

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 February 20, 1996 in Room 423-S of the State Capitol.

All members were present except: Representative Merritt

Committee staff present: Norman Furse, Revision of Statutes
Bill Wolff, Legislative Research Department
Francie Marshall, Committee Secretary

Conferees appearing before the committee: None

Others attending: See Guest List: Attachment 1.

Chairperson Mayans opened the hearing stating that there were several bills for the committee to take action on. He then called for action on the following bills.

HB 2459 - Consumer protection, spas

Bill Wolff presented a brief history of the bill, and drew attention to the amendment proposed by the Attorney General's Office (see Attachment 2). On motion of Representative O'Connor, seconded by Representative Freeborn, the committee adopted the amendment on HB 2459 by inserting in line 23, "Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act."

Representative Yoh proposed to amend Line 23, Page 2, preceding the period, by inserting: "for any period greater than six months". Representative Kirk expressed concern that six months was too long and moved to change the six months to three months. Representative Landwehr seconded the motion and the committee voted by division vote to accept the amendment.

On motion of Representative O'Connor, seconded by Representative Hutchins, the committee voted to pass HB 2459 as amended. Representative Kirk will carry the legislation.

HB 2304 - Practice of dental hygienist authorized in adult care home, hospital, state institution or school

Norman Furse presented an explanation of **HB 2304**. Questions were raised concerning the authorization of practice of dental hygienist in certain settings as outlined in the bill. Representative O'Connor asked for clarification of the functions of the dental hygienist and if it included brushing of teeth. Following discussion, on motion of Representative Geringer, seconded by Representative Freeborn, the committee adopted the amendment (see Attachment 3).

Representative Morrison moved to offer a two year sunset to be added to the bill. Representative Freeborn seconded the motion and the committee adopted the two year sunset amendment. On motion of Representative Wells, seconded by Representative Freeborn, the committee adopted to amend, line 12, page 2, by striking "or school" and inserting in lieu thereof "local health department or indigent health care clinic"; also in line 12, by striking, "patient or student" and inserting in lieu thereof "of a facility, client or patient".

Representative Freeborn offered an amendment requiring that no doctor supervise more than four hygienists. No second was offered and the amendment failed.

A final amendment was offered by Representative Flaharty and seconded by Representative Freeborn allowing dental hygienists to provide dental education in a school setting. The motion was passed by the committee. Chairperson Mayans moved to pass the bill as amended, seconded by Representative Geringer and the committee voted to pass **HB 2304** as amended. Chairperson Mayans will carry the bill.

HB 2756 - The scope of practice of podiatrists

Chairperson Mayans moved to accept the proposed amendment by the Kansas Medical Society altering the language of HB 2756 to include in line 26 the word "podiatry," and in line 27 "or any part thereof, except the toes." (see Attachment 4). Representative Yoh seconded and the amendment carried.

Chairperson Mayans moved to pass the bill as amended, seconded by Representative Hutchins, and the motion carried. Chairperson Mayans will carry the bill.

Meeting was adjourned at 2:30 p.m.

The next meeting is scheduled for February 21, 1996.

House Health & Human Services COMMITTEE GUEST LIST

DATE February 20, 1996

NAME	REPRESENTING
Bob Williams	Ks. Pharmacists Assoc
Rich Guthrie	Health Midwest
SHELBY Smith	ICM A
Joe Furjanic	KCA
JERRY SANDWATER	KMS
Wen Henson	KS Medical Society
David Lanzick	KS Dentist
Elmer Feldkamp	Right to Life of Kansas
Kim Campbell	KS State Optn. Society
James E. FERN	KAOM
Joseph F. Keene	KOME
Maria Bray	KDHE / HOC Unit
Oliver Reed	KSNA
Michelle Peterson	Peterson Public Affairs
PHILIP HURLEY	PATRICK J. HURLEY & CO.
Ruth Maus	Ks. Health Institute
Lashonda Ellington	Rep. Bridenick Henderson's Legislative Intern
Lowell Wendland	Ks Interfaith
Mike Meacham	CEK

H & HS Comm.
2-20-96
ATTN # 1



State of Kansas

Office of the Attorney General

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CARLA J. STOVALL
ATTORNEY GENERAL

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Testimony of
C. Steven Rarrick
Deputy Attorney General, Consumer Protection Division
Office of the Attorney General
Before the House Health & Human Services Committee
RE: House Bill 2459
February 23, 1995

Chairperson Mayans and Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of Attorney General Carla Stovall to testify in support of House Bill 2459. I am the Deputy Attorney General for Consumer Protection.

