.

0278 (i) All applicants for ~~reciprocal licensure or for examination~~
0279 who graduate from a school or college of pharmacy outside the
0280 United States shall submit information to the board, as specified
0281 by rules and regulations, and this information shall be accompa-
0282 nied by an evaluation fee of not to exceed \$250 as fixed by the
0283 board by rules and regulations, which evaluation fee shall be in
0284 addition to any other fee paid by the applicant under the phar-
0285 macy act of the state of Kansas.

0286 (j) *All applicants for licensure who graduate from a school*
0287 *or college of pharmacy outside the United States or who are not*
0288 *citizens of the United States shall provide proof to the board*
0289 *that the applicant has a reasonable ability to communicate with*
0290 *the general public in English. The board may require such*
0291 *applicant to take the test of English as a foreign language and to*
0292 *attain the grade for passing such test as established by the*
0293 *board by rules and regulations.*

0294 ~~(j)~~ (k) Every registered pharmacist holding a valid registra-
0295 tion as a pharmacist in effect on the day preceding the effective
0296 date of this act shall be deemed to be a licensed pharmacist
0297 under this act, and such person shall not be required to file an
0298 original application hereunder for a license.

0299 Sec. 3. K.S.A. 1986 Supp. 65-1632 is hereby amended to read
0300 as follows: 65-1632. (a) Each license as a pharmacist issued by
0301 the board shall expire on June 30 following the date of issuance.
0302 Each application for renewal of a license as a pharmacist shall be
0303 made on a form prescribed and furnished by the board. Except as
0304 otherwise provided in this subsection, the application, when

or not approved by the american council on pharmaceutical education

0342 statement of license because of nonpayment of fees under sub-
0343 section (e) shall not exceed 30.

0344 (d) The payment of the renewal fee by the person who is a
0345 holder of a license as a pharmacist but who has not complied
0346 with the continuing education requirements fixed by the board,
0347 if no grounds exist for denying the renewal of the license other
0348 than that the person has not complied with the continuing
0349 education requirements fixed by the board, shall entitle the
0350 person to inactive status licensure by the board. No person
0351 holding an inactive status license from the board shall engage in
0352 the practice of pharmacy in this state. Upon furnishing satisfac-
0353 tory evidence to the board of compliance with the continuing
0354 education requirements fixed by the board and upon the pay-
0355 ment to the board of all applicable fees, a person holding an
0356 inactive status license from the board shall be entitled to can-
0357 cellation of the inactive status license and to renewal of licensure
0358 as a pharmacist.

0359 (e) If the renewal fee for any pharmacist's license has not
0360 been paid by August 1 of any year, the license is hereby declared
0361 void, and no license shall be reinstated except upon payment of
0362 ~~the required~~ *any unpaid* renewal fee plus a penalty equal to the
0363 *unpaid* renewal fee and proof satisfactory to the board of com-
0364 pliance with the continuing education requirements fixed by the
0365 board. Payment of ~~the any unpaid~~ *any unpaid* renewal fee plus a penalty
0366 equal to the *unpaid* renewal fee and the submission of proof
0367 satisfactory to the board of compliance with the continuing
0368 education requirements fixed by the board shall entitle the
0369 license to be reinstated. The nonpayment of renewal fees by a
0370 *previously* licensed pharmacist for a period ~~not~~ exceeding three
0371 years shall not deprive the *previously licensed* pharmacist of the
0372 right to ~~renew~~ *reinstate* the license upon the payment of any
0373 unpaid fees and penalties *and upon compliance with the con-*
0374 *tinuing education requirements fixed by the board, except that*
0375 *the board may require such previously licensed pharmacist to*
0376 *take and pass* ~~(the) examination (required for licensure)~~ *as a phar-*
0377 *macist and to pay any applicable examination fees*

an

approved by the board for reinstatement

as determined by the board by rules and regulations

0378 Sec. 4. K.S.A. 1986 Supp. 65-1642 is hereby amended to read

ATTN # 1
PH: W
2-11-87

0379 as follows: 65-1642. (a) Each pharmacy shall be equipped with
 0380 proper pharmaceutical utensils, in order that prescriptions can
 0381 be properly filled and United States pharmacopoeia and national
 0382 formulary preparations properly compounded, and with proper
 0383 sanitary appliances which shall be kept in a clean and orderly
 0384 manner. The board shall prescribe the minimum of such profes-
 0385 sional and technical equipment which a pharmacy shall at all
 0386 times possess, and such list shall include the latest revisions of
 0387 the United States pharmacopoeia ~~and the national formulary~~ and dispensing information
 0388 all supplements to ~~either of them~~ *The ratio of personnel per-* it
 0389 *forming pharmacist functions under the direction of a pharma-*
 0390 *cist, excluding pharmacist interns, to licensed pharmacists shall*
 0391 *not exceed a one-to-one ratio.*

0392 (b) Each pharmacy shall keep a suitable book or file which
 0393 records every prescription order filled at the pharmacy. The
 0394 book or file of prescription orders shall be kept for a period of not
 0395 less than five years. The book or file of prescription orders shall
 0396 at all times be open to inspection by members of the board, the
 0397 secretary of health and environment, the duly authorized agents
 0398 or employees of such board or secretary and other proper au-
 0399 thorities.

0400 (c) No registration shall be issued or continued for the con-
 0401 duct of a pharmacy until or unless the provisions of this section
 0402 have been complied with.

0403 Sec. 5. K.S.A. 1986 Supp. 65-1645 is hereby amended to read
 0404 as follows: 65-1645. (a) Application for registrations or permits
 0405 under K.S.A. 65-1643 and amendments thereto shall be made on
 0406 a form prescribed and furnished by the board and accompanied
 0407 by the fee prescribed by the board under the provisions of this
 0408 section. When such application and fees are received by the
 0409 executive secretary of the board on or before the due date, such
 0410 application shall have the effect of temporarily renewing the
 0411 applicant's registration or permit until actual issuance or denial
 0412 of the renewal. However, if at the time of filing a proceeding is
 0413 pending before the board which may result in the suspension,
 0414 probation, revocation or denial of the applicant's registration or
 0415 permit, the board may declare, by preliminary order in such

PH-W
 adm + 1
 2-11-87

Kansas State Board of Pharmacy

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STATE OF KANSAS



Mike Hayden
~~XXXXXXXXXX~~
GOVERNOR

HOUSE BILL 2187

House Public Health and Welfare Committee

Mr. Chairman, members of the Committee, my name is Tom Hitchcock, and I serve as the Executive Secretary of the Kansas State Board of Pharmacy. I appear before you today on behalf of the Board to speak in favor of the passage of House Bill 2187.

The Board would like to publicly commend and thank the Joint Committee on Administrative Rules and Regulations for their assistance and diligence in helping to clean up the Pharmacy Act and the Controlled Substances Act. This consideration and interest has been invaluable to the Board.

The first change in the bill is exempting the drug dronabinol under Schedule I. Dronabinol is then placed under Schedule II, which allows this drug to be prescribed and dispensed under certain restrictions. Dronabinol has been federally rescheduled into Schedule II.

On page 7, line 0697, allows the Board to charge reregistration fees. This was previously done pursuant to regulation. This would now give the Board statutory authority to charge such a fee.

On page 10, lines 0787 through 0814, allows the Board the statutory authority to modify a registration and charge a certain fee. This also indicates when a registration terminates and allows registrants to change their name by filing notification of such change with the Board. This also prohibits the transfer of registrations. All of these provisions were previously written under regulation.

House Bill 2187 is a good bill and will be an asset to the Board and public health and welfare.

TCH:arb

PHW
Attn #2
2-11-87

For Further Information Contact:

TERRI ROSSELOT, J.D., R.N.
Executive Director
(913) 233-8638

February 11, 1987



H.B. 2166 PHARMACY ACT

Mr. Chairman, members of the Public Health and Welfare Committee, my name is Terri Rosselot, and I am a registered nurse representing the Kansas State Nurses' Association. There are 22,000 registered nurses licensed in Kansas. I come before this committee today to request a definition language change in HB 2166. The definition of "practitioner" on page 4 line 0147 was changed in the last three days of the 1986 legislative session to read as you see it. KSNA respectfully requests that this committee consider changing the language back to the original definition language which was:

Practitioner- means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered or otherwise authorized by law to administer, prescribe and use prescription-only drugs in the course of professional practice or research.

