

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans at 1:30 p.m. on January 24, 1995 in Room 423-S of the State Capitol.

All members were present.

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Robert Williams, Kansas Pharmacy Association
Monya Schmidt, Kansas State Nurses Association

Others attending: See Guest List, Attachment 1.

The minutes of the meeting held on January 17, 1995, were approved.

Chairperson Mayans opened the meeting and asked for consideration of the minutes of the meetings held on January 12 and 17, 1995. Representative Henry said he understood the members or others could bring bills to the committee, and realized the chairman has authority to set the agenda and decide what bills will be heard. Regarding the minutes of January 12, 1995, Representative Henry asked that the paragraph relating to the Chairman's comments to Ms. Janet Schlansky be stricken as it does not reflect the subject as it was stated on the 12th. Representative Henry moved that the paragraph be stricken. Representative Rutledge seconded the motion. The chairperson asked for discussion.

Representative Morrison spoke against the motion, stating that the minutes adequately reflect what took place. Representative O'Connor stated she totally agreed with Representative Morrison and found no fault with the paragraph. Representative Gilmore asked Representative Henry if it is the issue the way it is written or that he took issue with the point made? Representative Henry said the chairman talked about fees and this paragraph is not the exact words; it was that the chairman "warned" the agencies not to bring bills to the committee that raised fees or altered the situation of families. Representative Merritt suggested that the Democrats do not support the fact that families should be encouraged. Representative Henry said he supported that wholeheartedly. Representative Merritt asked the Democrats if they have a problem with the support of families and things that involve families? Representative Henry replied that what they feel has happened in the committee minutes does not reflect what was stated whatsoever and therefore asked it be stricken and nothing inserted in its place. Representative Merritt stated in most committees the minutes are not a verbatim transcript but merely a reflection of the tone and statements made. He believes the paragraph is an accurate reflection of what was said that day. The Chairperson noted that a motion was on the floor.

Representative Merritt made a substitute motion that the minutes stand as written. Representative Landwehr seconded the motion. Representative Rutledge said he felt the substitute motion is inappropriate. Representative Yoh asked the Chairman if it makes a difference to him whether or not the paragraph is in the minutes. Chairperson Mayans said the minutes were not a verbatim report of what was said but should reflect the different ideas discussed. He believes that if certain items are not included it is then a gag order. Representative Haley asked how long are tapes kept, if they could be kept until the minutes are approved. Chairperson Mayans replied that the recording is an aid to staff and is kept as long as it has value in reporting. Representative Wells said since we're not here to have a tug of war, we should be here for the people of the state. Chairperson Mayans called for a vote on the substitute motion.

By a show of hands, the motion to leave the paragraph in the minutes of January 12, 1995 was approved: 8 voting for the motion, 7 opposed. (Two members abstained from voting.) The motion carried. Representatives Jerry Henry, Nancy Kirk, Joel Rutledge and "Dee" Donna Yoh requested that their "no" vote be recorded.

HB 2009 - Social welfare, prohibit mailing assistance payments to a post office box.

Chairperson Mayans opened the hearing on **HB 2009**. Emalene Correll presented background on the

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol, at 1:30 p.m. on January 24, 1995

problems of check delivery, particularly in the larger urban areas where residential mail boxes are subject to robbery. Sometimes the use of a post office box is the safest way to receive benefits.

Representative Gary Haulmark, sponsor of the bill, presented his testimony (see Attachment 2). He also distributed written testimony of Gerald Sourk, Manager of the Lenexa Post Office (see Attachment 3). Representative Merritt asked Representative Haulmark if he would oppose an exception to the law for the elderly. Representative Haulmark replied, probably not. Representative Hutchins suggested the possibility of utilizing electronic benefit transfer cards. Representative Merritt asked if it may be appropriate to cause a homeless person to receive benefits through a government office. Emalene Correll said many clients receive benefits through an Area SRS office. Representative Henry asked if it would be possible to have a state worker override the problem so that the homeless client would contact that worker to receive benefits. Emalene Correll said that at certain times the lines are long at the area offices especially when food stamps are being distributed. Representative Rutledge stated that in one area of his district some citizens are targeted for theft and harrasment so that to those people, a post office box is their only solution. Representative Haulmark also distributed written testimony from Ann Elliott, of Junction City (see Attachment 4). Representative O'Connor stated there are several situations, such as new divorcees, where use of a post office box is appropriate. Representative Gilmore asked Representative Haulmark if he had discussed the bill with SRS. Representative Haulmark replied he had not. Representative Henry said perhaps the electronic card will solve the problem. Emalene Correll said that SRS has gone out for bid on the card from a private contractor and believes it will be sometime in February before the bid is closed. The chairman closed the hearing on **HB 2009**.

