Approved: 3-6-97
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 25, 1997 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Reconsider Action on SB 164 - Board of nursing authorized to issue exempt licenses and collect fees

The Chair briefed the Committee on an amendment to **SB 164** that was acted upon earlier by the Committee relating to nursing students who fail the licensure exam after 24 months to retake the entire program of study. The Chair asked the Committee to reconsider action on the bill that would return that portion of the bill to the current statutory language of requiring an "approved plan of study". Senator Langworthy made a motion the Committee reconsider action on **SB 164,** seconded by Senator Salmans. The motion carried.

Senator Salmans made a motion the Committee amend **SB 164** by removing the amendment relating to "students who fail the licensure exam after 24 months to retake the entire program of study", and return to current statutory language where appropriate in the bill, seconded by Senator Langworthy. The motion carried.

Senator Lee made a motion the Committee recommend **SB 164 as amended** favorably for passage, seconded by Senator Jones. The motion carried.

Action on SB 61 - Scope of practice of podiatry

A balloon of **SB 61** was distributed to the Committee showing proposed amendments that would retain current law and expand the scope of practice of a podiatrist. (See Attachment 1) After Committee discussion, Senator Lee made a motion to amend **SB 61** on page 1, line 26 of the bill, by inserting "including amputation of the toes", seconded by Senator Steineger. The motion carried.

Senator Langworthy made a motion the Committee amend **SB 61** on page 1, line 23, by striking "means a physician and surgeon of the human foot who", and inserting on page 1, line 26, "podiatry" after the words "practice of" as shown in the balloon of the bill, seconded by Senator Hardenburger. The motion carried. Senator Lee requested her "No" vote be recorded.

Senator Bleeker made a motion the Committee recommend **SB 61 as amended** favorably for passage, seconded by Senator Becker. The motion carried.

Action on SB 211- Infections or contagious disease reporting

Staff briefed the Committee on information pertaining to the definition of health care provider. (Attachment 2) After Committee and staff discussion on the proposed changes in the bill, Senator Hardenburger made a conceptual motion that the Committee amend **SB 211** by restoring language on page 1, lines 14 through 18, and inserting "nurses"; in line 22, changing "an" to "a"; and strike the italicized language to line 33, leaving language relating to "the reporting requirements of laboratories and the director of the division of health may use information from death certificates for disease investigation purposes", seconded by Senator Langworthy. The motion carried. The Chair noted that since the amendments were adopted conceptually, she would review the bill for accuracy before it is read in.

Senator Hardenburger made a motion the Committee recommend **SB 211 as amended** favorably for passage, seconded by Senator Langworthy. The motion carried.

Action on SB 197 - Definitions regarding druggist

The Committee was briefed on a balloon of **SB 197** showing language merged from **SB 201** into **SB 197**. (See Attachment 3) Staff called attention to a change that needed to be made in K.S.A. 65-1643, subparagraph (i), changing "pharmacy intern" to "pharmacy student". (Attachment 4) The bill defines "direct supervision" by pharmacist of pharmacy technician, defines "pharmacy technician" and requires registration of such individuals with the Board of Pharmacy. It also allows the Board to establish Rules and Regulations for training requirements, allows a 1 to 2 supervising pharmacist to technician ratio, and defines "electronic transmission."

After Committee discussion, Senator Hardenburger made a motion the Committee adopt the balloon amendments and additional changes as noted by staff in **SB 197**, seconded by Senator Lee. The motion carried.

Senator Hardenburger made a motion the Committee recommend **SB 197 as amended** favorably for passage, seconded by Senator Bleeker. The motion carried.

Action on SB 243 - Physicians assistants authorized to provide certain emergency medical services

Staff briefed the Committee on the balloon amendments to **SB 243**. (Attachment 5)

After Committee discussion, Senator Jones made a motion the Committee adopt the amendments as noted in the balloon of **SB 243**, seconded by Senator Langworthy. The motion carried.

