

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 2:10 p.m. on March 10, 1997 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:
Larry Froelich, Executive Secretary, Kansas State Board of Pharmacy
Vicki Schmidt, Board Member, Kansas State Board of Pharmacy
Robert Alderson, Kansas Pharmacists Association

Others attending: See Guest List (Exhibit 1)

Chairperson Mayans announced that there were three bills on today's agenda; and that **SB 197 - Definitions regarding druggist** and **SB 201 - Pharmacy practice, persons engaged in pharmacy technicians and students**, would be considered together. He noted that portions of each bill had been incorporated in each other and that some work was needed on them.

Larry Froelich, of the Kansas State Board of Pharmacy, speaking in support of the Board's recommended **Senate Bills 197 and 201**, described the various changes being requested (see Exhibit 2). The requested definition of "pharmacy technician" was questioned the most by committee members. Mr. Froelich explained the importance of it to the agency to distinguish those who assist pharmacists in the dispensing of drugs. Also questioned was the Board's recommended change from 1:1 to 2:1 in the ratio of supportive personnel per pharmacist. Mr. Froelich stated the change was desired because it makes the ratio the same for all pharmacists (whether for a hospital or other).

Emalene Correll questioned the new registration requirement and fee, the fact that rules and regulations have not yet been adopted relating to training and monitoring pharmacist technicians, and the effective date of the bill. She also asked if those who are now employed as "supportive personnel" would be grandfathered and registered as of the effective date of the bill. After discussion, Mr. Froelich agreed that amending the effective date to either January 1, 1998 or July 1, 1998 would allow time for the Board to institute the registration process.

Chairperson Mayans asked Ms. Correll if these questions had been raised at the Senate committee hearing where they should have been handled. Ms. Correll answered that the bills were quickly handled by the Senate committee and these questions were not addressed.

Vicki Schmidt, Member of the State Board of Pharmacy, presented testimony in support of **SB 197** and **SB 201** (see Exhibit 3 and 4).

Chairperson Mayans asked about the Senate amendments in the two bills where sections of **SB 201** were incorporated into **SB 197**, and vice versa. Mr. Froelich replied that it the reasons elude him since the definition of what comprises the practice of pharmacy was left in **201** after the various Senate amendments were made.

Representative Powell questioned the training for pharmacy technicians. Mr. Froelich replied that it was his and the Board's judgment that training should be left to the pharmacist in charge, who is responsible for the activities in dispensing drugs. Ms. Schmidt stated that effectively the registration of technicians would act as consumer protection.

Robert Alderson, Kansas Pharmacists Association, at the Chairman's invitation, spoke to the proposed registration and fee for pharmacy technicians and the ratio of pharmacist to technician. Mr. Alderson stated that the Association has no real concern with the fee, but it is important to identify the people who do the work of assisting pharmacists. Mr. Alderson stated there were various groups who expressed opposition to portions of **SB 201** when the Senate committee heard it. The concern his association has is that the definition of pharmacy technician is in one bill, and substantive sections affecting them are in another. He also testified that the association did not want to grandfather anyone in as a pharmacy technician.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the State Capitol, at 1:30 p.m. on March 10, 1997.

Representative Freeborn questioned the provision relating to a fee for holding an auction. Mr. Froelich replied that sometimes a pharmacy closes its business and may not sell its drug inventory for some time. This will cause the owner to register and pay a \$50 fee when it is decided that inventory should be sold.

Norman Furse offered suggestions to amend **SB 197** on page 6, line 27, changing section "v" to "w" and to change the effective date of the bill.

Chairperson Mayans called for action on the bills, saying that the two bills will be handled separately in the House and when handled in Conference Committee, the bills will be combined into one. The Conference Committee will be composed of Representative Henry and Representative Morrison.

Representative Freeborn asked why it was necessary to register pharmacy technicians. Mr. Froelich replied that the Senate committee wanted the Board to register them. The Senate Committee also wanted additional training provisions, but it was the Pharmacy Board's desire not to get into certification at this time as it is believed the pharmacists are capable of training those they hire as technicians.

Representative Morrison moved, seconded by Representative Henry, that **SB 197** be amended on page 7, Section 3, line 40, by inserting "This Subsection (b) shall be effective July 1, 1998," and also on page 6, line 27, by striking "v" and inserting in lieu thereof "w", and that other necessary changes to conform the bill in correlation with these two amendments be made. The motion carried.