Robert Williams, of the Kansas Pharmacists Association, presented the association's request that the Kansas Pharmacy Practice Act be amended to permit Kansas pharmacists to participate in prescription drug therapy under protocols of Kansas practitioners. Mr. Williams said the pharmacist would have 14 days in which to work with a patient under such a protocol, and any change in medication made by the pharmacist would be reported to the patient's physician. Representative Goodwin asked the position of the Kansas Medical Society. Mr. Williams said he was not aware of their position. He said other states (New Mexico, Nevada, California, Washington, South Dakota, Mississippi and Oregon) have this in place. Missouri is in the process. On motion of Representative Landwehr, seconded by Representative Gilmore, the committee approved the introduction of the bill as shown on Attachment 5.

Monya Schmidt, representing the Kansas State Nurses Association, requested introduction of legislation to permit Advanced Registered Nurse Practitioners to prescribe medications as authorized by the Board of Nursing (see Attachment 6). Representative Mayans said there is a proposal to allow pharmacists to do likewise. Representative Landwehr asked about liability. Ms. Schmidt replied she would research the question of whether such a change would increase the nurses cost of liability insurance. Ms. Schmidt said that 22 states have given nurses this independent authority. Also, pharmacological education is included in their required continued education. Representative Haley asked how the list of prescribed medications is made known to the physician. Ms. Schmidt said it is ordinarily a part of the health information gained at the time a patient has an appointment with the physician. Representative O'Connor asked if the present system is working, why change it? Ms. Schmidt said in the rural areas there is a real need as the physician may be several miles away and the nurse practitioner is the one handling the patient. On motion of Representative Morrison, seconded by Representative Yoh, the committee approved the introduction of the bill as shown on Attachment 6.

Chairperson Mayans reported he had visited with Ms. Peggy Jarman about her concerns on **HB 2083** (reporting termination of pregnancies) and that he had asked Emalene Correll to review Ms. Jarman's concerns. Ms. Correll's research memo has been distributed to members for review (see Attachment 7).

Also, Chairperson Mayans advised that a copy of the minutes of the meeting held on January 18, 1995 has been distributed to each member and will be acted on at tomorrow's meeting.

Representative Henry requested that a subcommittee be appointed to review **HB 2009** (social welfare, prohibit mailing assistance payments to a post office box). Chairperson Mayans then appointed the following to the subcommittee: Representative Jim Morrison, Chairman; Members: Representative Brenda Landwehr and Representative Joel Rutledge. He asked for an early report on the bill.

The meeting was adjourned at 2:59 p.m.

The next meeting is scheduled for January 25, 1995.

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES GUEST LIST

DATE: JANUARY 24, 1995

NAME	REPRESENTING
HAROLD PITTS	Individual
Alice J. J. J. J.	KDOT
Bob Williams	Ks. Pharmacists Assoc
GARY Robbins	Ks. Optometric Assn
Harold R. Ryan	KAOA
Nathalie Scharf	KHA
Kandy Shettle	SRS
Donald Snodgrass	Ks Food Dealers Assn
Joe Fungaric	Ks Chiropractic Assn
JK Shively	KS LEGAL SERVICES
Rick Carlson	Intern Rep. Henry
Panda Byrne	KSWA
Michelle Peterson	Ks Boo Consulting
Rich Ottman	Health Midwest
Stacey Empson	Hein, Ebert & Weir
Terri Roberts	KS NA
Marys Schmidt CNM	KSNA