A balloon copy is Attachment #1

Let me give you a very brief description of the sequence of events that brings me here today.

In early 1986 there was discussion and a subsequent position adopted by the Kansas Board of Pharmacy related to the question of whether ARNP's and PA's in the course of their practice could write prescription orders based on "standing orders and protocols". Lynn Ebel, the Board of Pharmacy attorney wrote the opinion for the Pharmacy Board which stated that ARNP's and PA's could write prescription orders under standing orders and protocols. (Board of Pharmacy Position Statement by Lynn Ebel's Attachment #2)

Subsequent to this position being adopted by the Board of Pharmacy a request was submitted to the Attorney General's office for an official opinion on this same question.

During the 1986 Legislative session there were two pharmacy bills before each Public Health and Welfare Committee that had hearings in which other amendments and changes were requested. At no time during discussion of these bills was there a recommendation to change the "practitioner" definition language. The two bills were combined into one bill, SB 779 for consideration by both houses. During the final three days of the session, and because there was some concern about how the Attorney General may interpret the definition of practitioner in the Pharmacy Act, the definition of practitioner was changed in the final hours of the session, with no hearings to determine a legislative history and intent.

PH & W
att m #3
2-11-87

KSNA became aware of the change when several ARNP's practicing in rural clinics had their prescriptions refused filled by local pharmacists.

After the language change during the legislative session, the Attorney General issued the opinion (86-125 dated August 27, 1986), responding to the Board of Pharmacy's request regarding ARNP's and PA's authority to write prescriptions based on standing orders and protocols. (A.G.'s opinion Attachment #3) The Attorney General's

It is our opinion that advanced registered nurse practitioners may not issue prescription orders pursuant to a physician's standing orders or protocol because they have not been granted such authority by the statutes and regulations under which they are licensed. Physician's assistants, however, are expressly authorized to practice medicine under the direction and supervision of a physician. Since the practice of medicine includes the act of prescribing medicine, we conclude that physicians' assistants may issue prescription orders under the direction and supervision of a physician.

The Board of Pharmacy reviewed the A.G.'s opinion at their September 21, 22 Board meeting in Lawrence. The Board stated and I quote from Page 7 of the Kansas Board of Pharmacy Minutes dated September 22, 1986: (Minutes, Attachment #4)

The Board stated that an earlier decision had been set that the Board would support their previous opinion until the legislature clarifies the issue.

Note-This "previous opinion" refers to Attachment #2 .

Five KSNA members, including four ARNP's and legal counsel spoke with the Board of Pharmacy about the prescriptive privileges for ARNP's at their September 22 Board meeting. The Board of Pharmacy explained that they were choosing to retain their position in spite of the A.G.'s opinion, to the contrary, regarding ARNP's. KSNA members indicated a willingness to pursue language changes in this legislative session to support the position of the Board and protect those pharmacists who are acknowledging these prescriptions.

Additionally, KSNA members and myself met with members of the Kansas Medical Society on November 13, 1986 to review the implications for nurses, physicians, and patients regarding the new definition of "practitioner".

KSNA has also had ongoing dialogue about our concerns with Ken Schaffermeyer of the Kansas Pharmacy Association.

I would like to highlight the PRACTICE ISSUES that KSNA has in light of the current definition of practitioner.

1. ARNP's are writing prescriptions based on standing orders and protocols because the Board of Pharmacy has adopted a position upholding this interpretation of the definition of "practitioner". There is a possibility that the Board of Pharmacy may adopt the A.G.'s opinion related to ARNP's prescribing and this would then disallow pharmacists from filling the prescriptions that ARNP's write. ARNP's could still write the prescription under the Nurse Practice Act, only the pharmacist would not be permitted to fill them.

2. Under the Definition Section of "Prescription orders" page 5 line 0166 (y) there are two definitions:

(1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner in the authorized course of professional practice, or

(2) an order transmitted to a pharmacist through word or mouth, note, telephone, or other means of communication directed by such practitioner.

There are several groups of nurses whose practice would be affected if there was a change in the Board of Pharmacy's position. The Registered Nurse Anesthetists are currently prescribing Pre-Op, Post-Op medications in the hospital setting. If their orders were not considered "prescription orders" per se, then two things may happen. First the pharmacy may decline to fill them, secondly, RN's administering the Pre-Op or Post-Op medications may not be able to administer an order that is not a valid "prescription order."

The other group of nurses that may be affected are RN's functioning in the critical care areas of the hospital. Most critical care areas- E.R., ICU, CCU, Labor and Delivery have "standing orders and protocols" which have been approved by the Medical Staff and are to be instituted in specific situations. These orders sometimes require the RN to "prescribe" and "dispense". The best example I can give you is in the CCU when a patient is having frequent arrhythmia problems. Lidocaine is generally included on standing orders and protocols for this situation. RN's make an independent professional judgement on whether the drug should be prescribed, send the slip to pharmacy for replacement stock and pull the drug out of stocks on the units, and administer them.

While I recognize that this is a gray area in the law, the previous language for practitioner allowed for those individuals otherwise authorized to be practitioners in the definition. The RN's in hospitals operating under standing orders and protocols is comparable to the independent practicing of an ARNP and RNA. The language we are suggesting would not prohibit the RN's carrying out these functions to cease if the Board of Pharmacy would change their current opinion.

There are many instances where registered nurses actually dispense drugs, these instances occur in Health departments and private not-for-profit family planning clinics, in hospital and emergency out-patient settings. There are regulations setting parameters on this practice by Registered Nurses contained in Pharmacy Regulations. My point in bringing it to your attention is to give you a better idea of the scope of responsibility that RN's are and expected to perform in today's health care settings.

If the committee members have any questions about my presentation I would be glad to answer them to the best of my ability.

Thank you for consideration of these suggested changes in the Pharmacy Act.

HOUSE BILL No. 2166

By Joint Committee on Administrative Rules and Regulations

2-2

0017 AN ACT concerning the pharmacy act of the state of Kansas;
0018 amending K.S.A. 1986 Supp. 65-1626, 65-1631, 65-1632, 65-
0019 1642 and 65-1645 and repealing the existing sections.

HB 2166

4

0120 this act to practice pharmacy.

0121 (r) "Pharmacist in charge" means the pharmacist who is
0122 responsible to the board for a registered establishment's com-
0123 pliance with the laws and regulations of this state pertaining to
0124 the practice of pharmacy, manufacturing of drugs and the dis-
0125 tribution of drugs. The pharmacist in charge shall supervise such
0126 establishment on a full-time or a part-time basis and perform
0127 such other duties relating to supervision of a registered estab-
0128 lishment as may be prescribed by the board by rules and
0129 regulations. Nothing in this definition shall relieve other phar-
0130 macists or persons from their responsibility to comply with state
0131 and federal laws and regulations.

0132 (s) "Pharmacy," "drug store" or "apothecary" means prem-
0133 ises, laboratory, area or other place: (1) Where drugs are offered
0134 for sale where the profession of pharmacy is practiced and where
0135 prescriptions are compounded and dispensed; or (2) which has
0136 displayed upon it or within it the words "pharmacist," "pharma-
0137 ceutical chemist," "pharmacy," "apothecary," "drugstore,"
0138 "druggist," "drugs," "drug sundries" or any of these words or
0139 combinations of these words or words of similar import either in
0140 English or any sign containing any of these words; or (3) where
0141 the characteristic symbols of pharmacy or the characteristic pre-
0142 scription sign "Rx" may be exhibited. As used in this subsection,
0143 premises refers only to the portion of any building or structure
0144 leased, used or controlled by the licensee in the conduct of the
0145 business registered by the board at the address for which the
0146 registration was issued.

0147 (t) "Practitioner" means a person licensed to practice medi-
0148 cine and surgery, dentist, podiatrist, veterinarian, scientific in-
0149 vestigator or other person expressly licensed or registered to
0150 administer, prescribe and use prescription-only drugs in the
0151 course of professional practice or research.

