

Approved 2-28-89
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 February 24, 1989 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:

Written testimony, Dorothy Knoll, Advisory Board Member, Behavioral Sciences Regulatory Board, Ft. Hays State University concerning SB-160.

Written testimony, Fred O. Bradley, PhD., Advisory Committee Member, Behavioral Sciences Board, Kansas State University, concerning SB-160.

Written testimony, Joseph P. Galichia, M.D., concerning SB-183.

The chairman called the meeting to order and placed SB-60 before the committee requesting their wishes concerning this bill.

Senator Burke moved to pass SB-60 out favorable for passage. Senator Salisbury seconded the motion and the motion carried.

Senate Bill 98 was called to the attention of the committee with the chairman calling attention to the amendment (Attachment 1) requested to protect Beech Aircraft company's present policy.

Senator Burke moved to adopt the amendment as presented with a second by Senator Salisbury. The motion carried.

Senator Burke moved to pass SB-98 out favorable for passage as amended. Senator Strick seconded the motion and the motion carried.

Senate Bill 181 was placed before the committee for discussion. Staff indicated 4 or 5 states have amended their controlled substances act to include steroids in the controlled substances act. This would be consistent with what the legislature has done in terms of classifying drugs that have some medical usage but are dangerous to the public. Norman Furse stated he would need to prepare an amendment as an alternative to a specific act for this special substance.

Senator Salisbury moved that anabolic steroids be placed under the controlled substances act. Senator Walker seconded the motion.

Senator Salisbury expressed concerns dealing with the person on the street and the black market aspect. Norman Furse replied that there were criminal penalties covering the controlled substances act. The motion carried.

Staff will bring this matter back to committee either in the form of a substitute bill or amended into SB-181.

Senate Bill 182 was placed before the committee. The Kansas Medical Society had expressed concern regarding the ordering of a physical or mental examination or drug screening. The Kansas Medical Society and the Board of Healing Arts will come back with acceptable language. Staff handed out an attorney general's opinion regarding testing for "reasonable

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 24, 1989.

suspicion." (Attachment 2) Senate Bill 182 was passed over until next week.

Senate Bill 183 was placed before the committee. An amendment offered by the Board of Healing Arts concerning SB-23 was deemed more appropriate for SB-183. Senator Salisbury stated it was her feeling this matter would be appropriate for an interium study.

Senator Hayden made the motion to report SB-183 not favorable for passage. Senator Salisbury seconded the motion. The motion was lost.

Senator Reilly pointed out that a meeting was to be held today with the PAs concerning this problem. The chairman passed over SB-183.

Senate Bill 189 was placed before the committee. Senator Salisbury questioned the reference to "confidential information". The Pharmacy Act does not contain either specific authority to adopt rules and regulations for confidentiality or authority to adopt a code of ethics without specific authorization in the act.

Senator Salisbury moved that the Board of Pharmacy be authorized to adopt rules and regulations concerning confidentiality of records maintained by pharmacists. Senator Reilly seconded the motion and the motion carried.

Senator Hayden moved SB-189 favorable for passage as amended. Senator Salisbury seconded the motion and the motion carried.

Senate Bill 198 was placed before the committee. An amendment was suggested to charge the cost of the examination rather than set a specified fee amount. This allows the fee to be changed without coming This allows the fee to be changed without coming back to legislature.

Senator Salisbury moved to amend SB-198 to cover the cost of the test. Senator Reilly seconded the motion and the motion carried.

Senator Reilly moved to pass SB-198 out favorable as amended. Senator Strick seconded the motion and the motion carried.

Senator Vidricksen brought up questions concerning SB-160 stating he would like to work with staff and come back next week concerning this bill.

The chair requested any wishes of the committee on bills previously heard. There were none and the meeting was adjourned at 10:43 a.m.