GARY HAULMARK
REPRESENTATIVE, 30TH DISTRICT
JOHNSON COUNTY
8709 GALLERY
LENEXA, KANSAS 66215
(913) 894-2035

ROOM 181-W, CAPITOL BLDG.
TOPEKA, KANSAS 66612-1504
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TOPEKA
—
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
APPROPRIATIONS
TAX, COMMERCE & TRANSPORTATION
SUB-COMMITTEE
BUDGET REFORM & GOVERNMENTAL IMPACT
SUB-COMMITTEE

Mr. Chairman and members of the committee,

Thank you for the opportunity to testify today in favor of H.B. 2009. This is really a simple piece of legislation, and the need for the change was shown to me by Gerry Sourk. Gerry manages the Lenexa Post Office. You have written testimony for him.

Very simply, by delivering welfare checks to post office boxes, we are opening ourselves up for fraud. For some, especially in border counties, it's too easy to get more than one check each month, one in the county where they reside and one in the neighboring county where they have a box.

I realize that in many towns the postal service delivers only to boxes, but in the towns where residential delivery is available that is where checks should be mailed to.

Thank you for your consideration.

Mr. Gary Haulmark
Representative 30th District
8709 Gallery
Lenexa, Ks 66215

Dear Gary:

I have read the bill prohibiting the use of a P. O. Box for receipt of welfare checks, which I feel is a good idea.

The use of a P. O. Box does not establish a residence except at the time the Box is rented. After the initial renting the Box patron could more form the address that was verified as the residence at the time to the renting. It then would be possible for the same welfare recipient to establish another address in other cities or states to receive welfare and food stamps.

The State of Kansas does use the endorsement DO NOT FORWARD RETURN TO SENDER on all welfare and food stamp envelopes but this endorsement is only good at street addresses. A P.O. Box address is good until a forward is entered or the rent is not paid.

I feel by using only a street address to send out these funds to the recipients where city delivery is available will help eliminate possible fraud.

If the recipient moves from the delivery address to Post Office will return the check. If it is addressed to a P O Box we will deliver it to the P O Box.

Sincerely,



Gerald Sourk
Manager Lenexa Post Office

Written Testimony for HB 2009
Committee on Health and Human Services
Tuesday - January 24, 1995

Due to scheduling conflicts, I am not able to appear before you today. However, I appreciate the opportunity to provide written testimony for HB 2009 - Concerning the method of delivery of social welfare assistance.

According to the supervisor of SRS for Geary Co., there are approximately 3,000 SRS recipients in Geary Co. (that is more per capita than the city of San Francisco has per capita). Approximately 1,278 families receive food stamps.

The abuse of the system is overwhelming and frustrating. When we as concerned citizens report fraud or abuse, the response time may be as much as six months or we are told SRS cannot do anything without actual proof. Let me give you some examples:

We own a mobile home court. The mail is delivered to mail boxes located at the court office. We furnish the names of the tenants residing in each lot for the mail delivery person, a sticker is put on the back side of each box. If mail comes for that lot that is registered as living there, the mail person asks if there are new people in the home, if not the mail is returned as "not registered at this address".

A tenant of ours a few years back received food stamps in two different names before the mail person caught the name difference. Another tenant wanted to register a person who did not live in the home so her friend could receive assistance at our tenants address. When questioned why, the friend was sharing a home with another SRS recipient and could not receive full assistance at her address.

I have heard of SRS recipients who received assistance at their home address in Junction City, also at a mail box in Topeka and a mail box at Odgen. It is not that hard to buy fake ID on the black market and evidently ID is not verified. A postal employee told he has delivered food stamps to two different addresses for the same person, but was told he cannot do anything about the situation, his job was to deliver the mail.

Another reason SRS recipients use a mail box is that they are constantly moving due to the fact that they use their assistance for items other than rent and are being evicted for non-payment of rent. By using a mail box, they do not have to wait on SRS to get the address change into the system and have their assistance delayed.