Senator Jones made a motion the Committee recommend **SB 243 as amended** favorably for passage, seconded by Senator Langworthy. The motion carried.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 26, 1997.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-25-97

NAME	REPRESENTING
Gianfranco Pezzino	KDHE
Theressa D. McConnell Jirch	Guest of Senator Sherman Jones
Lisa D. Bailey (Jirch	guest of Senator Sherman Jones
Robin Walker	SRS
Larrie Ann Brown	KHA
Nancy Zogleman	Pfizer
[illegible]	KMS
Vicci Schmidt	State Board of Pharmacy
Larry Froelich	Bd of Pharmacy
Bob Williams	Ks Pharmacists Assoc
Gary Robbins	Ks Opt assn
Harold Riehm	KAOM
Bob Alderson	KPhA
[illegible]	Merck
Susan Baker	Hein + Weir
Callie Jill Denton	K. Peterson & Assoc.
Janice Nelson Kimball	Senator Morris
Danielle Noe	Governors Office
E. Piekalkiewicz	Assoc. of CMHCs
Michelle Peterson	Peterson Public Affairs

SENATE BILL No. 61

By Committee on Public Health and Welfare

1-17

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

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

Section 1. K.S.A. 65-2002 is hereby amended to read as follows: 65-2002. (a) It shall be unlawful for any person to profess to be a podiatrist, to practice or assume the duties incidental to podiatry, to advertise or hold oneself out to the public as a podiatrist, or to use any sign or advertisement with the word or words podiatrist, foot specialist, foot correctionist, foot expert, practapedist or chiropodist, or any other term or terms indicating that such person is a podiatrist or that such person practices or holds oneself out as practicing podiatry or foot correction in any manner, without first obtaining from the board a license authorizing the practice of podiatry in this state, except as hereinafter provided.

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

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

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

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

including amputation of the toes

podiatry

~~or any part thereof, except the toes,~~

INFORMATION REQUESTED BY COMMITTEE PERTAINING TO SENATE BILL 211

Definition of Health Care Provider

As introduced, S.B. 211 would define the term "health care provider" as that term is defined in K.S.A. 65-4921 plus providers specifically added to the statute by the bill. The definition in K.S.A. 65-4921 includes the following:

1. Those persons and entities defined as a health care provider under K.S.A. 1996 Supp 40-3401 who are:

    - a person licensed to practice any branch of the healing arts,
    - a person who holds a temporary permit to practice any branch of the healing arts,
    - a person engaged in a postgraduate training program approved by the Board of Healing Arts,
    - a medical care facility licensed by the Department of Health and Environment,
    - a health maintenance organization issued a certificate of authority by the Commissioner of Insurance,
    - a podiatrist licensed by the Board of Healing Arts,
    - an optometrist licensed by the Board of Examiners in Optometry,
    - a pharmacist licensed by the State Board of Pharmacy,
    - a licensed professional nurse who is authorized to practice as a registered nurse anesthetist,
    - a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia,
    - a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by law to form such a corporation and who are health care providers as defined by this subsection [K.S.A. 1996 Supp. 40-340, subsection (f)],
    - a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection [see above] and who are legally authorized to render the professional services for which a limited liability company is organized,
    - a partnership of persons who are health care providers under this subsection,
    - a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined in this subsection,
    - a dentist certified by the Board of Healing Arts to administer anesthetics under K.S.A. 65-2899,
    - a physical therapist registered by the Board of Healing Arts,
    - a psychiatric hospital licensed under K.S.A. 75-3307b,

Senate Public Health & Welfare
Date: 2-25-97
Attachment No. 2

- a mental health center or mental health clinic licensed by the Secretary of Social and Rehabilitation Services,
- the definition under K.S.A. 40-3401 does not include any state institution for the mentally retarded, any state psychiatric hospital, any person holding an exempt license issued by the Board of Healing Arts, or any person holding a visiting clinical professor license from the Board of Healing Arts;

2. a dentist licensed by the Kansas Dental Board;

   a dental hygienist licensed by the Kansas Dental Board;

   . a professional nurse licensed by the Board of Nursing;

   a practical nurse licensed by the Board of Nursing

   . a mental health technician licensed by the Board of Nursing;

   . a physical therapist assistant certified by the Board of Healing Arts;

   . an occupational therapist registered by the Board of Healing Arts;

   . an occupational therapy assistant registered by the Board of Healing Arts; and

   . a respiratory therapist registered by the Board of Healing Arts.

