Approved: March 18, 1996
Date

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 March 13, 1996 in Room 423-S of the Capitol.

All members were present except: Representative Yoh
Representative Freeborn

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

Conferees appearing before the committee:
Larry Froelich, Kansas State Board of Pharmacy
Robert Williams, Kansas Pharmacists Association
Linda Lubensky, Kansas Home Care Association

Others attending: See Guest List: Attachment 1.

The minutes of the meeting held on March 11, 1996 were approved.

Chairman Mayans opened the hearing on **SB 623.**

SB 623- Grounds for revocation of pharmacist license

The following testified in support of **SB 623**:
Larry Froelich, Executive Secretary to the Board of Pharmacy (Attachment 2),
Robert Williams, Executive Director of the Kansas Pharmacists Association (Attachment 3).

The hearing was opened for questions to the proponents from the committee.

Questions concerned the issue of "de-scheduling" of drugs as well as the origin of the drug plan. Mr. Williams affirmed that the plan had been reviewed by the Kansas Pharmacy Board, and had originated with the DEA. Representative Flaharty suggested that the primary purpose of the bill was as an extension of the prescription length from six months to one year.

The hearing on **SB 623** was closed.

The hearing on **SB 631** was opened.

SB 631- Registered nurse anesthetists licensure

The following testified in support of **SB 631:**
Linda Lubensky, Kansas Home Care Association (Attachment 4),
Larry Froelich, Executive Director to the Board of Pharmacy (Attachment 5).

The hearing was opened for questions to the proponents from the committee.

Questions regarding the specific language of the bill were presented to Ms. Lubesnsky. Rep. O'Connor questioned whether a protocol for the administration would be in place. Linda Lubensky asserted that this would be the case.

The hearing was closed on **SB 631**.

Chairperson Mayans then called for action on **SB 623**.

SB 623 - Grounds for revocation of pharmacist license

On motion of Representative Gerringer, seconded by Representative Landwehr, the committee voted to pass **SB 623** to the consent calendar.

Chairperson Mayans then called for action on **SB 631**.

SB 631 - Authorizing home health agencies to store and handle certain drugs

Chairperson Mayans suggested an amendment to page 2, line 15 to include "to take affect in the Kansas registry." The motion was seconded by Representative Landwehr, but was preempted by a sub-motion from Representative Geringer to pass out the bill without the amendment to the consent calendar. The motion was seconded by Representative Wells, and rejected by the committee. The original motion was passed, and Representative Landwehr made a motion to pass the bill out as amended. The motion was seconded by Representative O'Connor, and the committee passed the bill as amended. Representative Howell will carry the bill.

House substitute for SB 367 - Right of a parent to direct the upbringing of a child

Chairperson Mayans introduced a bill to act as a substitute for **SB 367**, and made a motion to accept the bill as a substitute. Landwehr seconded the motion (see Attachment 6). Upon opening for questions Representative Haley questioned the germaness of the bill. The Revisor of Statutes submitted that germaness was at the discretion of the chairman as well as the committee. Chairman Mayans assured that the bill was indeed germane. Representatives Henry and Goodwin, contended that all parties must be represented in the hearing of the bill. Chairperson Mayans stated that the information contained within the bill had already been heard by different committees, and that many of our committee members already serve in the committee of origination and that no additional hearings were necessary, but that members could ask questions of members of the audience. The motion to substitute the bill carried. On motion of Representative Mayans, seconded by Representative Merritt, the committee voted to pass house substitute **SB 367**. Both Representatives Haley and Flaharty requested to have their vote recorded as "No". Representative Cornfield will carry the bill.

The next meeting is scheduled for Thursday, March 14, 1996.

The meeting was adjourned at 2:30 p.m.