HB 2009 would help stop some of the fraud and possibly help make a more stable environment for the children by staying in one home for more than a month or two. The landlords in our community are greatly concerned about the abuse and fraud and when we make a complaint, the system takes so long the recipient has moved.

I have enclosed an article that was in the Junction City newspaper that may be of interest. If you have any questions, I would be glad to answer by phone or mail.

Ann Elliott
364 Grant Avenue
Junction City, KS 66441-4244
913/238-1894 (daytime)
913/238-6916 (evening)

HOUSE H&HS COMMITTEE
1 - 24 - 1995
Attachment 4-1

Roberts will hold hearings on food stamp fraud, abuse

By CURT ANDERSON

Associated Press writer

WASHINGTON — House Agriculture Committee Chairman Pat Roberts plans hearings to examine fraud, waste and abuse in federal food stamp and nutrition programs.

"I think we have to get the program really cleaned up before we discuss what we do with how food stamps and nutrition programs fit in with regard to welfare reform," Roberts told reporters Tuesday.

"We want to take a good, hard look at the programs," he added.

A recent Department of Agriculture inspector general's investigation estimated such problems cost taxpayers between \$2 billion and \$4 billion, the Kansas Republican said.

He pointed to recent news reports detailing an active black market in food stamps and their use to purchase drugs and alcohol, among other things. Roberts said there is evidence organized crime is involved in food stamp fraud.

Despite the problems, Roberts said he supported keeping food stamps and other nutrition programs within the USDA. He noted the programs make up about \$40 billion of the department's \$62 billion annual budget.

Some Republicans have proposed eliminating the programs from the federal budget and sending the money directly to the states, which then could design their own nutrition programs for children and the needy.

"They are very valuable programs," Roberts said. "You have to balance the needs."

In an analysis released Tuesday, the Clinton administration estimated 6.3 million poor people could be dropped from food stamp rolls in 1996 if the GOP dismantles the program. Rural America would be hit hardest by a subsequent \$10 billion drop in retail food sales, the analysis predicted.

Roberts said no Republicans are talking about expansion of nutrition programs in an era of

About 1,278 families here receive food stamps, some fraud reported

By GAIL PARSONS

Staff writer

There are about 1,278 families in Geary County currently receiving food stamps, according to the Social Rehabilitation Services from Manhattan.

Joyce McRae, economic assistance supervisor in Geary County, said her office does receive reports of fraud concerning the food stamps. Most of the cases come from citizens reporting the misuse.

"Most often someone calls in and reports it," she said.

Another manner they use to catch fraud is through a number of different cross matches they can make to determine if an individual is not reporting income.

"If we detect fraud we pursue it to the best of our ability," McRae said.

She explained there is one fraud investigator that covers an eight-county area. Usually the local staff will look into the cases themselves.

"There are many instances of reported fraud that we are not equipped to handle," she said. "Just hearsay won't do it."

Some of the reports they get is on people selling the stamps, those cases are more difficult to investigate than those who are receiving the stamps while making unreported money.

She said when they get reports of stores that may have questionable programs in their dealing with the food stamps, they are reported to the USDA.

"Fraud in food stamps is like so many other things, it just takes a few people to do make a lot look bad," she said. "It is unfortunate there are a few bad apples."

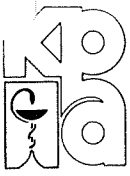
balanced budget amendments and middle-class tax cuts.

"It's the politics of less, not the politics of more," he said.

On another issue, Roberts said the 1995 farm bill debate is gearing up slowly. He plans a series of field hearings in April, with "serious work" to begin in May in

the House.

Roberts said he wants to ensure that any cuts in farm programs don't hit farmers harder than anyone else, that any savings go to reduce the federal budget deficit and that cuts be offset by reductions in bureaucratic regulations.



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ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

KANSAS PHARMACISTS ASSOCIATION

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

TUESDAY, JANUARY 24, 1995

Thank you Mr. Chairman for this opportunity to address the committee. I am Bob Williams, Executive Director of the Kansas Pharmacists Association. Pharmacists often work closely with physicians to coordinate patients' drug therapy, with each professional relying on the unique expertise of the other. In eight states this cooperative management of patient care includes pharmacists' drug selection under protocol. The Kansas Pharmacists Association requests that legislation be introduced which would permit Kansas pharmacists to participate in a patient's drug therapy under written protocols with a Kansas practitioner.