0152 (u) "Preceptor" means a licensed pharmacist who possesses
0153 at least two years' experience as a pharmacist and who super-
0154 vises students obtaining the pharmaceutical experience re-
0155 quired by law as a condition to taking the examination for
0156 licensure as a pharmacist.

insert

"or otherwise authorized by law"

proposed definition

(t) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered or otherwise authorized by law to administer, prescribe and use prescription-only drugs in the course of professional practice or research.

Attm # 3-A
PH EW
2-11-87

Kansas State Board of Pharmacy

503 KANSAS AVENUE, SUITE 328
 P.O. BOX 1007
 TOPEKA, KANSAS 66601
 PHONE (913) 296-4036

STATE OF KANSAS



JOHN CARLIN
 GOVERNOR

EVERETT L. WILLOUGHBY
 EXECUTIVE SECRETARY

LYNN E. EBEL
 BOARD ATTORNEY

BOARD OF PHARMACY OF THE STATE OF KANSAS

LEGAL POSITION PAPER

To: Board Members of the Kansas State Board of Pharmacy
 Executive Secretary

From: Lynn E. Ebel, Board Attorney

ISSUE: Whether or not a physician may lawfully issue standing orders/protocol, which are to be followed by physician's assistants, or advanced registered nurse practitioners, which standing orders include the issuance of prescriptions for prescription only medication for the physician's patients.

A question has been raised as to whether or not a physician may establish, by protocol or standing orders, a course of treatment which includes the prescribing of prescription only drugs. In particular, the question relates as to whether or not a nurse practitioner (ARNP) or physician's assistant (PA) may follow a physician's standing orders, including those orders which direct, in certain instances, the issuance of a prescription.

At the outset, it is imperative that this opinion be interpreted and construed with the following points in mind:

(1) This opinion deals with standing orders/protocol which include prescribing as part of those orders; it is not concerned with the act of dispensing as that area has been previously been addressed by Attorney General Opinion Nos. 80-208 and 81-182. (Attached for your reference).

(2) This opinion is limited to standing orders/protocol which include prescribing of non-controlled substance prescription medication.

(3) The focus of this opinion is on the legal responsibility and liability of a pharmacist presented with a prescription which he or she knows has been prepared by a health professional (not a physician) pursuant to standing orders/protocol. There is not contained herein, either directly or implied, a commentary on standards of competent medical practice.

PH W
 3-B
 2-11-87

With these points in mind, I believe it would be helpful to review the licensing requirements of both physician's assistants and advanced registered nurse practitioners.

Physician's Assistants, K.S.A. 65-2896 et seq.

A physician assistant (PA) is a person registered under K.S.A. 65-2896a and who is qualified, by reason of academic training, to provide patient services under the direction and supervision of a responsible physician. (K.S.A. 65-2897a(c)). A PA may perform, under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent, and in a manner, authorized by a responsible physician.

The statutory scheme dealing with PA's defines direction and guidance of the physician to mean the guidance, direction and coordination of PA activities, written or verbal, whether by immediate or prior arrangement. The supervising physician accepts continuous and ultimate responsibility for the actions of the PA while performing under his or her direction. (K.S.A. 65-2897a). The specific acts of prescribing and/or dispensing by a PA have not been specifically addressed in the statutes. (However, refer to footnote 2.)

Advanced Registered Nurse Practitioners (ARNP), K.S.A. 65-1130

An advanced registered nurse practitioner (hereinafter ARNP) is licensed under separate statutory authority from that applicable to registered or practical nurses. (K.S.A. 65-1130; K.S.A. 65-1115; and K.S.A. 65-1116.) An ARNP must complete specified post-basic training in education and nursing in order to qualify for ARNP status. K.S.A. 65-1131. The Board of Nursing has adopted a regulation which defines and limits the role of the ARNP; which categorized specialties of the ARNP is recognized by the nursing profession pursuant to K.S.A. 65-1130(c)(1); and which lists the various functions of the ARNP, as nurse clinician and nurse practitioner. Those functions include:

- (a) Basic nursing functions;
- (b) Evaluation of both physical and psychological health status by examination, patient history, etc;
- (c) Assessment of findings;
- (d) Planning, implementing an evaluation of care;
- (e) Consultation
- (f) Management of the medical plan of care proposed for the client based on protocol guidelines adopted jointly by the ARNP and the attending physician;
- (g) Initiation of records and tapes;
- (h) Development of individualized teaching plans;
- (i) Counseling about health and illness;

Does not require immediate or physical presence.
The Attorney General of the State of Kansas has opined that the act of dispensing is an act which constitutes the practice of pharmacy, and not the practice of medicine and surgery. (A.G. Opinions No. 80-208 and 81-182).

- (j) Recognition, development and implementation of professional and community educational programs;
- (k) Periodic and joint evaluation of services rendered;
- (l) A joint review and revision of the adopted protocols and guidelines when the ARNP is involved in the medical plan of care. (K.A.R. 60-11-104)

While the physician maintains continuous and ultimate responsibility for the actions of the PA under his or her supervision, the ARNP, by Nursing Board regulation, is directly accountable and responsible to the consumer. (K.A.R. 68-11-101(a)(2)). This regulation does not serve to absolve the physician; nor is it determinative in the civil courts of whether or not the nurse practitioner is civilly liable for injury to or damages of the consumer. It does indicate that the ARNP is to have some extended discretionary control over and responsibility to the persons under his or her care.

Standing Order/Protocol

The Attorney General's Office of the State of Kansas opined, in 1982, that the Board of Pharmacy of the State of Kansas has no authority under the statutes to provide that the issuance of standing orders by a practitioner is outside the scope of professional practice of a physician. (A.G. Opinion 82-241.) Jurisdiction of such matters lies, instead, with the Board of Healing Arts, which Board may investigate complaints against practitioners who allegedly issue standing orders in contravention of standards of competent medical practice. Impiedly, the Attorney General further opined that the Board of Pharmacy may not exercise control or jurisdiction over the contents of such standing orders/protocol. (A.G. Opinion No. 81-241.)

Nevertheless, a pharmacist, under the law (and pursuant to regulations of the Board), has certain responsibilities, not the least of which is taking care to insure the prescriptions filled by the pharmacist are lawful. Hence, the issue presented herein, is really whether or not a pharmacist may lawfully fill a prescription issued by an ARNP or PA pursuant to standing orders/protocol. It is my legal opinion that a pharmacist may lawfully fill such a prescription.

I. Both ARNP's and PA's are authorized to perform functions traditionally reserved for physicians.

As stated herein, a PA may perform, under the direction and supervision of a physician, acts which constitute the practice of medicine. (K.S.A. 65-2897 et seq.) Prescribing is an act which constitutes the practice of medicine. Supervision does not require immediate or physical presence of the practitioner, but requires, instead, guidance, direction and coordination of the PA's activities, whether written or verbal. Those activities can constitute the practice of medicine. The key is that the PA cannot exceed the scope of responsibility delegated to him or her by the physician and the physician remains ultimately and continuously liable to and responsible for the patient.

 "Dispensing", on the other hand, constitutes the practice of pharmacy and may not be delegated. (A.G. Opinion No. 80-208)

The ARNP, likewise, is given authority by the statutes, to manage the medical plan of care develop (prescribed) for the patient based on protocols or guidelines adopted jointly by the ARNP and the attending physician. (K.S.A. 65-1130; K.A.R. 68-11-104.) It is probably because of the fact that standing orders/protocols are adopted jointly, that the ARNP also assumes responsibility for the patient.

II. Definitions of Prescriptions Order and Practitioner are Broad Enough to Allow Prescribing by ARNP's and PA's Pursuant to Protocol.

K.S.A. 65-1626(x) defines "prescription order" as:

- (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner in the authorized course of his or her professional practice; or
- (2) An order transmitted to a pharmacist through word of mouth, note, telephone, or other means of communication directed by such practitioner.

K.S.A. 65-1626(t) defines "practitioner" as a person licensed to practice medicine and surgery, dentists, podiatrists, or other persons licensed, registered or otherwise authorized by law to administer, prescribe, and use prescription only drugs in the course of professional practice or research.

