

Approved: 2-13-96
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 6, 1996 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Jo Ann Buntten, Committee Secretary

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Larry Froelich, Board of Pharmacy
Cassie Lauver, Bureau for Children, Youth and Families, KDHE

Others attending: See attached list

Introduction of bills

The Chair requested introduction of a bill that would require smoke detectors in dwelling units. Senator Ramirez made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Langworthy. The motion carried.

Jerry Slaughter, KMS, requested introduction of two bills regarding interstate practice of medicine (Attachment 1) and definition of "Medicine and Surgery" (Attachment 2). Senator Langworthy made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Ramirez. The motion carried.

Larry Froelich, Board of Pharmacy, requested introduction of a bill that would change the current statute, (K.A.R. 65-1627) regarding revocation, suspension, placement in probationary status or denial of registration or permit. The language would incorporate the wording "or voluntarily surrendered the license after formed proceedings have been commenced into the statute." (Attachment 3) Senator Langworthy made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Hardenburger. The motion carried.

Hearing on SB 525 - Medical conditions of preschool children

Cassie Lauver, Bureau for Children, Youth and Families, KDHE, testified in support of SB 525 which would repeal K.S.A. 65-1, 141 et seq. and the subsequent regulations. The purpose of the legislation that created this statute was to collect and compile complete and accurate information concerning the number of preschool children within the state who have handicapping or chronic conditions in order to plan for and make available services to these children and their families. The information was to be used only as aggregate data for research and statistical purposes and not to be used to identify a child without the parent or guardian's permission. Since the enactment of K.S.A. 65-1,141 et seq., there have been fewer than 10 reports from physicians, and due to the lack of enforcement provisions and lack of resources to assure compliance, the Kansas Department of Health and Environment recommends the repeal of this statute. (Attachment 4)

There were no opponents to SB 525.

Action on SB 525

Senator Walker made a motion the Committee recommend SB 525 favorably for passage, seconded by Senator Langworthy. The motion carried.

Adjournment

The meeting was adjourned at 10:30 a.m.

The next meeting is scheduled for February 7, 1996.

Interstate Practice of Medicine

65-2803. License prerequisite to practice of the healing arts; exceptions; penalty.

- (a) It shall be unlawful for any person who is not licensed under the Kansas healing arts act or whose license has been revoked or suspended to engage in the practice of the healing arts as defined in the Kansas healing arts act.
- (c) ~~(b)~~ This section shall not apply to any person licensed by the board whose license was expired or lapsed and reinstated within a six month period pursuant to K.S.A. 65-2809 and amendments thereto.
- (d) ~~(c)~~ This section shall not apply to any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident as authorized by K.S.A. 65-2891 and amendments thereto.
- (e) ~~(d)~~ Violation of this section is a class B misdemeanor.
- (b) For the purpose of this act, any person who is physically located in another state or jurisdiction but who, through the use of any medium, including an electronic medium, performs for compensation any service which constitutes the healing arts that would affect the diagnosis or treatment of an individual located in this state, shall be deemed to be engaged in the practice of the healing arts in this state and shall be required to be duly licensed except as otherwise provided by this act.

selves out to be the physicians, surgeons, osteopathic physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state, or residing on the border of a neighboring state, duly licensed under the laws thereof to practice a branch of the healing arts, but who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing art, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist

who provide episodic consultation services to a practitioner who is licensed under this act, or

65-2872. Persons not engaged in the practice of the healing arts. The practice of the healing arts shall not be construed to include the following persons:

(a) Persons rendering gratuitous services in the case of an emergency.

(b) Persons gratuitously administering ordinary household remedies.

(c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.

(d) Students while in actual classroom attendance in an accredited healing arts school who after completing one (1) year's study treat diseases under the supervision of a licensed instructor.

(e) Students upon the completion of at least three (3) years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed ninety (90) days under the supervision of a licensed practitioner.

(f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.

(g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.