Our suggested language is attached. It would be a new section added to the Kansas Pharmacy Practice Act.

Thank you.

HOUSE H&HS COMMITTEE
1 - 24 - 1995
Attachment 5-1

Kansas Pharmacy Practice Act

New Section:

A pharmacist licensed under the Kansas Pharmacy Practice Act may participate in the management of a patient's drug therapy pursuant to written protocols as authorized or delegated by a responsible practitioner. In no case shall the scope of authority of the pharmacist exceed the normal and customary practice of the responsible practitioner. The Kansas State Board of Pharmacy will adopt rules and regulations necessary to implement this section.

FOR MORE INFORMATION CONTACT:
Terri Roberts JD, RN
Executive Director
700 SW Jackson, Suite 601
Topeka, KS 66603-3731
913-233-8638
January 24, 1995

BILL REQUEST
TO THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
PRESCRIPTIVE AUTHORITY FOR ADVANCED REGISTERED NURSE
PRACTITIONERS

Chairman Mayans and members of the House Health and Human Services Committee, my name is Manya Schmidt ARNP, CNM, and I am representing the Kansas State Nurses Association here today asking for a bill to be sponsored by this committee.

I have handed out copies of the bill request and I will briefly describe the changes. The bill in general terms will provide statutory language that will permit Advanced Registered Nurse Practitioners (ARNP's) to prescribe medications, within their scope of practice as authorized by the Board of Nursing. Three statutes will need to be changed to accommodate this, two of them part of the Nurse Practice Act and a section of the Pharmacy Act dealing with "definitions".

Section by section these are the changes being proposed:

Section 1 amends the Nurse Practice Act section that addresses the current authority of ARNP's to "transmit prescription orders pursuant to jointly adopted protocol." The new language removes the transmittal language, as well as the exception for Registered Nurse Anesthetists, so that they will now be included, as being authorized to prescribe. This also removes the definition of the "responsible physician" that was included in the statute when the transmittal language was added in 1989.

HOUSE H&HS COMMITTEE
1 - 24 - 1995
Attachment 6-1

Kansas State Nurses Association Constituent of The American Nurses Association

700 SW Jackson, Suite 601 * Topeka, Kansas 66603-3731 * (913) 233-8638 * Fax (913) 233-5222
Carolyn Middendorf, M.N., R.N. -- *President* * Terri Roberts, J.D., R.N. -- *Executive Director*

Section 2 amends the Pharmacy Act list of definitions to add Advanced Registered Nurse Practitioners (ARNP's) to the definition of "Practitioners" within the meaning of the act. Those now having prescriptive authority are: MD's, DO's, Podiatrists, Dentists, Optometrists, Veterinarians and special investigators doing research.

Section 3 amends the renewal section of the statute that addresses ARNP certification renewal by the Board of Nursing. That section has been amended to add ten hours of continuing education for ARNP's for renewal. This is ten hours in addition to the thirty hours already required for RN renewal every two years.

The hearing on this bill will give Advanced Practice Nurses the opportunity to fully explore with this committee the need for these legislative changes, however, I did want to share with the committee some of the issues we are hoping to resolve with these changes:

- * Reduce the liability to physicians with whom ARNP's collaborate, to minimize their liability exposure.
- * To facilitate Advanced Practice Nurses deployment to increase access to health care while preserving quality and reducing costs.
- * To reduce inefficient utilization of health care resources decreasing direct and indirect costs, in money and time, imposed on patients seeking primary care particularly in rural or underserved areas.
- * Needless restrictions on prescriptive authority can pose serious obstacles to Advanced Practice Nurses who need to secure federal Drug Enforcement Administration (DEA) registration to prescribe, administer, or dispense controlled substances as defined by the Federal Controlled Substances Act.

Thank you for your consideration.

SENATE BILL NO.