The Attorney General supports the concept proposed by House Bill 2459. Expensive prepaid "lifetime" or long term memberships to health spas are simply valid for the lifetime of the health spa, not the lifetime of the consumer. The need for legislation in this area is demonstrated by the ongoing and longstanding problem of health spas going out of business, leaving consumers with worthless, albeit expensive, lifetime or long term memberships. Numerous complaints regarding this problem have been received by the Attorney General's Office and by local district attorneys. In the past 5 years, Wichita alone has had 7 health spas close their doors, some less than six months after opening.

With the current state of the law, our ability to assist these consumers is quite limited because we are not contacted until after the health spas have closed their doors, and more often than not, after they have filed bankruptcy or simply disappeared. Prohibiting or limiting the prepayment of services, with our proposed amendment, will allow our office and local district attorneys to protect consumers before health spas go out of business.

Attorney General Stovall requests that H.B. 2459 be amended to state that any violation of Section 2 (a) is an unconscionable act or practice under the Kansas consumer protection act. By making this a per se unconscionable act or practice, the law will be easier to enforce by the Attorney General's Office and local

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district attorneys. As a result, we are submitting the following amendment to New Section 2: "Any violation of this section is an unconscionable act or practice under the Kansas consumer protection act."

Again, thank you for the opportunity to voice our support of the bill. We request your approval of the bill with our suggested amendment.

- 1 (h) "Services" includes:
- 2 (1) Work, labor and other personal services;
- 3 (2) privileges with respect to transportation, hotel and restaurant ac-
- 4 commodations, education, entertainment, recreation, physical culture,
- 5 hospital accommodations, funerals and cemetery accommodations; and
- 6 (3) any other act performed for a consumer by a supplier.
- 7 (i) "Supplier" means a manufacturer, distributor, dealer, seller, les-
- 8 sor, assignor, or other person who, in the ordinary course of business,
- 9 solicits, engages in or enforces consumer transactions, whether or not
- 10 dealing directly with the consumer.

11 (j) "Health spa" means a business, primarily involved in the sale of
 12 memberships, that provides the members instructions in a program of
 13 physical exercise or provides the members use of the facilities of the health
 14 spa for a program of physical exercise. The term does not include an
 15 organization that is tax exempt under 26 U.S.C. 501 et seq., a private club
 16 owned and operated by its members, an entity primarily operated for the
 17 purpose of teaching dance or aerobic exercise, an entity primarily engaged
 18 in physical rehabilitation activity related to an individual's injury or dis-
 19 ease, an individual or entity engaged in an activity authorized under a
 20 valid license issued by this state or an activity conducted or sanctioned
 21 by a school operating under the education code.

22 New Sec. 2. (a) Any supplier who operates a health spa shall not
 23 accept prepayment for services. Payment shall be received by such sup-
 24 plier after the consumer has been provided the service.

25 ~~(c)(b)~~ This section shall be part of and supplemental to the Kansas con-
 26 sumer protection act.

27 Sec. 3. K.S.A. 50-624 is hereby repealed.

28 Sec. 4. This act shall take effect and be in force from and after its
 29 publication in the statute book.

(b) Any violation of this section is an
 unconscionable act or practice under the
 Kansas consumer protection act.