While the definition of practitioner does not expressly include ARNP's and PA's, there is certainly room for inclusion in its general provision. An ARNP, in conjunction with a physician, and a PA, under the supervision and direction of a physician, are lawfully authorized to administer and use prescription only drugs. I would assert, that under standing orders, the authority to prescribe likewise exists for ARNP's and PA's.

I would, therefore, conclude, that an ARNP and a PA may, pursuant to standing orders/protocol, issue prescription for prescription only medications for non-controlled substances.

LEE/csn

AUG 20



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

August 27, 1986

MAIN PHONE: (913) 296-2213
CONSUMER PROTECTION: 296-3731
ANTITRUST: 296-5299ATTORNEY GENERAL OPINION NO. 86- 125Lynn Ebel Davis
Board of Pharmacy Attorney
Kansas State Board of Pharmacy
503 Kansas Avenue
P.O. Box 1007
Topeka, Kansas 66601Re: Public Health -- Healing Arts -- Physicians'
Assistants; Issuance of PrescriptionsPublic Health -- Examination, Licensure and
Regulation of Nursing -- Advanced Registered Nurse
Practitioners; Issuance of PrescriptionsPublic Health -- Examination and Registration of
Pharmacists -- Persons Authorized to Issue
Prescription Orders

Synopsis: It is our opinion that advanced registered nurse practitioners may not issue prescription orders pursuant to a physician's standing orders or protocol because they have not been granted such authority by the statutes and regulations under which they are licensed. Physicians' assistants, however, are expressly authorized to practice medicine under the direction and supervision of a physician. Since the practice of medicine includes the act of prescribing medicine, we conclude that physicians' assistants may issue prescription orders under the direction and supervision of a physician. Cited herein: K.S.A. 65-1113(d), (g); 65-1626(t), (x), as amended by L. 1986, ch. 236, §1; 65-2869(b); 65-2896e; 65-2897a(a), (c); K.A.R. 1985 Supp. 60-11-104; 60-11-105; 60-11-106.

*

*

*

Attachment 3-C

2/11/87

Dear Ms. Davis:

As attorney for the Board of Pharmacy, you request our opinion as to whether physicians' assistants or advanced registered nurse practitioners may issue, pursuant to standing orders or protocol of a physician, prescriptions for non-controlled substance medication. The controversy surrounding this issue was heightened by passage of 1986 Senate Bill No. 779. While this issue raises many related questions, this opinion concerns only the question as presented above.

The Board of Pharmacy is concerned whether a pharmacist may lawfully fill a prescription issued by a physicians' assistant (PA) or an advanced registered nurse practitioner (ARNP) pursuant to standing orders or protocol. Under the statutes concerning the examination and registration of pharmacists, a "prescription order" means:

"(a) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner in the authorized course of his or her professional practice or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner." K.S.A. 65-1626(x), as amended by L. 1986, ch. 236, §1.
(Emphasis added.)

In order to prescribe medication, then, a person must be a practitioner. Prior to July 1, 1986, a "practitioner" was defined as follows:

OLD
"'Practitioner' means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, scientific investigator or other person licensed, registered or otherwise authorized by law to administer, prescribe and use prescription-only drugs in the course of professional practice or research."
K.S.A. 65-1626(t) (Ensley 1985).

The 1986 session of the legislature amended this provision in Senate Bill No. 779:

"'Practitioner' means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, scientific

investigator or other person licensed, registered or otherwise authorized by law expressly licensed or registered to administer, prescribe and use prescription-only drugs in the course of professional practice or research."
K.S.A. 65-1626(t) (L. 1986, ch. 236, §1).

The question is whether PAs and ARNPs fit under this definition.

I. Advanced Registered Nurse Practitioner

An ARNP is defined in K.S.A. 65-1113(g) as "a professional nurse who holds a certificate of qualification from the board [of nursing] to function as a professional nurse in an expanded role" The categories of ARNPs and the role and authority of each are set forth in K.A.R. chapter 60, article 11. An ARNP nurse-midwife and an ARNP nurse anesthetist are both authorized to "participate in the joint review and revision of adopted protocols or guidelines." K.A.R. 1985 Supp. 60-11-105(e); 60-11-106(i). An ARNP nurse clinician has authority to:

↓
"manage the medical plan of care prescribed for the client, based on protocols or guidelines adopted jointly by the nurse practitioner and the attending physician;

. . . .

"participate, when appropriate, in the joint review and revision of adopted protocols or guidelines when the advanced registered nurse practitioner is involved in the medical plan of care." K.A.R. 1985 Supp. 60-11-104(f), (1).

It is maintained that an ARNP is authorized by law to prescribe medicine since certain ARNPs have authority by regulation to manage the medical plan of care developed for the patient based on protocols adopted jointly by the ARNP and the attending physician. The question is whether, in accordance with K.S.A. 65-1626(t), as amended by L. 1986, ch. 236, §1, an ARNP is expressly licensed or registered to issue prescription orders.

An ARNP functions as a nurse in an expanded role. The definition of the practice of nursing does not include

prescribing medicines. K.S.A. 65-1113(d). As provided by regulation, certain ARNPs in their expanded role may participate in developing a health care plan and manage that plan. This grant of authority does not, however, authorize an ARNP to issue a prescription order. As we are not aware of any statute or regulation which states that an ARNP may issue prescription orders or that they may issue such an order pursuant to standing orders or protocol, we must conclude that ARNPs are not authorized by law to do so.

II. Physicians' Assistants

A PA is defined under the Healing Arts Act as "a skilled person . . . who is qualified by academic training to provide patient services under the direction and supervision of a physician who is responsible for the performance of that assistant." K.S.A. 65-2897a(c). A PA registered with the Board of Healing Arts is authorized to perform the acts outlined in K.S.A. 65-2896e:

"A person whose name has been entered on the register of physicians' assistants may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician's assistant. Before a physician's assistant shall perform under the direction and supervision of a physician, such physician's assistant shall be identified to the patient and others involved in providing the patient services as a physician's assistant to the responsible physician. A physician's assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887 and amendments thereto." (Emphasis added.)

"Direction and supervision" is defined as follows:

"'Direction and supervision' means the guidance, direction and coordination of activities of a physician's assistant by his or her responsible physician, whether written or verbal, whether immediate or by prior arrangement, and shall not be construed to mean that the immediate or

physical presence of the responsible physician is required during the performance of the physician's assistant." K.S.A. 65-2897a(a).

The issue whether physicians' assistants may issue prescription orders was raised during the 1978 session of the legislature. As a result of an interim study concerning physician extenders, the special committee on public health and welfare recommended introduction of 1978 House Bill No. 2719. Section seven of the bill as introduced to the House of Representatives read as follows:

"Prescriptions may be written by physicians' assistants as provided in this section when authorized by the responsible physician except for those controlled substances that are listed on schedule II under federal and Kansas uniform controlled substances acts. The prescription shall include the name, address and telephone number of the responsible physician. The prescription shall also bear the name and the address of the patient and the date on which the prescription was written. The physicians' assistant shall sign his or her name to such prescription followed by the letters 'P.A.' and his or her federal drug enforcement administration registration number."

The special committee's report on the proposed bill reads in pertinent part as follows:

"The Committee has concluded that the scope of practice of a physicians' assistant in Kansas should be determined by the employing physician rather than by the Board of Healing Arts or by statutes. Experience in those states which have adopted a statutory 'laundry list' of responsibilities which can be assumed by the physicians' assistant indicates that this approach needlessly limits the use of the physicians' assistant.

"In reaching the conclusion that the responsible physician should determine the

scope of practice of the physicians' assistant, the Committee recognizes that the physician who employs a physicians' assistant remains legally and medically responsible for the actions of that assistant. Ultimately, only the employing physician can judge effectively how the physicians' assistant performs and the limits of his capabilities. The physician should be free to exercise judgment in such matter, fully realizing that if his judgment is faulty he retains the liability for the practice acts of the physicians' assistant.

.....