AN ACT concerning advanced registered nurse practitioners; prescribing drugs; amending K.S.A. 65-1130, 65-1132 and 65-1626 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas

Section 1. K.S.A. 65-1130 is hereby amended to read as follows: 65-1130. (a) No professional nurse shall announce or represent to the public that such person is an advanced registered nurse practitioner unless such professional nurse has complied with requirements established by the board and holds a valid certificate of qualification as an advanced registered nurse practitioner in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain a certificate of qualification as an advanced registered nurse practitioner. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education and training of advanced registered nurse practitioners. The board may require that some, but not all, types of advanced registered nurse practitioners hold an academic degree beyond the minimum educational requirement for qualifying for a license to practice as a professional nurse. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced registered nurse practitioners which:

(1) Establish categories of advanced registered nurse practitioners which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education, training and qualifications necessary for certification for each category of advanced registered nurse practitioner established by the board at a level adequate to assure the competent performance by advanced registered nurse practitioners of functions and procedures which advanced registered nurse practitioners are authorized to perform.

(3) Define the expanded role of advanced registered nurse practitioners and establish limitations and restrictions on such expanded role. The board shall adopt a definition of expanded role under this subsection (c) (3) which is consistent with the education, training and qualifications required to obtain a certificate of qualification as an advanced registered nurse practitioner, which protects the public from persons

forming functions and procedures as advanced registered nurse practitioners for which they lack adequate education, training and qualifications and which authorizes advanced registered nurse practitioners to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such expanded role the board shall consider: (A) The training and education required for a certificate of qualification as an advanced registered nurse practitioner; (B) the type of nursing practice and preparation in specialized practitioner skills involved in each category of advanced registered nurse practitioner established by the board; (C) the scope of practice of nursing specialties and limitations thereon prescribed by national organizations which certify nursing specialties; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education and training in nursing.

~~(d) An advanced registered nurse practitioner may not prescribe drugs but may transmit prescription orders pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced registered nurse practitioner is authorized to transmit prescription orders and shall specify all drugs which may be transmitted by the advanced registered nurse practitioner. In no case shall the scope of authority of the advanced registered nurse practitioner exceed the normal and customary practice of the responsible physician to the extent consistent with the training and education of the advanced registered nurse practitioner. An advanced registered nurse practitioner certified in the category of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, with respect to medications and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery who has accepted responsibility for the protocol and the actions of the advanced registered nurse practitioner involving the transmitting of prescription orders.~~

Sec. 2. K.S.A. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner, or

(2) the patient or research subject at the direction and in

presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, but shall not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business

(c) "Board" means the state board of pharmacy created by K.S.A. 74-1603 and amendments thereto.

(d) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name than the brand name drug product prescribed.

(e) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler, or distributor.

(f) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(g) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner.

(h) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication.

(i) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(j) "Distributor" means a person who distributes a drug.

(k) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1) (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, as defined in K.S.A. 47-501 and amendments thereto, if such livestock remedy has been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated.

(l) "Generic name" means the established chemical name or official name of a drug or drug product.

(m) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is

maintained or operated for the purpose of providing the drug needs of:

- (A) Inmates of a jail or correctional institution or facility;
 - (B) residents of a juvenile detention facility, as defined by the Kansas code for care of children and the Kansas juvenile offenders code;
 - (C) students of a public or private university or college, a community college, or any other institution of higher learning which is located in Kansas; or
 - (D) employees of a business or other employer.
- (2) "Institutional drug room" does not include:
- (A) Any registered pharmacy;
 - (B) any office of a practitioner; or
 - (C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(n) "Medical care facility" shall have the meaning provided in K.S.A. 65-425 and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b and amendments thereto except community mental health centers and facilities for the mentally retarded.

(o) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by: (1) a practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice; (2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or (3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(p) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(q) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

(r) "Pharmacist in charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(s) "Pharmacy," "drug store" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(t) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, advanced registered nurse practitioner or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(u) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(v) "Prescription" means, according to the context, either a prescription order or a prescription medication.