House Health & Human Services COMMITTEE GUEST LIST

DATE March 13, 1996

NAME	REPRESENTING
LINDA LUBENSKY	KS HOME CARE ASSN
PHILIP HURLEY	PAT HURLEY & CO.
HARRY SPRING	HUMANA
LARRY FROELICH	BOARD of PHARMACY
Crystal Coley	KPhA
Ryan Smoby	
Jane Ford	KS Hosp Assn
Sarah Diff	intern
Ken Gilmore	
Tom Bruno	Allied Assoc-
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Tom Rickmon	HMR INC.
Nancy Zogleman	Pfizer
Mary Ellen Conlee	Via Christi Health System
Melissa Wangemann	Columbia

H+HS Comm
3-13-96
Attm #1

Kansas State Board of Pharmacy

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900 JACKSON AVENUE, ROOM 513
TOPEKA, KANSAS 66612-1231
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STATE OF KANSAS

BILL GRAVES
GOVERNOR

SENATE BILL 623

HOUSE HEALTH AND HUMAN SERVICES

WEDNESDAY, MARCH 13, 1996

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS LARRY FROELICH AND I SERVE AS THE EXECUTIVE SECRETARY TO THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN **SUPPORT OF SB 623**.

THE REQUESTED CHANGE TO THIS STATUTE CAN BE FOUND ON PAGE 2, LINES 3 AND 4. THE ADDITIONAL LANGUAGE IS NEEDED IN CASES WHEN THE PHARMACIST, PRACTICING IN ANOTHER STATE, SURRENDERS THEIR LICENSE IN THAT STATE **AFTER** FORMAL PROCEEDINGS HAVE BEEN FILED **BUT** BEFORE ANY FINAL ACTION HAS BEEN TAKEN (OTHER THAN THE FILING OF THE FORMAL PETITION). IN MANY CASES, THE LICENSEE WILL DO THIS TO AVOID FACING THE FORMAL COMPLAINT, AND THEY WILL THEN MOVE TO ANOTHER STATE TO PRACTICE PHARMACY.

WE RESPECTFULLY REQUEST THE **FAVORABLE** PASSAGE OUT OF COMMITTEE OF **SB 623**. THANK YOU.

H+HS Comm
3-13-96
Attm #2

THE KANSAS PHARMACISTS ASSOCIATION
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TOPEKA, KANSAS 66604
PHONE (913) 232-0439
FAX (913) 232-3764

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

TESTIMONY

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

MARCH 13, 1996

SENATE Bill 623

My name is Robert R. Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee regarding Senate Bill 623.

The Kansas Pharmacists Association supports Senate Bill 623, however, we would like to offer the following amendment.

The attached amendment, while not relating to the language in SB 623, is related to the Kansas Pharmacy Practice Act. The amendment would deschedule the drug Fenfluramine. Fenfluramine was established as a Schedule IV product in 1973 by the Bureau of Narcotics & Dangerous Drugs, now called the Drug Enforcement Agency (DEA). At that time it was stated that when further data became available a petition to consider removing Fenfluramine from Schedule IV might be considered. The determination to establish a compound as a schedule drug is based in part on its potential for abuse, misuse, elicit diversion and drug tolerance development. DEA monitoring of prescription writing and distribution has not shown evidence of abuse or diversion. Since the mid 1970's there have been no published reports of abuse. There have been no case reports of abuse in the United States or in world literature since 1980. Clinical studies

-over-

H+HS Comm
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attm #3

have shown that tolerance to this drug does not develop following six months of therapy (amphetamine tolerance develops at two months) and Fenfluramine does not metabolize to an amphetamine-like substance. This data and the associated lack of abuse led the Drug Abuse & Advisory Committee to vote in favor of descheduling Fenfluramine at its September 29, 1995 meeting. The matter is now being reviewed by the Office of Health Affairs, the National Institute of Drug Abuse and the FDA General Counsel's office. When those three groups sign off on the matter the recommendation will be forwarded to the DEA. We anticipate that occurring sometime this spring. As the amendment is written, the descheduling of Fenfluramine in Kansas is dependent on the descheduling of Fenfluramine at the federal level. We are seeking passage of this legislation so we will not have to wait another year to deschedule Fenfluramine.