Chairperson Mayans reported that concerns had been relayed to him about the amendment concerning the ratio of pharmacist to technician from 1:1 to 2:1; that it raised the prospect of the ratio changing in future years to several technicians to one pharmacist which then would effectively create competition that could squeeze out the smaller dispensaries. Chairperson Mayans then moved, seconded by Representative Freeborn, that **SB 197**, on page 6, line 41, be amended by deleting "two-to-one" and inserting in lieu thereof "one-to-one." The motion carried.

Representative Powell moved, seconded by Representative Wells, that **SB 197** be amended on page 11, line 9, by striking "\$50" and inserting in lieu thereof "\$10." In discussion, Representative Haley pointed out that even though he applauds Representative Powell's intent, he did not think \$50 was too restrictive. On voice vote, the motion carried.

Chairperson Mayans moved that **SB 197** be passed favorably, as amended. Representative Horst seconded the motion. On voice vote, it seemed the motion carried. Representative Wells called for division. On a show of hands, 6 voted for the amendment, 6 voted against. The Chairperson voted in favor, thereby breaking the tie. The motion carried. Representative Morrison will carry the bill.

Representative Morrison moved that **SB 201** be passed favorably. In discussion, Norman Furse suggested an amendment to the effect that the effects of the Senate amendments in Section 2 causes no additional registration requirements. Representative Morrison then re-stated his motion by moving that **SB 201** be amended on page 6, in line 2, after the period, by inserting the following: "Nothing in this sub-section shall be construed to add any additional requirements for registration under the pharmacy act of the state of Kansas or to prevent persons other than pharmacists from engaging in drug utilization review." Representative Hutchins seconded the motion. The motion carried.

Representative Morrison moved that **SB 201** be passed favorably, as amended. Representative Horst seconded the motion. The motion carried. Representative Morrison will carry the bill on the House floor.

Chairperson Mayans then indicated that because of the lengthy meeting, the hearing and possible action on **SB 199 - Pharmacist license revocation** - will be postponed.

Chairperson Mayans noted that **HB 2278 - Restrictions on persons operating, working or volunteering in adult care homes** - was withdrawn from the House Federal and State Affairs Committee and rereferred to this committee on March 6, 1997.

Chairperson Mayans reported that tomorrow the committee will hear and possibly take action on **SB 286 - the patient protection act, relating to health care**, and **SB 304 - authorizing the establishment of local child death review boards**.

The meeting was adjourned at 3:35 p.m.

The next meeting is scheduled for March 11, 1997.

HOUSE COMMITTEE ON HEALTH AND HUMAN
SERVICES COMMITTEE GUEST LIST
MARCH 10, 1997

| NAME | REPRESENTING |
|----------------|--|
| LARRY FROELICH | Ks Board of Pharmacy |
| Chavis Beal | Eli Lilly & Company |
| JULIA DeWITT | ELI LILLY AND COMPANY |
| Nancy Zogleman | Pfizer |
| KAREN BRAMAN | SRS |
| Vicki Schmidt | State Board of Pharmacy |
| Mary HANSON | KMS |
| DVD LADDINI | ICCL |
| KEVIN K LAUDIS | CHAIRMAN'S SERVICES COMMITTEE ON PUBLICATION FOR KANSAS |
| Susan Baker | Hsin + Wein |
| BOB ALDERSON | KPHA |
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Kansas State Board of Pharmacy

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DANA W. KILLINGER

1997 KANSAS LEGISLATIVE SESSION
SENATE BILL NO. 197
PHARMACY PRACTICE ACT
HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
MONDAY, MARCH 10, 1997

Mr. Chairman and members of the committee, my name is Larry Froelich and I serve as the executive secretary to the Kansas Board of Pharmacy. I appear before you today on behalf of the board in support of SB 197.

KSA 65-1626.

"direct supervision" - the pharmacist is responsible for reviewing the work performed by students and pharmacy technicians. They are responsible AND must check activities BEFORE dispensing.

"electronic transmission" - to include a prescription in the form of a Fax or E-mail transmission. We now only refer to written or telephoned. Need regulations then to ensure patient confidentiality and security.

"pharmacy student" - maybe just semantics, but KU Pharmacy School has interns AND externs.

"pharmacy technician" - individual, registered with the board under the direct supervision and control of a pharmacist. Need to differentiate since current law defines all employees as "supportive personnel".

KSA 65-1642.

Library - KAR 68-2-12a list includes Federal and State Pharmacy law book, texts in pharmacology, toxicology, and even mandates a dictionary.

Two to One - language stricken that limits ratio of supportive personnel per pharmacist. The board voted to present change from 1:1 to 2:1 (was previously passed for a hospital pharmacy). We need the pharmacist to spend time on patient counseling.