(w) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(x) "Prescription-only drug" means any drug required by the federal or state food, drug and cosmetic act to bear on its label the legend "Caution: Federal law prohibits

dispensing without prescription."

(y) "Prescription order" means: (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 of mouth, note, telephone or other means of communication directed by such practitioner.

(z) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(aa) "Professional incompetency" means:

(1) one or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or (3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

(bb) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug the label of which is required to bear substantially the statement "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug intended for human use by hypodermic injection.

(cc) "Secretary" means the executive secretary of the board.

(dd) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

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

(4) intentionally falsifying or altering records or prescription

- (5) unlawful possession of drugs and unlawful diversion of drugs to others;
- (6) willful betrayal of confidential information under K.S.A. 65-1654 and amendments thereto;
- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or (10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

Sec. 3. K.S.A. 65-1132 is hereby amended to read as follows: 65-1132. Same, renewal of certificate of qualification. (a) All certificates of qualification issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by rules and regulations of the board. The board shall mail an application for renewal of a certificate of qualification to every advanced registered nurse practitioner at least 60 days prior to the expiration date of such person's license. Every person who desires to renew such certificate of qualification shall file with the board, on or before the date of expiration of such certificate of qualification, ~~a renewal application together with the prescribed biennial renewal fee.~~ The board shall require every licensee with an active certification as an advanced registered nurse practitioner to submit with the renewal application evidence of satisfactory completion of ten hours of continuing education. The ten hours of continuing education shall be in addition to continuing education requirements established for the renewal of a license under K.S.A. 65-1117 and amendments thereto. Upon receipt of such application and payment of any applicable fee, and upon being satisfied that the applicant for renewal of a certificate of qualification meets the requirements established by the board under K.S.A. 65-1130 and amendments thereto in effect at the time of initial qualification of the applicant, the board shall verify the accuracy of the application and grant a renewal certificate of qualification.

(b) Any person who fails to secure a renewal certificate of qualification prior to the expiration of the certificate of qualifications may secure a reinstatement of such lapsed certificate of qualification by making application therefor on a form provided by the board, upon furnishing proof that the applicant is competent and qualified to act as an advanced registered nurse practitioner and upon satisfying all of the requirements for reinstatement including payment to the board of a reinstatement fee as established by the board.

Sec. 4. K.S.A. 65-1130, 65-1132 and 65-1626 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

**300 S.W. 10th Avenue
Room 545-N – Statehouse**

Phone 296-3181

January 23, 1995

TO: Representative Carlos Mayans

Office No. 426-S

RE: House Bill 2083


In regard to your inquiry about H.B. 2083, bills to amend K.S.A. 65-445 have been introduced consistently since 1971. The library has records of eight bills being introduced since the 1971 Session. Most of the bills have been aimed at requiring clinics, and in more recent years, individual physicians to report abortions procedures to the Secretary of Health and Environment.

H.B. 2063, as have bills introduced in recent years, would substitute the term "medical care facility" for the term "hospital" used currently in K.S.A. 65-445. The effect of the change is to require ambulatory surgical centers and recuperation centers to report abortion procedures. The term is defined in K.S.A. 65-425 to include hospitals, ambulatory surgical centers, and recuperation centers. The latter two terms are also defined in the statute. The term recuperation center is not one that is commonly used, but refers to rehabilitation facilities such as the rehabilitation hospital in Topeka. The term "person licensed to practice medicine and surgery" is a defined term that means medical doctors and doctors of osteopathic medicine.

Objections raised by conferees in the past to the inclusion of persons licensed to practice medicine and surgery in the reporting requirements under K.S.A. 54-445 include those voiced by Ms. Jarman in her letter to you. Another objection raised in testimony in the past is that of enforceability. Since there is no mandatory or systematic review of the patient records maintained by individual physicians, the reliability of any data that might be collected through reporting has been questioned. Unless the state chose to set up a system in which state inspectors reviewed patient records, there would be no way to determine whether persons licensed to practice medicine and surgery were, in fact, reporting as required by the law. Patient records are not public records.

I am enclosing for your review a copy of a bill similar to H.B. 2083, as amended by the House Committee on Public Health and Welfare in 1985.