In line with its conclusion that the scope of practice of the physicians' assistant should be determined by the responsible physician, the Committee has concluded that statutory authorization should be given for physicians' assistants to prescribe legend drugs and controlled substances, except those substances in Schedules I and II of the state and federal controlled substances act. The Committee recognizes that there will be opposition to allowing the physicians' assistant to prescribe drugs. However, the members conclude that such authority should be available if the responsible physician chooses to authorize his assistant to exercise it. Again, the Committee notes that the decision to authorize a physicians' assistant to prescribe, and any limitations on such authority, is that of the responsible physician who also is legally and medically liable for the practice actions of the physicians' assistant." Report on Kansas Legislative Interim Studies to the 1978 Legislature, Vol. II, pp. 1100-1102. (Emphasis added.)

Section seven of 1978 House Bill No. 2719 was deleted from the bill by the Senate Committee on Public Health and Welfare on March 7, 1978. Minutes of that meeting read as follows:

"Senator Talkington made a motion seconded by Senator Morris to delete New Section 7 Based on Committee reaction to testimony about the ways in which physician's assistants now write prescriptions it was noted that this seems to be OK as long as the procedure being used is technically legal and the legislators do not have to endorse it It was again noted that New Section 7 does not authorize a physician's assistant independently to write prescriptions. It is permissible only if the responsible physician authorizes it and only to the extent of his authorization. Motion carried with six voting in favor." (Emphasis added.)

It cannot be said that the senate committee intended to prohibit PA's from issuing prescriptions under the direction and supervision of their responsible physician. The above testimony indicates the committee recognized the authority of a physician's assistant, did not want to endorse this practice in the bill, but wanted to allow each physician the decision whether to allow his or her assistant to write prescriptions.

The question is whether, under K.S.A. 65-1626, as amended by L. 1986, ch. 236, §1, a PA is expressly licensed or registered to prescribe medication. The term "expressly" is defined as "in direct or unmistakable terms; explicitly; definitely; directly." Blacks Law Dictionary 522 (rev. 5th ed.). 1986 Senate Bill No. 779, which changed the definition of "practitioner," was referred to the committee of the whole in both the Senate and House of Representatives the same day it was introduced into each respective house. The language "expressly licensed or registered" was added to the bill by the House on Final Action. Therefore, there are no committee minutes to explain the purpose and scope of the amendment.)

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action

The 1986 legislature did not amend or enact a law which states that a PA may not prescribe. In outlining a PA's authority, K.S.A. 65-2896e states that a "physician's assistant may not perform any act or procedure performed in the practice of optometry" This statute was not amended by the 1986 legislature. The doctrine of expressio unius est exclusio alterius provides that if the "statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded." Blacks Law Dictionary 521 (rev. 5th ed.).

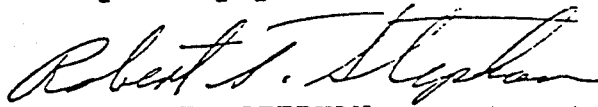
Given this rule of statutory construction, it follows that PAs are not prohibited from prescribing medication because the legislature would have so stated if it had so intended.

The evidence does not show that it was the intent of the legislature to exclude PAs from issuing prescription orders by changing the definition of "practitioner." The statutes, therefore, must be examined to determine whether a PA is "expressly licensed or registered" to prescribe medicine. A prescription order must be issued and signed by a "practitioner," which is defined to include persons licensed to practice medicine and surgery. K.S.A. 65-1626(t) and (x). A provision among the healing arts statutes states that "[p]ersons who prescribe, recommend or furnish medicine or drugs" are deemed to be engaged in the practice of medicine and surgery. K.S.A. 65-2869(b). A PA is authorized to perform "under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery." K.S.A. 65-2896e. Therefore, it is our opinion that physicians' assistants may issue prescription orders under the direction and supervision of a physician.

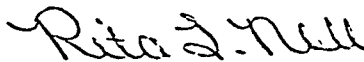
In summary, it is our opinion that advanced registered nurse practitioners may not issue prescription orders pursuant to a physician's standing orders or protocol because they have not been granted such authority by the statutes and regulations under which they are licensed. Physicians' assistants, however, are expressly authorized by statute to practice medicine under the direction and supervision of a physician. Since the practice of medicine includes the act of prescribing medicine, we conclude that physicians' assistants may issue prescription orders under the direction and supervision of a physician.

SUMMARY

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Rita L. Noll
Assistant Attorney General



JOHN CARLIN
GOVERNOR

University of Kansas

HELD AT Lawrence, KansasDATE September 22, 1986

MEMBERS PRESENT: President Charles Carden, Vice President Glen Mathis, Members Nancy Hanna, Martha Hartwell, Marian Shapiro, and Patrick Parker

NON-MEMBERS PRESENT: Executive Secretary Tom Hitchcock, Board Attorney Lynn Ebel Davis, Drug Inspectors Robert Duncan, Bob Henre and Barney Lambert, and Office Secretary Angela Buoy

Ken Schafermeyer of the Kansas Pharmacists Association and Marsha Hutchison of the Kansas Medical Society met with the Board. Mr. Schafermeyer discussed the following items:

- 1) Administration of drugs by a pharmacist. Mr. Schafermeyer stated that the KPA Board of Trustees takes the position that pharmacists should be allowed to administer drugs when authorized by the doctor or the patient, but there may need to be some legislative changes in the definition of administer. Mrs. Hartwell moved to endorse KPA Board of Trustees' position on such administration of drugs. Mr. Mathis seconded the motion. Motion carried 6-0.
- 2) Marinol. The Board informed Mr. Schafermeyer that a roll call vote had already been taken designating it as a designated Schedule I prescription substance. Ms. Davis stated that it may be mid October before the regulation becomes effective since it must be approved by the Regulation Board.
- 3) Mr. Schafermeyer stated that the law seminar would need to be rescheduled to spring of 1987, probably in May.
- 4) Impaired pharmacist. Mr. Schafermeyer stated that House Bill 2661 of the last legislative session requires an agreement between health care providers' respective Associations and Boards on impaired providers. Mr. Schafermeyer stated that the present agreement between KPA and the Board may need to be reviewed to verify that it is in compliance. In reviewing House Bill 2661, the Board discussed a section concerning the way complaints or violations may be handled. Once of the procedures was to have the Association handle them if it was able. If it was not able, the complaint or violation would be forwarded to the Board. Ms. Hutchison stated that even though the bill referred to health care providers, the Medical Society may be the only ones using this procedure. This is due to much controversy with the Board of Healing Arts' disciplinary actions. Mr. Parker moved to take a position that Section 4 of House Bill 2661 should be revoked. Motion died for lack of second. The Board requested Mr. Schafermeyer to find out what the KPA Board of Trustees' position is on the new statute. Mr. Parker moved to review House Bill 2661 with legal counsel before the Board develops a position. Mrs. Shapiro seconded the motion. Motion carried 6-0.
- * 5) PA and ARNP prescribing under protocol. The Board stated that an earlier decision had been set that the Board would support their previous opinion until the legislature clarifies the issue. Mr. Schafermeyer and Ms. Hutchison discussed the issue further with the Board.

Attachment 3-D
2/11/87

 PRESIDENT

 EXECUTIVE SECRETARY DR
VICE-PRESIDENT

MINUTES OF THE MEETING

KANSAS STATE BOARD OF PHARMACY

Page 8 of 10

JOHN CARLIN
GOVERNOR

University of Kansas

HELD AT Lawrence, KansasDATE September 22, 1986

MEMBERS PRESENT: President Charles Carden, Vice President Glen Mathis, Members Nancy Hanna, Martha Hartwell, Marian Shapiro, and Patrick Parker

NON-MEMBERS PRESENT: Executive Secretary Tom Hitchcock, Board Attorney Lynn Ebel Davis, Drug Inspectors Robert Duncan, Bob Henre and Barney Lambert, and Office Secretary Angela Buoy

The following people appeared before the Board, in addition to Mr. Schafermeyer and Ms. Hutchison:

* Micki Zenger, Charlotte Peake, Debbie Folkerts, and Jim Carter - Nurses
Susan Miringoff and Mary Lou Allen - representing the Kansas State
Nursing Association

The group discussed with the Board the issue of ARNP prescribing under protocol and the Attorney General's opinion on such. The Board informed the group of their position on the issue. The Board stated that since the Attorney General's opinion was adverse to ARNPs, the nursing association may desire to lobby the legislature.