Fenfluramine is an anti obesity compound. It is most commonly prescribed in conjunction with the drug Phentermine for those individuals who find it impossible to keep off pounds they shed through dieting alone. Individuals participating in this type of a weight loss program are closely monitored. The programs have been highly successful. Attached to my testimony are two letters from health care providers--one a physician and the other a pharmacist who support the descheduling of Fenfluramine.

It is important to note that with the adoption of this amendment, Fenfluramine will remain a legend drug and still require a prescription. The difference is the length of time a prescription is good. A prescription for a legend drug is good for one year. A prescription for a schedule drug is only good for six months before a patient must return to the physician and get the prescription renewed.

Thank you.

SENATE BILL NO. ____

AN ACT concerning the uniform controlled substances act; relating to substances included in schedule IV; amending K.S.A. 1995 Supp. 65-4111 and repealing the existing section.

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

Section 1. K.S.A. 1995 Supp. 65-4111 is hereby amended to read as follows: 65-4111. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam.....2882
(2) Barbital.....2145
(3) Bromazepam.....2748
(4) Camazepam.....2749
(5) Chloral betaine.....2460
(6) Chloral hydrate.....2465
(7) Chlordiazepoxide.....2744
(8) Clobazam.....2751
(9) Clonazepam.....2737
(10) Clorazepate.....2768
(11) Clotiazepam.....2752
(12) Cloxazolam.....2753
(13) Delorazepam.....2754
(14) Diazepam.....2765

(15) Estazolam.....2756

(16) Ethchlorvynol.....2540

(17) Ethinamate.....2545

(18) Ethyl loflazepate.....2758

(19) Fludiazepam.....2759

(20) Flunitrazepam.....2763

(21) Flurazepam.....2767

(22) Halazepam.....2762

(23) Haloxazolam.....2771

(24) Ketazolam.....2772

(25) Loprazolam.....2773

(26) Lorazepam.....2885

(27) Lormetazepam.....2774

(28) Mebutamate.....2800

(29) Medazepam.....2836

(30) Meprobamate.....2820

(31) Methohexital.....2264

(32) Methylphenobarbital (mephobarbital).....2250

(33) Midazolam.....2884

(34) Nimetazepam.....2837

(35) Nitrazepam.....2834

(36) Nordiazepam.....2838

(37) Oxazepam.....2835

(38) Oxazolam.....2839

(39) Paraldehyde.....2585

(40) Petrichloral.....2591

(41) Phenobarbital.....2285

(42) Pinazepam.....2883

(43) Prazepam.....2764

(44) Quazepam.....2881

(45) Temazepam.....2925

(46) Tetrazepam.....2886

(47) Triazolam.....2887

(48) Zolpidem.....2783

(c) Any material, compound, mixture, or preparation which

contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 United States code 812; 21 code of federal regulations 1308.14).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine).....1230

(2) Diethylpropion.....1610

(3) Fencamfamin.....1760

(4) Fenproporex.....1575

(5) Mazindol.....1605

(6) Mefenorex.....1580

(7) Pemoline (including organometallic complexes and chelates thereof).....1530

(8) Phentermine.....1640

(9) Pipradrol.....1750

(10) SPA((-)-1-dimethylamino-1,2-diphenylethane)...1635

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

(1) Pentazocine.....9709

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited

quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.....9167

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).....9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 2. K.S.A. 1995 Supp. 65-4111 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Greenhaw Pharmacy

Lou Greenhaw, RPh

Telephone (316) 947-3794

500 S. Ash
P.O. Box 00
Hillsboro, KS 67063

To the members of the Health and Human Services Committee:

I would like to voice my support of legislation that would remove the drug, Fenfluramine, from the regulation on amphetamine prescribing found in section 100-23-1 if it is removed from Schedule 4 by the DEA.

I oversee a group of patients in conjunction with Dr. A. Randal Claussen who use a Fenfluramine and Phenteramine regimen to encourage weight loss and healthier life styles. We are operating under the guidelines devised by the Kansas Board of Healing Arts and monitor our patients on a weekly basis.