Written testimony from Dorothy Knoll, Advisory Board Member, Behavioral Sciences Regulatory Board from Fort Hays State University concerning SB-160 was presented to the committee. (Attachment 3)

Written testimony from Fred O. Bradley, Ph.D., Advisory Committee Member, Behavioral Sciences Regulatory Board, concerning SB-160 was presented to committee members. (Attachment 4)

Written testimony from Joseph P. Galichia, M.D., concerning SB-182 was presented to committee members. (Attachment 5)

The committee will convene at 10:00 a.m. Monday, February 27, 1989 in Room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 24, 1989

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

| | |
|-------------------------------------|---|
| <u>Allyn G. Gorkner Topeka</u> | <u>A.R.S.</u> |
| <u>Xatee Pyle " "</u> | <u>SHL - IAAAP Bld.</u> |
| <u>George Goebel</u> | <u>AARPCapital Area Task Force</u> |
| <u>Mark Intermill</u> | <u>Kansas Coalition on Aging</u> |
| <u>Esther V Way</u> | <u>Kansas Dept on Aging</u> |
| <u>Jim Gregory, Wichita</u> | <u>Beech Aircraft Corp.</u> |
| <u>Janette Hanzlich Topeka</u> | <u>Kansas Psychological Assn</u> |
| <u>John Listerman, M.D., Topeka</u> | <u>(Doctor - St - Res - Day) Blue Cross & Blue Shield of KS</u> |
| <u>Chip Wheelen, Topeka</u> | <u>KS Medical Society</u> |
| <u>Tom Hitchcock " "</u> | <u>Bd. of Pharmacy</u> |
| <u>Mary Ann Wabel</u> | <u>BSRB</u> |
| <u>Ken Baber Topeka</u> | <u>Ks. Assn of Prof Psychologists</u> |
| <u>Gary Rollins</u> | <u>Ks Opt Assn</u> |
| <u>KEITH R LANDIS TOPEKA</u> | <u>CHRISTIAN SCIENCE COMMITTEES ON PUBLICATION FOR KANSAS</u> |
| <u>Bruce Linder</u> | <u>KANSAS Society</u> |
| <u>Pam Klotz</u> | <u>Assoc. of CMHCs of Ks, Inc.</u> |
| <u>Raeann Turner</u> | <u>SILVER-HAIRE DHEBISWATPKE</u> |
| <u>Ray L. [unclear]</u> | <u>PA</u> |
| <u>John Pappas MD</u> | <u>[unclear]</u> |

SENATE BILL No. 98

By Committee on Public Health and Welfare

1-26

15
16 AN ACT concerning reimbursement for services performed by li-
17 censed specialist social workers under health and accident insur-
18 ance policies or contracts; amending K.S.A. 40-2,103 and 40-2,114
19 and repealing the existing sections.

20 *Be it enacted by the Legislature of the State of Kansas:*

21 Section 1. K.S.A. 40-2,103 is hereby amended to read as follows:
22 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102
23 and, 40-2,104 and 40-2,114 and amendments thereto shall apply to
24 all insurance policies, subscriber contracts or certificates of insurance
25 delivered, renewed or issued for delivery within or outside of this
26 state or used within this state by or for an individual who resides
27 or is employed in this state.

28 Sec. 2. K.S.A. 40-2,114 is hereby amended to read as follows:
29 40-2,114. Notwithstanding any provision of an individual or group
30 policy or contract of health and accident insurance, delivered within
31 the state, whenever such policy or contract shall provide for reim-
32 bursement for any service within the lawful scope of practice of a
33 duly licensed specialist ~~clinical~~ social worker authorized to engage
34 in private, independent practice under subsection (a) of K.S.A. 75-
35 5353 and amendments thereto within the state of Kansas, the insured,
36 or any other person covered by the policy or contract shall be allowed
37 and entitled to reimbursement for such service; ~~unless subject cov-~~
38 ~~erage is refused in writing by the policy holder,~~ irrespective of
39 whether it was provided or performed by a duly licensed physician
40 or a duly licensed *specialist* social worker authorized to engage in
41 private, independent practice under subsection (a) of K.S.A. 75-5353
42 and amendments thereto.

Unless subject coverage in those insurance plans in
existence on or before March 15, 1989 is refused in
writing by the policy holder prior to March 15, 1989

SPJ/W
2-24-89
Attachment 1



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

March 19, 1987

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 87- 49

Charles A. Peckham
Rawlins County Attorney
Atwood, Kansas 67730

Re: Constitution of the United States -- Fourth
Amendment -- Searches and Seizures

Constitution of the State of Kansas -- Bill of
Rights -- Search and Seizure

Synopsis: The Fourth Amendment to the United States Constitution gives people the right to be free from "unreasonable searches and seizures." Mandatory drug testing of county employees, without regard to job performance, would violate the Fourth Amendment prohibition against "unreasonable searches and seizures." However, the testing of such an employee is permissible if based upon "reasonable suspicion." Therefore, there is no constitutional bar to the testing of a county employee where circumstances give the employer a reasonable, objective basis to suspect illicit drug use by that employee.