The Hearing Committee was dismissed to continue discussion on its agenda.

Agenda Item #15 - Proposed FY 88 Budget

Ms. Buoy presented information on the FY 88 budget. President Carden stated that the carryover of money is decreasing each year due to the computer purchase and due to the operating costs increasing each year.

Mr. Parker moved to increase the retail dealer permit fee on new and renewal to \$15, pharmacist renewal fee to \$55, and pharmacy renewal fee to \$105. Motion died for lack of second.

Mr. Parker moved to propose a regulation change to increase the manufacturer renewal fee to \$250, distributor renewal fee to \$250, pharmacist renewal fee to \$55, and pharmacy renewal fee to \$105. Mrs. Hartwell seconded the motion. Motion carried 5-0.

Agenda Item #16 - President and Executive Secretary to Attend 6th District Meeting

President Carden stated that he and Mr. Hitchcock are scheduled to attend the NABP 6th District meeting in South Padre Island, Texas on October 12-15, 1986.

Mr. Parker moved to approve the President and Executive Secretary to attend the meeting. Mrs. Shapiro seconded the motion. Motion carried 5-0.

Agenda Item #18 - Medication Removed from Nursing Homes by SRS During Audit

President Carden stated that concern has arisen regarding the Department of Social and Rehabilitation Services (SRS) investigators removing medications from nursing homes during audits to use as evidence in their cases. He stated that

PRESIDENT

EXECUTIVE SECRETARY OR
VICE-PRESIDENT



HB 2166 PHARMACY ACT

Mr. Chairman, members of the Public Health and Welfare Committee, my name is David Couch R.N. and I am a Family Nurse Practitioner in Burlingame, Kansas at the Osage Health Services, Inc clinic. I will be starting employment next week as a Nurse Practitioner in the Memorial Hospital of Topeka Redicare/Emergency Department.

I graduated from Washburn University with a B.S. in nursing in May of 1978. I served in the United States Air Force from graduation until 1982. I then moved to Columbia, Missouri where I began my masters degree in nursing. I have worked as a staff nurse, critical care and emergency room nurse, adjunct professor and in a rural clinic setting.

The reason I am here today is to ask this committee to change the current definition of "practitioner"* in the Pharmacy Act back to the definition which states "Practitioner"- "means a person licensed to practice medicine and surgery, dentists, podiatrist, veterenarian, scientific investigator, or other person licensed, registered or otherwise authorized by law to administer, prescribe and use prescription-only drugs in the course of professional practice or research."

*Definition of Practioner in the Pharmacy Act K.S.A. 65-1626 (t).

PH & W #4
atm
2-11-87

The functions of the Nurse Practitioner as I see them include:

A. The N.P. works with clients (individuals & families) within the nursing framework to promote optimal wellness and functioning of the individual or the family system.

1. Provides nutritional assessment services.
2. Develops comprehensive health maintenance programs.
3. Provides physical examination services.
4. Works with clients to teach self-care.
5. Works with individuals to teach medication use and improve compliance.
6. Provide health appraisal services.
7. Works with clients to alter life style and adaptive lifestyle.

B. Works interdependently with physician in providing illness care (care requiring medication). Work in collaboration with Stanley D. Hornbaker, M.D., to provide these services.

1. Episodic illness care-Medications provided through protocol.
 - a. Earaches
 - b. Sorethroats, etc.
2. Joint follow-up with Dr. Hornbaker in following clients with chronic illness.
 - a. Hypertension
 - b. Diabetes, etc.
3. Work with clients with viral illnesses.
 - a. Assessment, teaching, follow-up
 - b. Provide appropriate referral if indicated
4. Provide Case finding and appropriate referral and follow-up.

The current ARNP regulations allow nurses' to have interdependent relationships with physicians. This may include prescribing medications based on standing orders and protocols.

My clinic in Burlingame is located in a critically underserved area for primary care as defined by the Kansas Department of Health and Environment under K.S.A. 76-375.

PH: D
2-11-87
02-11-87

As a nurse practitioner I was recruited by the community to come work in Burlingame. I currently communicate prescription orders to the pharmacy by phone. These orders are not transmittals, but are prescriptions that in my professional opinion are appropriate for the client and his assessed illness. I use independent judgement and assessment in deciding when to prescribe. The physician I work with and I meet daily or semi-weekly to review patient charts, findings, prescriptions and follow-up.

As a nurse practitioner in Burlingame, Kansas I feel I am meeting the health care needs of the clients I see. Both Dr. Hornbaker and myself refer appropriate cases to each other, depending on what type of intervention is needed. To protect the ability of ARNP's such as myself to prescribe medications that are based on standing orders and protocols which have been jointly adopted by a physician and an ARNP, I respectfully request this committee to amend the current definition of practitioner to the previous language used.

Thank you for allowing me to address this committee on this very important nursing practice issue.

DAVID L. COUCH, ARNP, M.S.

Birth Date: July 10, 1955
Birthplace: Topeka, Kansas
Marital Status: Married
Home Address: 116 W. Chase
Burlingame, KS 66434
Home Telephone: (913) 654-3797
Work Address: St. Francis Hospital and Medical Center
1700 West 7th
Topeka, KS 66606
Work Telephone: (913) 295-8579

Licenses

Kansas: Advanced Registered Nurse Practitioner (Family) 13-041747-071
Registered Nurse 13-041747-071
Missouri: Registered Nurse (Inactive)
New Mexico: Registered Nurse (Inactive)

Education

B.S. Degree in Nursing, Washburn University of Topeka, Topeka, Kansas.
Degree conferred May 1978.
M.S. Degree in Nursing, University of Missouri - Columbia.
Degree conferred December 1986.

Honors or Awards

Military (United States Air Force 1978-1982)

1. USAF Training Ribbon
2. USAF Commendation Medal
3. Finalist, Junior Officer of the Quarter, 1606 Air Base Wing, Spring 1982.

Civilian

1. W.K. Kellogg Foundation 1983-84.

Continuing Education

1. Critical Care Nursing Course, School of Health Care Sciences, USAF, Sheppard AFB, Texas, November 1979.
2. Infection Control Workshop, Wilford Hall USAF Medical Center, Lackland AFB, Texas, March 1980.

3. Operational Readiness - Preparing for the Challenge, Naval Regional Medical Center, San Diego, California, October 1980.
4. Emergency Cardiac Care, USAF Hospital Kirtland, Kirtland AFB, New Mexico, March 1981.
5. Advanced Cardiac Life Support Provider, USAF Hospital, Kirtland AFB, New Mexico, April 1981.
6. Core Review Program - American Association of Critical-Care Nurses, Portland, Oregon, June 1981.
7. Military Airlift Command Travel Seminar on Infection Control, USAF Hospital Kirtland, Kirtland AFB, New Mexico, September 1981.
8. Advanced Cardiac Life Support, Instructor, VA Medical Center, Albuquerque, New Mexico, December 1981.
9. Physical Assessment, American Association of Critical-Care Nursing, Albuquerque, New Mexico, March 1982.
10. Understanding Fluid and Electrolytes, Blood Component Therapy and Total Parenteral Nutrition (Instructor). USAF Hospital Kirtland, Kirtland AFB, New Mexico, April 1982.
11. Court Ruling: Implications for Health Care and Nursing Practice. University of Missouri - Columbia, Columbia, Missouri, February 1983.
12. Ninth Annual Family Planning Conference, Hilton Plaza Inn, Kansas City, Missouri, University of Kansas College of Health Sciences, May 1984.
13. Clinical and Political Challenges for the 80's, Ramada Inn, Columbia, Missouri, University of Missouri - Columbia, September 1984.
14. Professional Nursing in Missouri: Are You Up To Date? University of Missouri - Columbia, Missouri Nurses Association, October 1984.
15. KAHEC, Spring Workshop, Wichita, Kansas, April 1986.

Academic Professional Experience

1. Co-instructor, Emergency Medical Technician Program, Linn Technical College, Linn, Missouri, November 1983 to April 1984.
2. Instructor, Interim Course in Emergency Nursing, Washburn University, Topeka, Kansas, January 1986.
3. Adjunct Professor of Nursing, Health Appraisal Course, Washburn University, Topeka, Kansas, January to May 1987.