Because the Fenfluramine has a more depressant effect, I believe that the possibility for abuse is small. However, some long term studies have indicated that perhaps some people can benefit from low doses of Fenfluramine given on a daily basis to maintain loss. It would be easier for Kansas patients to obtain the needed medication if they could purchase it in the usual prescriptive fashion instead of under the guidelines set forth by the Amphetamine Prescribing Regulation.

I trust that the DEA has much more data than I have to support the safety, low abusable status and efficacy of Fenfluramine. Therefore, if they choose to remove it from schedule 4 status, I support the move in Kansas to remove it from the amphetamine prescribing guidelines.

Sincerely,

P. Lou Greenhaw RPh

P. Lou Greenhaw RPh
March 7, 1996

3-7

Hillsboro Family Practice Clinic

A. Randal Claassen, M.D. · Gloria K. Witt, M.D. · Michael F. Reeh, M.D.
Teresa Regier, MSN, ARNP
P.O. Box BB · 508 South Ash · Hillsboro, Kansas 67063
Phone: 316/947-2396

March 11, 1996

To Health & Human Services Committee:

Dear Sirs:

This letter is written in support of pending legislation that is intended to remove Fenfluramine from schedule 4 status.

We are involved in a weight loss program, approved by the Kansas State Board of Healing Arts, using a combination of Fenfluramine and Phenteramine. This program has been remarkably successful and we believe that some of this success can be attributed to the medications.

In order to maintain success in weight loss, some patients will need to continue taking low doses of Fenfluramine on a daily basis. This has been well documented in multiple studies that have recently been published. The regimen we are presently using allows patients to take the drug on alternating months but we recognize over the long term there will be some patients who need to take Fenfluramine on a daily basis. This would be much easier for our patients if the drug was more readily available and removing it from schedule 4 status would certainly make this possible.

Since the DEA is probably going to remove the drug from schedule 4 status, I would certainly hope that the Health and Human Services committee would remove it from the amphetamine prescribing guidelines also.

Sincerely,

A. Randal Claassen, M.D.

ARC/dmh

3-8

KHCA
Kansas Home Care Association • 1000 Monterey Way, E2 • Lawrence, Kansas 66049 • (913) 841-8611
Fax (913) 749-5414

To: House Health and Human Services Committee
From: Linda Lubensky, Kansas Home Care Association
Date: March 13, 1996
Re: S.B. 631, an act concerning pharmacists and pharmacies; placing certain drugs with home health agencies; protocols for drug handling and storage.

On behalf of the Kansas Home Care Association, I appreciate this opportunity to testify in favor of S.B. 631. It is legislation needed by my industry and we have worked cooperatively with the Kansas Pharmacists Association and the Kansas State Board of Pharmacy to devise the process and language to meet our collective needs. All three of our boards of directors have reviewed the material and are supportive of the legislation. During the Senate hearing, S.B. 631 was also supported by the Kansas State Nurses Association and the Association of Kansas Hospices, who have requested that hospices be included in the language of the bill.

For years home care nurses have carried, and agencies stored, certain drugs for emergency purposes. These drugs include sterile water and sterile saline for injection or irrigation, heparin flush solution, diphenhydramine injectable, and epinephrine injectable. Although it has been common practice to purchase these drugs in bulk for the use by home care nurses, this does not technically meet the letter of the law. They are classified as legend drugs, and as such require a specific prescription label for a particular patient. In order to help our nurses comply with current laws and yet be able to have the supplies on hand for emergency situations, we feel that this bill is necessary.

The language before you is patterned after a statute currently in use in Oklahoma. It appears to be working well in that state and we feel that it will also remedy our problems, without placing undue burdens on Kansas pharmacies or home care providers. In essence, the bill allows the pharmacy to retain ownership of the drugs, sets up accountability measures, but still insures their availability for emergency situations.

The Kansas Home Care Association greatly appreciates your consideration and hopes that you will pass this bill favorably.