Mandatory drug testing of applicants, without regard to job requirements, would violate the Fourth Amendment. However, testing of an applicant is permissible if it is in furtherance of a bona fide effort to learn whether an applicant is physically capable of performing the duties of a particular job. Accordingly, mandatory drug testing of all applicants for public safety positions is permissible. Cited herein: K.S.A.

SAPA W
2-24-89
Attachment 2



Fort Hays State University

Division of Student Affairs

600 Park Street

Hays, KS 67601-4099

(913) 628-4276

February 20, 1989

Senator Ray Erlich
Chair, Senate Public Health
and Welfare Committee
Room 138-N
State Capitol Building
Topeka, KS 66612

Dear Senator Erlich

I write this letter in regard to **Senate Bill 160**. I wish to share with you my perceptions of my relationship with the Behavioral Sciences Regulatory Board in my role as member of the Advisory Committee for the registration of counselors. I make the following observations:

1. The three person Advisory Committee has, for all practical purposes, taken the initiative to develop the rules and regulations for the registration of counselors. In addition, it has had the same latitude in developing forms and processing the applications.
2. The Behavioral Sciences Regulatory Board has accepted our input on the above mentioned items.
3. Any questions and concerns which have been directed to any of the committee members, have been brought to the Board and resolved in a timely and appropriate manner. I offer to you one concrete example. There was a concern raised in regard to the temporary rules and regulations in reference to 102-3-10(b)(18) and the fact that this seemed to be more restrictive than the 1987 approved statute in 1987. The Board listened to our concerns and made changes in the manner we proposed.
4. I believe there has been a concern raised that the Advisory Committee is a subservient group to the Behavioral Sciences Regulatory Board and therefore would not feel comfortable speaking out. Please rest assured that I am in no way intimidated by the Behavioral Sciences Regulatory Board and I would not continue to serve in the present capacity if I did not feel that the committee and the Board had a good working relationship. In addition, I have my own professional and personal integrity and ethics which guide me in my actions.

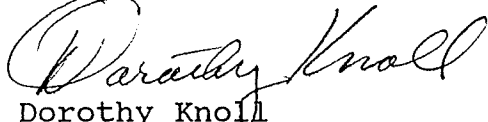
In conclusion, in my role as one member of the Advisory Committee for the Registration of Counselors, the relationship with the Behavioral Science Regulatory Board is serving the

SPH/vw
2-24-89
Attachment 3

Senator Ray Erlich
February 20, 1989
Page 2

interests of the public and the counselors in our state. Please feel free to contact me if you desire further input. Thank you.

Sincerely

A handwritten signature in cursive script that reads "Dorothy Knoll". The signature is written in dark ink and is positioned above the typed name.

Dorothy Knoll
Advisory Board Member
Assistant Vice President
for Student Affairs

cg

cc: Committee Members



**KANSAS
STATE
UNIVERSITY**

Counselor Education and
Educational Psychology
College of Education
Bluemont Hall
Kansas State University
Manhattan, Kansas 66506
913-532-5541

February 21, 1989

Senator Roy Ehrlich
Chairperson
Senate Public Health and
Welfare Committee
138-N State Capitol
Topeka, KS 66612

Dear Senator Ehrlich:

I am writing this letter with reference to **Senate Bill 160** which proposes additional members to the Behavioral Sciences Regulatory Board.

Since the inception of the legislation initiating the registration of professional counselors, I have sat on an advisory committee to assist in the process of implementing this registration act. It has been my experience that the advisory committee and the Behavioral Sciences Regulatory Board have enjoyed an extremely cooperative and effective working relationship. More particularly, the advisory committee has had a significant role in the development of rules and regulations for the registration of professional counselors. Further, the advisory committee has always had ready access to the Board for input regarding policies and procedures in managing the registration of professional counselors.