Technician registration - The technicians need to be registered with the board. If they are working around medications, and problems develop, someone needs to keep track of them. The board will adopt rules and regulations necessary to ensure that technicians are properly trained and monitored. The Public needs to know whether a pharmacist or a technician is talking with them.

Drug allergies and sensitivities - Although we assume the pharmacist is checking the prescription for problems if you've already told them about your drug allergies, we need it added, and document that action was taken.

KSA 65-1645.

Technician registration fees - The board is requesting that the maximum to be charged for registration of pharmacy technicians to be not more than \$50.

HOUSE HEALTH/HUMAN SERVICES

Attachment 2-1
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1997 KANSAS LEGISLATIVE SESSION
SENATE BILL NO. 201
PHARMACY PRACTICE ACT
HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
MONDAY, MARCH 10, 1997

The Kansas Board of Pharmacy would like to appear in support of SB-201.

There are several definitions that have already presented. They include:

Direct Supervision - means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

Electronic Transmission - means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

Pharmacy Student - means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

Pharmacy Technician - means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other non-discretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

Practice of Pharmacy - Although not presented originally, it has been openly discussed that Kansas does NOT have a definition for Pharmacy Practice. Although the board's original intent was to make sure that those practicing pharmacy in Kansas be registered with the board, we need to define what is the practice of pharmacy.

The final requested change is requiring a pharmacist practicing pharmacy in Kansas, be licensed by the board as a pharmacist in Kansas. Our current state law requires that pharmacists be licensed in Kansas when they are **dispensing** medications only. The definition is modeled after Missouri's definition, and the licensing is modeled after Kansas Board of Healing Arts.

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1997 KANSAS LEGISLATIVE SESSION
SENATE BILL NO. 199
PHARMACY PRACTICE ACT
HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
MONDAY, MARCH 10, 1997

There are two main changes requested in K.S.A. 1996 Supp. 65-1627. The first requested change is located at page 2, line 4, and adds language which prevents a pharmacist currently licensed in this Kansas but practicing pharmacy in another state, and having had formal proceedings commenced against their license in that state, from surrendering their pharmacist license to that state rather than having their pharmacist license revoked by that state. The pharmacist then returns to practice pharmacy in Kansas as if nothing had occurred regarding his license. In cases of major violations, a pharmacist would rather surrender his license to the other state to prevent an action such as revocation of that license as a revocation in another state would affect the status of licensure in this state. In other words, if a pharmacist surrenders a license in another state, licensure in this state remains unaffected. The requested language enables the Board to take action on their pharmacist license even though charges were never brought to finality in the other state.

The second requested change is located at page 3, line 13, and adds language giving this Board authority to take action against a non-resident (mail order) pharmacy's registration whose registration was sanctioned in another state. Typically, this Board would impose the same sanction as imposed in the other state. The sanction would merely mirror the imposing state's sanction and could range anywhere from probation to complete revocation of registration and the privilege of conducting business in this state.

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SENATE BILL NO. 197
PHARMACY PRACTICE ACT
HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
MARCH 10, 1997

Mr. Chairman and members of the committee, my name is Vicki Schmidt. I am a pharmacist member of the Kansas State Board of Pharmacy. I am here today as a representative of the State Board of Pharmacy in support of Senate Bill 197.

As Mr. Froelich has already explained, the proposed bill defines several terms in the Pharmacy Practice Act; KSA 65-1643, KSA 65-1645 and KSA 1996 Supp. 65-1642.

During this past year, the Board of Pharmacy voted unanimously to define a “**pharmacy technician**” and pursue their registration with the State Board of Pharmacy. Currently, the pharmacy inspectors have a difficult time determining who the individuals in the pharmacy are. While the pharmacist is easily identified, the support personnel are hard to identify. Behind the counter you will find cashiers, delivery personnel, technicians and students. By registering the technicians we hope to alleviate the confusion for the pharmacy inspectors and the consumers.

Also included in Senate Bill 197 is the ratio of pharmacy technicians to pharmacists. The State Board of Pharmacy is requesting the ratio be increased to a **two-to-one** ratio. Currently, the statute states that the ratio of supportive personnel shall not exceed one-to-one in other than medical care facility pharmacies which currently may have a two-to-one ratio.

This proposed bill is also supported by the Kansas Pharmacists Association.

Thank you for your consideration of Senate Bill 197 which is submitted to you by the State Board of Pharmacy.

HOUSE HEALTH/HUMAN SERVICES

Attachment 3

3 - 10 - 97

Kansas State Board of Pharmacy

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HOUSE HEALTH/HUMAN SERVICES
Attachment 4
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