Non-Academic Professional Experience

- June 1986 to Present
Family Nurse Practitioner
Osage Health Services Inc.
130 W. Santa Fe
Burlingame, KS 66434
- Responsibilities: In a clinic setting, provide primary health care services to individuals and families within a nursing framework. Work in association with Stanley D. Hornbaker, M.D.
- November 1985 to Present
Shared Services Educational Consultant
Department of Education
St. Francis Hospital and Medical Center
Topeka, Kansas 66606.
- Responsibilities: Develop and coordinate nursing education programs for small community hospitals. Coordinate and teach ACLS programs in St. Francis and for outlying hospitals.
- May 1985 to November 1985
Staff Nurse, Emergency Department
Stormont-Vail Regional Medical Center
Topeka, Kansas
- Responsibilities: Provide direct patient care to patients in the emergency department.
- January 1985 to May 1985
Staff Nurse, Emergency Department, Moberly
Regional Medical Center, Moberly, Missouri.
- Responsibilities: Provided direct patient care to patients in the emergency department. Provided medical control point for paramedics.
- October 1983 to January 1985
Charge Nurse, Emergency Department, Audrain
Medical Center, Mexico, Missouri
- Responsibilities: Provided direct patient care to patients in the emergency department. Supervised one LPN and two EMT-P's. Responsible for triaging patients and serving as medical control point for paramedics.
- January 1983 to October 1983
Staff Nurse (PSP) Coronary Care Unit,
University of Missouri Hospital and Clinics,
Columbia, Missouri 65201.
- Responsibilities: Provided direct patient care to patients with cardiac dysfunctions in a six bed coronary care unit.

September 1982 to
January 1983 Staff Nurse, Cardiac Telemetry Unit (3000),
Boone Hospital Center, Columbia, Missouri 65201.

Responsibilities: Provided direct patient care and team leader for
patients with cardiac dysfunctions and patients
post-cardiac surgery on a 42 bed unit.

September 1981 to
September 1982 Charge Nurse (Officer in Charge) of
Emergency Medical Services, USAF Hospital Kirtland,
Kirtland AFB, New Mexico 87117.

Responsibilities: Developed nursing policies and procedures.
Developed inservice education programs for
technicians, developed credentialing programs for
technicians, developed nursing standards of care,
developed retrospective audit procedures. Provided
direct nursing care to patients in hospital and
field. Along with Noncommissioned Officer in
Charge, supervised staff of fourteen technicians.

July 1981 to
September 1981 Interim Charge Nurse of eight bed Special Care Unit,
USAF Hospital Kirtland, Kirtland AFB, New Mexico
87117.

Responsibilities: Supervised a staff of seven Registered Nurses and
ten technicians. Managed the SCU between permanent
Charge Nurses.

April 1980 to
July 1981 Staff Nurse, Special Care Unit, USAF Hospital
Kirtland, Kirtland AFB, New Mexico 87117.

Responsibilities: Provided direct patient care to mixed critical-care
patients (intensive care - coronary care) and
supervised two to three technicians.

March 1979 to
April 1980 Staff Nurse, Surgical Ward, USAF Hospital Kirtland,
Kirtland AFB, New Mexico 87117.

Responsibilities: Provided and supervised nursing care on a thirty bed
multi-service Surgical Ward.

September 1978 to
February 1979 Nurse Intern, USAF Medical Center Keesler,
Keesler AFB, Mississippi 39534.

Responsibilities: Provided general nursing care under the supervision
of a preceptor in the following areas: general
medicine, thoracic surgery, and pediatrics.

Professional Appointments - Certifications

1. Emergency Medical Technician - Ambulance.
 - a. Formerly nationally registered.
 - b. Formerly certified in Kansas.
 - c. Formerly certified in New Mexico.

2. Advanced Cardiac Life Support Provider.
3. Advanced Cardiac Life Support Instructor.
4. Emergency Medical Technician - Paramedic.
 - a. Formerly certified in New Mexico.
5. Former Certification in Critical-Care Nursing (CCRN).
6. Former Certification in Emergency Nursing (CEN).
7. Teaching Certificate, State of Missouri Public Schools, Emergency Medical Care.
8. ANA Certification as a Family Nurse Practitioner.

Other Appointments

1. Infection Control Officer, December 1979 to December 1980, USAF Hospital Kirtland.
2. Traveling Evening Nursing Clinics, University of Missouri - Columbia.

Professional Papers, Talks, and Workshops

1. Instructor, Understanding Fluid and Electrolytes, Blood Component Therapy and Total Parenteral Nutrition. USAF Hospital Kirtland, Kirtland AFB, New Mexico, April 1982.
2. Instructor, Emergency Medical Technician Courses, Kirtland AFB, New Mexico.
3. Taught numerous inservice programs for the Emergency Department, Special Care Unit and Hospital, USAF Hospital, Kirtland AFB, New Mexico.
4. Guest Lecturer, USAF Pararescue School, Kirtland AFB, New Mexico.
5. Lectured emergency cardiac care, paramedic refresher program, University of Missouri - Columbia.
6. Guest instructor in emergency cardiac care and pharmacology, Randolph County Ambulance Service, Moberly, Missouri.
7. Lecturer in Critical-Care Nursing, Audrain Medical Center, Mexico, Missouri.
8. Guest Lecturer, Shawnee County Emergency Medical Technician Association, Topeka, Kansas.
9. Guest Lecturer, Medevac MidAmerica Ambulance Service, Topeka, Kansas.

10. Numerous programs taught as Shared Services Educational Consultant.
11. GI Emergencies, Hays, Kansas, St. Anthony Hospital, August 1986.

Consultations

1. Sportsmedicine of Albuquerque, develop emergency crash cart, Fall 1981.

Publications

1. Written a number of health education articles for base newspaper, Kirtland AFB, New Mexico.

Committee Assignments

1. Member of the committee to search for new Dean, College of Nursing, University of Missouri - Columbia.
2. Member of Symposium and Election Committees. Albuquerque Chapter, American Association of Critical-Care Nurses.

Professional Memberships

1. Former member American Association of Critical-Care Nurses, National Member and Albuquerque Chapter.
2. Former member American Heart Association.
3. Member Missouri Emergency Medical Service Alliance (MEMSA).
4. Member American Nurses Association.
5. Member Kansas State Nurses Association.
6. Member National Association of Pediatric Nurse Associates and Practitioners.

Liability Insurance

1. Kirke-Van Orsdel Inc., policy number 00688-1064580.

February 11, 1987

I am Lynnetta Handshy, and I am an Advanced Registered Nurse Practitioner certified in the area of family practice. I received my BSN from Pittsburg State University and my FNP from the University of Kansas.

I am presently employed as an ARNP by my husband, a board certified family physician. Together we work to provide quality health care in a medically underserved area of Kansas. We have two clinics; one located in a town of approximately 1200 people and the other in a town of approximately 400 people, the latter town being repeatedly unsuccessful in keeping a physician to care for their health care needs.

The reason for my testimony is because there is seemingly a great deal of controversy regarding what a nurse practitioner is and what one does. Simply stated, I am a nurse. This means that I see basically healthy people who wish to discuss health care problems. I listen, teach and console. I do routine exams on well babies and give immunizations, follow-up normal OB cases, and do routine exams for screening of healthy persons. I educate mothers, counsel mothers-to-be, and assure healthy persons that they are indeed healthy. During these encounters I also see such things as a child with a temperature or a person with a sore throat. Appropriate laboratory tests are performed and examinations are done to ascertain whether a common health problem may exist. If a definite diagnosis can be reached, I proceed to treat along with my teaching and counseling. These measures sometimes involve use of non-controlled prescription medications. For instance some Bactrim for a urinary tract infection, taking into consideration any contraindication. These measures are currently being checked with the physician each time before being called to the pharmacy. This practice has greatly increased patient waiting time, decreased my effectiveness in assisting the physician, and increased the costs of health care delivery by doubling long distance phone calls.