It is my understanding that some concern has been expressed about the role of the advisory committee as a subservient body to the Behavioral Sciences Board. In my experience I have never felt that my role was one of subservience. In fact, had that been the case, I would have resigned immediately. Moreover, the Board has been extremely receptive to the expertise provided by the advisory committee regarding the development and implementation of this registration process.

Should you or other members of the Senate Public Health and Welfare Committee have additional questions, I would be most happy to respond.

Sincerely,

Fred O. Bradley, Ph.D.
Advisory Committee Member
and Professor

FOB:amg

SPH/W
2-24-89
Attachment 4

GALICHIA CARDIOVASCULAR GROUP, P.A.

Consultation Cardiology-Adult and Pediatric

Main Office

The Heritage Plaza
818 N. Emporia, Suite 407
P.O. Box 47668
Wichita, Kansas 67201
(316) 264-8604
1-800-777-4446

St. Joseph Branch / Dr. Beck

1515 S. Clifton, Suite 215
Wichita, Kansas 67218
(316) 687-9961

Internal Medicine Branch

2916 E. Central
Wichita, Kansas 67214
(316) 684-5243

February 22, 1989

PUBLIC HEALTH & WELFARE COMMITTEE
Kansas Senate
Topeka, KS 66612

RE: Senate Bill No. 183 - Position Paper of the
Galichia Cardiovascular Group

To Whom:

I would like to take this opportunity to address the proposed Senate Bill No. 183 which directly affects my practice both in the urban and rural areas throughout the State of Kansas.

I am the president of one of Kansas' largest Internal Medicine/Cardiology practices. Currently, there are eighteen partners in my practice who are located in Wichita. I own practices in Hays, Concordia, Independence, Jetmore, Salina, Sedan, and manage a practice in Ashland. We are heavily involved in the three medical centers in Wichita and, to a lesser degree, with other health institutions throughout Kansas. Additionally, I am deeply committed to medical research and investigational endeavors. Our group provides cardiovascular clinics in twenty-five cities in rural Kansas for a total of thirty-three clinic days per month. At these clinics, we provide access to a specialist in rural Kansas (a listing of these rural clinics is attached).

I first utilized Physician Assistants in 1981. Currently, there are five (5) Physician Assistants in my practice. Three of these P.A.'s are designated hospital assistants, one office, and one clinic. Because of the philosophy regarding the utilization of Physician Assistants in my practice, I feel we are able to provide superb care to our patients, especially considering the volume of service we provide. By the utilization of Physician Assistants in my practice, I am able to provide part of the needed care to the rural areas of Kansas and, thereby, relieve a portion of the stress of the local medical doctor by seeing the high risk, complicated patients which are many times seen in physician's offices in those respective areas.

With the health care worker shortage in Kansas, I feel the Physician Assistant *S. P. W.* provides a much needed role to allow for optimum patient care while keeping *2-24-89* health care costs to a minimum. The majority of our patients are not from the *Attachment 5*

Angiology

Joseph P. Galichia, M.D., F.A.C.C.
Roger W. Roberts, D.O., F.C.C.P.
Gregory R. Boxberger, M.D., F.A.C.C.
Ernst Schneider, M.D.
Mark Howard Bowles, M.D.

Angiology

Charles W. Beck, M.D.
David R. Flatt, M.D., F.A.C.C.
Thomas G. Plavac, M.D.
Demo Klonis, D.O.
James A.M. Smith, D.O., A.F.A.C.A.

Electrophysiology

J.E. Val-Mejias, M.D., F.A.C.C.

Internal Medicine

Benjamin M. Matassarini, M.D.
Gerald T. Kennedy, M.D.
Dennis K. Buth, M.D.
Michael W. Treweeke, M.D.

Nuclear Cardiology & Angiology

Larry R. Poliner, M.D., F.A.C.C.
Dan A. Francisco, M.D., F.A.C.C.

Pulmonology

Douglas R. Livingston, D.O.

Radiology

Gregory C. Downing, M.D., D.A.B.R.