(h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals and/or groups provided they do not use drugs and do not hold them-

Definition of "Medicine and Surgery"

65-2802. Definitions. For the purpose of this act the following definitions shall apply:

(a) The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic.

(b) "Board" shall mean the state board of healing arts.

(c) "License" shall mean a license to practice the healing arts granted under this act.

(d) "Licensed" or "licensee" shall mean a person licensed under this act to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(i) ~~(e)~~ Wherever the masculine gender is used it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of this act.

(e) "Obstetrics" shall mean providing services related to human pregnancy, including prenatal care, labor, delivery, or recovery from childbirth.

(f) "Physician" shall mean a person licensed to practice medicine and surgery under this act.

(g) "Practice of medicine and surgery" shall mean (i) examination of a human body by use of tests, procedures or any other method for the purpose of determining the patient's health status or cause of any symptom of illness, disease, or injury; (ii) diagnosis or treatment of any human injury, wound, fracture, deformity, disease, physical or mental illness, psychological disorder, or other health condition; (iii) diagnosing, providing treatment or recommending a medical regimen for prevention of human illness or disease, or the promotion of good health; (iv) furnishing, prescribing or otherwise recommending prescription medicine or drugs; (v) performing any procedure, test, examination or operation which involves surgery on a human body; or (vi) performing any procedure, test, health service or surgical operation which relates to obstetrics.

(h) "Surgery" shall mean any invasive procedure, test, examination or operation on a human body by the use of any instrument, modality, equipment, mechanical or electrical device, laser, ionizing radiation, or therapeutic ultrasound which severs or alters body tissue in any manner or which causes the structure or function of tissues or systems of the body to be altered in any manner.

Senate Public Health & Welfare

Date: 2-6-96

Attachment No. 2

Definition of "Medicine and Surgery"

65-2869. Persons deemed engaged in practice of medicine and surgery. For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

~~(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation of whatever nature by the use of any surgical instrument, procedure, equipment or mechanical device for the diagnosis, cure or relief of any wounds, fractures, bodily injury, infirmity, disease, physical or mental illness or psychological disorder, of human beings.~~

Persons who engage in the practice of medicine and surgery as defined by this act.

(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings.

D.O.,

The Kansas Board of Pharmacy would like to offer a change to the current statute, (K.A.R. 65-1627) regarding revocation, suspension, placement in probationary status or denial of registration or permit; notice and hearing.

The adoptional language of the statute would incorporate the word "or voluntarily surrendered the license after formed proceedings have been commenced" into the statute.

This would prevent a licensee from having formal action taken by other licensing authority and surrendering it after these proceedings have started, but before any action is taken, thus presenting a candidates application to Kansas that does not show that any action happened.

I feel that this change is not a controversial item and should offer additional protection to the citizens of Kansas in their pharmaceutical care.

Senate Public Health & Welfare

Date: 2-6-96

Attachment No. 3

Testimony presented to
Committee on Public Health and Welfare

by

The Kansas Department of Health and Environment

Senate Bill 525

The Kansas Department of Health and Environment support the amendment and repeal of these statutes. Since enactment of the K.S.A. 65-1,141 et seq. and the subsequent regulations, there have been fewer than 10 reports from physicians.

The purpose of this legislation was to collect and compile complete and accurate information concerning the number of preschool children within the state who have handicapping or chronic conditions in order to plan for and make available services to these children and their families. Furthermore the information was to be used only as aggregate data for research and statistical proposes and not to be used to identify a child without the parent or guardian's permission.

The amendment to K.S.A. 65-1, 151 deletes a reference to one of the statutes that will be repealed under this legislation and does not change the intent of K.S.A. 65-1,151.

The purpose of this legislation is not being met. Due to the lack of enforcement provisions and lack of resources to assure compliance, KDHE recommends the repeal of 65-1,141 et seq. and the amendment to 65-1,151.

Testimony presented by:

Cassie Lauver
Director
Bureau for Children, Youth and Families
February 6, 1996