H+HS Comm
3-13-96
Attm #4

Kansas State Board of Pharmacy

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STATE OF KANSAS

BILL GRAVES
GOVERNOR

SENATE BILL 631
HOUSE HEALTH AND HUMAN SERVICES
WEDNESDAY, MARCH 13, 1996

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS LARRY FROELICH AND I SERVE AS THE EXECUTIVE SECRETARY TO THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN **SUPPORT OF SB 631**.

THIS REQUESTED LEGISLATION IS NEEDED TO SUPPORT THE INCREASING TRANSITION IN THE DELIVERY OF OUR HEALTH CARE SYSTEM. THIS STATUTE IS NECESSARY TO ALLOW A KANSAS LICENSED HOME HEALTH CARE AGENCY OR A HOSPICE NURSE TO POSSESS A VERY LIMITED SUPPLY OF LEGEND MEDICATIONS FOR EMERGENCY SITUATIONS. CURRENTLY, THE KANSAS PHARMACY ACT DOES **NOT** ALLOW FOR THIS PROCEDURE UNLESS EACH MEDICATION IS LABELED IN THE INDIVIDUAL PATIENT NAME. WITH THIS LEGISLATION, THE MEDICATION COULD BE "STORED" IN A SMALL KIT, CHECKED BY THE NURSE AND THE PHARMACIST, AND AVAILABLE FOR IMMEDIATE USE TO THE PATIENT PURSUIT TO ORDERS BY THE PHYSICIAN. THIS MEDICATION REMAINS THE PROPERTY OF THE PHARMACY, AND REQUIRES THE PHARMACIST TO CHECK FOR PROPER CONTROL, STORAGE AND EXPIRATION DATE OF THESE MEDICATIONS. THIS WILL CONTROL COSTS OF HEALTH CARE BY DECREASING MEDICATION EXPENSES TO THE PATIENT, AND PROVIDING A BETTER SERVICE AT THE SAME TIME.

OKLAHOMA AND ARKANSAS HAVE A SIMILAR STATUTE AND THIS ALSO FOLLOWS ALONG THE LINES OF THE MISSOURI BOARD OF PHARMACY INTERPRETATION.
THE KANSAS HOME CARE ASSOCIATION, THE KANSAS HOSPICE ASSOCIATION, THE KANSAS PHARMACISTS ASSOCIATION AND THE BOARD OF PHARMACY ARE IN AGREEMENT WITH THIS LEGISLATION.

WE RESPECTFULLY REQUEST THE **FAVORABLE** PASSAGE OUT OF COMMITTEE OF **SB 631**.
THANK YOU.

H+HS Comm
3-13-96
attm#5

HOUSE BILL NO. ____

By

AN ACT to protect the right of a parent to direct the upbringing of a child.

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

Section 1. (a) The United States supreme court has regarded the right of parents to direct the upbringing of their children as a fundamental right implicit in the concept of ordered liberty within the 14th amendment to the constitution, as specified in Meyer v. Nebraska, 262 U.S. 390 (1923) and Pierce v. Society of Sisters, 268 U.S. 510 (1925).

(b) As specified by the supreme court in Wisconsin v. Yoder, 406 U.S. 205 (1972), parents have the responsibility to see that their children are educated, for the purposes of literacy and self-sufficiency.

(c) As used in this act:

(1) "Child" means a person under 18 years of age.

(2) "Parent" means and includes a natural parent, an adoptive parent, a stepparent or a guardian or conservator of a child who is liable by law to maintain, care for or support the child.

(d) Any parent may maintain a cause of action in a federal or state court, or before an administrative tribunal of appropriate jurisdiction for claims arising under 42 U.S.C. 1983 and any damages resulting therefrom or arising under the principles established in the United States supreme court cases listed in subsections (a) and (b) and the Board of Education v. Barnette, 319 U.S. 624 (1943).

(e) Upon the finding by the court of a substantial basis for claim, the court shall award attorney fees to the parent.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

H+HS Comm
3-13-96
attm #6