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1 licensed dentist at the office of such licensed dentist. The board may
2 designate by rules and regulations the procedures which may be per-
3 formed by a dental hygienist under direct supervision and the procedures
4 which may be performed under the indirect supervision of a licensed
5 dentist. As used in this section, "indirect supervision" means that the
6 dentist is in the dental office, authorizes the procedures and remains in
7 the dental office while the procedures are being performed and "direct
8 supervision" means that the dentist is in the dental office, personally
9 diagnoses the condition to be treated, personally authorizes the procedure
10 and before dismissal of the patient evaluates the performance.

11 (e) *The practice of dental hygiene may be performed at an adult care*
12 *home, hospital, state institution or school on a resident, patient or student*
13 *thereof so long as:*

14 (1) *A licensed dentist has delegated the performance of the service,*
15 *task or procedure;*

16 (2) *the dental hygienist is under the supervision and responsibility of*
17 *the dentist, [and]*

18 (3) *the supervising dentist examines the patient at the time the dental*
19 *hygiene procedure is performed or has examined the patient during the*
20 *12 calendar months preceding performance of the procedure.*

21 (f) The board may issue a permit to a licensed dental hygienist to
22 provide dental screening as an employee of the state of Kansas, or any
23 subdivision thereof, at any public institution or facility under the super-
24 vision of the governing body of such public institution or facility under
25 such terms and conditions as the board may reasonably establish in such
26 permit. Such permit shall be for a period of one year and shall be subject
27 to renewal annually at the time the license for dental hygiene is renewed.

28 Sec. 2. K.S.A. 65-1456 is hereby repealed.

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

either the supervising dentist
is personally present or the
services, tasks and procedures
are limited to the cleaning of
teeth, education and preventive
care; and

(4)

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KANSAS MEDICAL SOCIETY

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WATS 800-332-0156 FAX 913-235-5114

February 19, 1996

TO: House Health and Human Services Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: HB 2756; concerning the scope of practice of podiatrists

At the hearing last week on HB 2756, we indicated that we could support part of the legislation proposed by the podiatrists. As you recall, we repeatedly expressed our willingness to discuss areas of agreement with the podiatrists, but our offers were rejected by them. In the spirit of attempting to respond to this committee's hope that groups could work out their differences, we are offering a balloon of the bill (see attached) that contains language we would not oppose.

Basically, our amendments would preserve existing law as written, except that podiatrists would be granted the ability to amputate toes. We have drafted the amendment in such a way that it specifically authorizes such amputations, which is clearer than just striking "or toes" as is suggested in the version of HB 2756 as introduced.

We appreciate your consideration of our comments.

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HOUSE BILL No. 2756

By Committee on Health and Human Services

1-25

9 AN ACT concerning the practice of podiatry; amending K.S.A. 65-2002
10 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 65-2002 is hereby amended to read as follows: 65-
14 2002. (a) It shall be unlawful for any person to profess to be a podiatrist,
15 to practice or assume the duties incidental to podiatry, to advertise or
16 hold oneself out to the public as a podiatrist, or to use any sign or adver-
17 tisement with the word or words podiatrist, foot specialist, foot correc-
18 tionist, foot expert, practapedist or chiropodist, or any other term or terms
19 indicating that such person is a podiatrist or that such person practices
20 or holds oneself out as practicing podiatry or foot correction in any man-
21 ner, without first obtaining from the board a license authorizing the prac-
22 tice of podiatry in this state, except as hereinafter provided.

23 (b) A licensed podiatrist ~~means a physician and surgeon of the human~~
24 ~~foot who~~ shall be authorized to prescribe such drugs or medicine, and to
25 perform such surgery on the human foot or toes, as may be necessary to
26 the proper practice of podiatry ~~podiatric medicine and surgery,~~ but no
27 podiatrist shall amputate the human foot ~~or toes,~~ or administer any an-
28 esthetic other than local.

29 (c) This act shall not prohibit the recommendation, advertising, fitting
30 or sale of corrective shoes, arch supports, or similar mechanical appli-
31 ances, or foot remedies by manufacturers, wholesalers or retail dealers.

32 Sec. 2. K.S.A. 65-2002 is hereby repealed.

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

podiatry
or any part thereof, except the toes,

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