If you need additional information, please contact me.


Emeraldine Correll
Research Associate

EC/mc

Enclosure

0012551.01(1/23/95(3:03PM))

HOUSE H&HS COMMITTEE
1 - 24 - 1995
Attachment 7

As Amended by House Committee

Session of 1985

HOUSE BILL No. 2052

By Representatives Sutter, Dillon, Douville, Friedeman,
Hamm, Harper, Jarchow, Jenkins, Johnson, Laird, Louis,
Mainey, D. Miller, K. Ott, Peterson, Polson, Ramirez, Reardon,
Rosenau, Sallee, Schmidt, Shriver, Smith, Webb and Wilbert

1-22

0021 AN ACT requiring certain reports concerning the termination of
0022 pregnancies; amending K.S.A. 65-445 and repealing the exist-
0023 ing section.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. K.S.A. 65-445 is hereby amended to read as fol-
0026 lows: 65-445. (a) Every ~~hospital~~ *medical care facility* shall keep
0027 written records of all pregnancies which are lawfully terminated
0028 within ~~such hospital~~ *the medical care facility* and shall annually
0029 submit a written report thereon to the secretary of health and
0030 environment in the manner and form prescribed by ~~said~~ *the*
0031 secretary. *Every person licensed to practice medicine and sur-*
0032 *gery shall keep a record of all pregnancies which are lawfully*
0033 *terminated by such person in a location other than a medical*
0034 *care facility and shall annually submit a written report thereon*
0035 *to the secretary of health and environment in the manner and*
0036 *form prescribed by the secretary.*

0037 (b) ~~Such~~ *The* report shall include the number of pregnancies
0038 terminated ~~within such hospital~~ during ~~said~~ *such* period of time,
0039 *the type of medical facility in which the pregnancy was termi-*
0040 *nated* and such other information as may be required by the
0041 secretary of health and environment, but ~~said~~ *the* report shall not
0042 include the names of the persons whose pregnancies were so
0043 terminated. The names and addresses of medical care facilities
0044 and persons required to report in this section shall be confiden-
0045 tial and may not be disclosed by the secretary.

0046 (c) *Six months after the termination of the pregnancy, the*

0047 *medical care facility or, if the pregnancy is terminated in a*
0048 *location other than a medical care facility, the person licensed*
0049 *to practice medicine and surgery who terminated the pregnancy*
0050 *shall send to every person whose pregnancy has been termi-*
0051 *nated a form prescribed by the secretary of health and environ-*
0052 *ment to determine if any medical complications have occurred*
0053 *during that period of time following such procedure. The form*
0054 *shall state on its face that it is to be completed by the person*
0055 *whose pregnancy was terminated and returned to the medical*
0056 *care facility or person licensed to practice medicine and sur-*
0057 *gery. The medical care facility or person licensed to practice*
0058 *medicine and surgery shall submit annually, at the time of*
0059 *submission of the reports under subsection (a), a copy of each*
0060 *form received, but the copy shall not include the name of the*
0061 *person whose pregnancy was terminated.*

0062 Sec. 2. K.S.A. 65-445 is hereby repealed.

0063 Sec. 3. This act shall take effect and be in force from and
0064 after its publication in the statute book.

SESSION OF 1985

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2052

**As Amended by House Committee on
Public Health and Welfare**

Brief of Bill*

H.B. 2052 amends K.S.A. 65-445, a statute that currently requires hospitals to report annually to the Secretary of Health and Environment on pregnancies which are lawfully terminated within the hospital.

As amended by the House Committee, H.B. 2052 expands the annual reporting requirements of K.S.A. 65-445 to include all medical care facilities (hospitals, ambulatory surgical centers, and recuperation centers) and persons licensed to practice medicine and surgery under the annual reporting requirements of the statute. The House Committee amendments also make the names and addresses of medical care facilities and persons who are required to report under the statute confidential and prohibit the Secretary of Health and Environment from disclosing such names and addresses.

* Bill briefs are prepared by the Legislative Research Department and do not express legislative intent.

SESSION OF 1985

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