Position Paper of the Galichia Cardiovascular Group

RE: Senate Bill No. 183

urban areas, but are from rural Kansas, much in part because of my active involvement in rural clinics. Without a Physician Assistant staff, it would be difficult to provide the level of care these patients are accustomed to on our service. Another added benefit is that of saving traveling time and expense for these patients. Many of these patients are elderly and on a fixed income. By being available in their home town or area on a monthly basis, this results in a substantial savings and provides a specialist for closer follow-up when needed.

I am very concerned about the intent and rationale of Senate Bill 183. To my knowledge, there have been no problems in the past with the Physician Assistant profession as a whole. Indeed, my associates throughout the state are extremely satisfied with the appropriate utilization of Physician Assistants and the asset they are to one's practice. There are a few individuals who feel that Physician Assistants compete with physicians in the job market for patients. This belief is far from the truth and reality. In fact, because of my utilization of Physician Assistants, I have been able to build the practice to the size it is currently and expect to further expand the physician positions in the 1990's.

If the proposed changes were accepted, I feel this would adversely affect my practice throughout the State of Kansas, along with the quality of care I can and have provided because of my utilization of Physician Assistants. The new change would be restrictive and very cumbersome logistically to provide what the Kansas State Board of Healing Arts is recommending with these changes. The changes, indeed, could be disastrous for the rural physician who already is overworked in an underserved area and could deter a rural physician from trying to employ a Physician Assistant with all of the regulations imposed. Finally, I feel the proposed changes would infringe on my rights as a physician to employ those individuals whom I feel would assist me in providing quality care to my patients throughout the State of Kansas.

The reasons for these proposed changes are very vague and are not substantiated from a historical perspective when one looks at the Physician Assistant concept as a whole. It seems the current rules and regulations are satisfactory and I fail to see what benefit these changes would have for the health care system in Kansas, and particularly in rural Kansas. In fact, I foresee more potential problems developing because of the restrictive measures placed on physicians in the employment of Physician Assistants.

Position Paper of the Galichia Cardiovascular Group
RE: Senate Bill No. 183

One could extrapolate this concept of "forcing" the Physician Assistant in rural Kansas to the nursing shortage. That philosophy would be one of requiring urban areas to show a "certificate of need" over a rural Kansas town before the Kansas State Board of Nursing "approved" the nurse's place of employment which, in reality, is what Senate Bill No. 183 is trying to accomplish for the Physician Assistant and borders on a restraint of trade.

I believe this is on the premise of one assuming more rural physicians will hire more Physician Assistants if the Bill is approved. This, most assuredly, is a false assumption. I feel the author of the Bill must first prove there is a problem with the current Rules and Regulations and also prove, beyond doubt, that these proposed changes would channel more Physician Assistants to rural Kansas when the majority of rural physicians are not willing to employ Physician Assistants.

There is going to be a considerable cost for both the sponsoring physician as well as for the State Board to comply with all of the guidelines being proposed. Cost to the sponsoring physician, both in personal time as well as in printing costs and cost to the KSBHA to review the enormous amount of information generated by these proposed changes.

I believe the State Society of Physician Assistants will be addressing the areas of specific concerns. I, therefore, strongly urge that the proposed Senate Bill No. 183 be rejected by committee and all the current rules and regulations to stand as is, since the system is working satisfactorily under the current measures.

My final comment is that I noticed the Physician Assistant's profession is not officially represented on the State Board of Health Arts, which governs their practice in the state, but allows for no official representation. The phrase "taxation without representation" comes to mind when I look at this policy. Perhaps Governor Hayden or the committee could look into the appointment of a Physician Assistant representative on the Board, as all others governed by the Board are officially represented.


Page 4

Position Paper of the Galichia Cardiovascular Group
RE: Senate Bill No. 183

I am also concerned that not one physician, to my knowledge, who employs Physician Assistants or institutions who have Physician Assistants in their organization, was contacted for input regarding Senate Bill No. 183. This would be similar to having an appointed branch of government redefine your representative districts without allowing you or your constituents to be involved in the decision making process.

I would be happy to discuss this further or to a greater extent should you have any other questions.

Sincerely,

A handwritten signature in cursive script that reads "Joseph P. Galichia, M.D." The signature is written in dark ink and is positioned above the typed name.

Joseph P. Galichia, M.D., F.A.C.C.

JPG:cb

Enclosure

5-14