Prior to Senate bill 779 I worked from a very specific written protocol developed by my physician employer and myself. He and I spent a great deal of time doing examinations, discussing appropriateness of certain screening labs and diagnosis of basic health care problems. In doing this he was satisfied with my ability to recognize and deal with each and every illness entity I am authorized to handle. Anything deviating from these protocols was referred to him. In addition, we also spent much time finding a way to assure him I continually followed appropriate protocol. This involved dictation of each chart, transcription, and then the physician reading and ordering co-signature on each and every person seen by me. This gave him an opportunity to question, change or follow up on any aspect of care he felt necessary.

In summary, I wish to reiterate that I am a nurse and I do nursing. My role is considered complimentary to my physician counterpart. It allows our patients the benefits of both medical and nursing care. I believe that having the ability to follow protocol in functioning is in the best interest of the patient population. This would conserve medical resources to be used for the treatment aspects of the more complicated health problems, as well as offering basic every day health care in the same community in which the consumer resides. Otherwise the consumer must drive 18-20 miles to visit a town with a physician, wait long and costly hours to see that physician frequently to receive an antibiotic for a strept throat or to be told that they have the flu.

Lynnetta Handshy, ARNP

*P Hall
attm. # 5
2-11-87*

Belleville Medical Clinic, P.A.

TELEPHONE 527-2217 — 1206 - 18TH STREET

BELLEVILLE, KANSAS 66935

DUANE L. SCOTT, M.D., FASAS, FAAFP
JAMES A. WARD, M.D., FAAFP
Diplomate - American Board
of Family Practice

JANICE W. SELBY, BUSINESS MANAGER

My name is Charlotte Peake and I reside at 2540 Sunset Drive, Belleville, Kansas.

I am an advanced registered nurse practitioner. I am a graduate of the Bryan Memorial Hospital School of Nursing in Lincoln, Nebraska and I received my post-graduate education at Wichita State University, graduating from the Nurse Clinician/Nurse Practitioner program. I am currently certified by the State of Kansas as a Nurse Practitioner within the specialty area of Family Practice and I also am board certified by the American Nurses Association as a Family Nurse Practitioner.

I am working within a collaborative practice arrangement at the Belleville Medical Clinic, P.A. with Drs. James A. Ward, D. L. Scott, and W. E. Schlotterback. This is an active family practice clinic located in rural north central Kansas. We provide full family practice services, including obstetrics, pediatrics, adult, and geriatric care.

My work in the clinic involves a variety of patient care situations including patient education, assisting in surgery, performing complete history and physical examinations, and managing acute, episodic, and chronic illnesses based on protocols established jointly with the physicians. I see a variety of patients including children with respiratory infections, adults with infections, hypertension, etc. The basis for management of these conditions is clearly outlined in the protocols which we have developed and a part of each protocol includes the ordering of medications. It is on the basis of the statutory authority (65-1113, 65-1130) granted nurse practitioners that we are able to practice in this manner.

★ Belleville, Kansas has one pharmacy and it is to this pharmacy that the medications which I order based on protocols are phoned to. The pharmacist after reading the Attorney General's opinion on SB 779 now feels uneasy on this subject, even though the Board of Pharmacy has expressed that they do not consider it illegal for a pharmacist to fill a prescription from a nurse practitioner.

★ As a result, the pharmacist is no longer honoring any medications which I have ordered for patients based on established protocols. This presents a dilemma when the physician is in surgery and is not in the clinic at the time I am seeing a patient and it is at these times that I call the pharmacy for medications for patients. All other times I have the physician sign the prescription at the time I see the patient when he is in the office, but the medications chosen were still based on the same protocols developed jointly by the physicians and myself as when the physician is not in the clinic. It is also to be noted that the rules and regulations state that the physical presence of the physician is not implied when care is given by the nurse practitioner.

PHell
attn # 6
2-11-87

In summary, legislation has been passed granting nurse practitioners authority to manage the medical plan of care based on protocols and by taking away the ordering of medications by these practitioners with specialized training, in essence negates this legislation which has already been established.

I respectfully request the committee to take these facts into consideration and will be happy to answer any questions you may have.

Very truly yours,

Charlotte Peake C.F.N.P.

Charlotte Peake, R.N., FNP

Kansas State Board of Pharmacy

503 KANSAS AVENUE, SUITE 328
P.O. BOX 1007
TOPEKA, KANSAS 66601-1007
PHONE (913) 296-4056

STATE OF KANSAS



Mike Hayden
~~XXXXXXXXXX~~
GOVERNOR

HOUSE BILL 2166

House Public Health and Welfare Committee

Mr. Chairman, members of the Committee, my name is Tom Hitchcock, and I serve as the Executive Secretary of the Kansas State Board of Pharmacy. I appear before you today on behalf of the Board to speak in favor of the passage of House Bill 2166.

The Board would like to publicly commend and thank the Joint Committee on Administrative Rules and Regulations for their assistance and diligence in helping to clean up the Pharmacy Act and the Controlled Substances Act. This consideration and interest has been invaluable to the Board.

A number of additions and deletions in House Bill 2166 have to do with housekeeping language. The major changes are pharmacy rules and regulations moved to the statute, as the Board did not have statutory authority to make such regulations.

Commencing on page 4, line 0125, additional descriptive definition of pharmacist in charge allows the Board to promulgate rules and regulations as to the duties of a pharmacist in charge of a pharmacy.

The definition of preceptor on the same page, line 0152, also is extracted from current regulations. As pharmaceutical experience is one of the requirements for licensure, regulating who supervises such experience is necessary.

Other items were also moved from regulations to statute to allow the Board statutory authority to regulate and control. On page 6, line 0218, to require a standard of education necessary as a requirement for licensure. On page 7, line 0254, requirement for reciprocity shall not be greater than the state of original licensure or one year of practice as a pharmacist. On page 8, line 0286, requiring adequate communicative ability in English to protect the public health and welfare through patient communication and counseling. Page 10, line 0373, allowing some standard testing to assure competency to reinstate a previously licensed pharmacist. On page 11, line 0388,

*Attn. #7
PHW
2-11-87*

some individual Board members are very much in favor of this proposed amendment which allows non-pharmacists to perform those functions previously reserved for licensed professionals.

Since 1975, perhaps before that time, the issues of "pharmacy technicians" and "count and pour" have been debated and yet those issues remain, even today, controversial.

The Board of Pharmacy is not afraid to face such controversy and if the Legislature, in its wisdom, decides that supportive personnel (which are non-pharmacists) may perform functions previously reserved to licensed pharmacists (as long as supervised by a 1:1 ratio), then this Board will not oppose such a progressive step.

However, the Board of Pharmacy would request that, in the near future, specific statutory authority be given to the Board to promulgate rules and regulations regarding the scope of duties and required training of these supportive personnel.

On page 12, line 0429, the limit of the pharmacist examination fee was increased to \$250. The national exam cost to the Board will be raised from \$75 to \$150. The attached explanation indicates the necessity of such a fee increase.

Again, House Bill 2166 is a good bill and will be an asset to the Board, the public health and welfare, and the pharmacy profession.

TCH:arb

Attachment

KANSAS STATE BOARD OF PHARMACY

Justification for Examination Fee Increase

K.A.R. 68-11-1 presently sets the examination fee at \$175.00. House Bill 2166 allows for the exam fee to not exceed \$250.00.

Setting the exam fee, by regulation, at \$250, 20% (\$50) will go to the State General Fund, with 80% (\$200) to the Pharmacy Fee Fund.

The costs per applicant are as follows:

NABPLEX exam	\$150.00
Lab fee	15.00
Inspector monitoring time	10.00
Certificates, stationery, postage, etc.	6.00
Secretary preparation time	<u>7.44</u>
Total cost per applicant	\$188.44

Revenue	\$200.00
Expense	<u>188.44</u>
Difference	\$ 11.56

Inspector monitoring time is based on two days for three Inspectors at their present salary and an estimated 45 applicants per exam. The secretary's preparation time includes all correspondence, scheduling, verifying information, and issuing licenses.

The above calculations do not take into account any salary increases or fringe benefits for employees.

Given the statutory authority, the Board will promulgate a regulation to become effective May 1, 1988 to raise the examination fee for applicants to \$250.

*attm # 2
PHAW
2-11-87*