3. To the list noted above, which is the definition found in K.S.A. 65-4921, the bill adds the following:

   administrator of a hospital,

   licensed adult care home administrator.

All of the above, plus licensed social workers and teachers or school administrators, who are already required by law to report infectious or contagious diseases would be mandated to report to a county or joint board of health or local health officer. In addition, clinical laboratories would be required to report the results of microbiological cultures, examinations, immunologic essays for the presence of antigens and antibodies, and any other laboratory tests that are indicative of the presence of a reportable infectious or contagious disease to the Department of Health and Environment.

Reportable Infectious and Contagious Diseases

K.S.A. 65-128, subsection (b) states that for the purposes of K.S.A. 65-118 (the statute that would be amended by S.B. 211), K.S.A. 65-119, 65-122, 65-123, 65-126, and 65-129, infectious or contagious disease means any disease designated by the Secretary of Health and Environment as

an infectious or contagious disease by rules and regulations, except AIDs or any causative agent thereof because such disease is subject to the provisions of K.S.A. 65-6001 *et seq*.

The Secretary has adopted K.A.R. 1996 Supp. 28-1-2 which designates those infectious or contagious diseases that are to be reported. A copy of the regulation is attached. It should be noted that subsection (b) of the regulation designates "any exotic or newly recognized disease, and any disease unusual in incidence or behavior, known or suspected to be infectious or contagious and constituting a risk to the public health." Consideration should be given as to how persons mandated to report are to determine what is to be reported pursuant to subsection (b) of the regulation.

Prepared by Emalene Correll

Agency 28

Kansas Department of Health and Environment

Articles

28-1. Diseases.
28-4. Maternal and Child Health.
28-15. Application for Permits; Domestic Water Supply.
28-16. Water Pollution Control.
28-19. Ambient Air Quality Standards and Air Pollution Control.
28-29. Solid Waste Management.
28-31. Hazardous Waste Management Standards and Regulations.
28-35. Radiation.
28-39. Licensure of Adult Care Homes.
28-46. Underground Injection Control Regulations.
28-59. Dietitian.
28-65. Emergency Planning and Right-to-Know.
28-67. Health Care Database.

Article 1.—DISEASES

28-1-2. Designation of infectious or contagious diseases. (a) The following diseases shall be designated as infectious or contagious in their nature and shall be reported, in accordance with K.S.A. 65-118, K.S.A. 65-128 and K.S.A. 65-6002:

(1) amebiasis;
(2) anthrax;
(3) botulism;
(4) brucellosis;
(5) campylobacter infections;
(6) chancroid;
(7) chickenpox;
(8) chlamydia, including psittacosis;
(9) cholera;
(10) diphtheria;
(11) encephalitis, infectious (indicate infectious agent whenever possible);
(12) giardiasis;
(13) gonorrhea;
(14) granuloma inguinale;
(15) hepatitis, viral;
(16) legionellosis;
(17) leprosy (Hansen disease);
(18) leptospirosis;
(19) Lyme disease;
(20) lymphogranuloma venereum;
(21) malaria;
(22) measles (rubeola);
(23) meningitis (indicate causative agent, if known);
(24) mumps;
(25) pertussis (whooping cough);
(26) plague;
(27) poliomyelitis;
(28) rabies;
(29) rheumatic fever;
(30) Rocky Mountain spotted fever;
(31) rubella, including congenital rubella syndrome;
(32) salmonellosis, including typhoid fever;
(33) shigellosis;
(34) syphilis, including congenital syphilis;
(35) tetanus;
(36) toxic-shock syndrome;
(37) trichinosis;
(38) tuberculosis;
(39) tularemia; and
(40) yellow fever.

(b) This designation shall also include any exotic or newly recognized disease, and any disease unusual in incidence or behavior, known or suspected to be infectious or contagious and constituting a risk to the public health. (Authorized by K.S.A. 65-101 and 65-128, K.S.A. 65-6003 and K.S.A. 65-202; implementing K.S.A. 65-128; effective May 1, 1982; amended May 1, 1986;

2-4

SENATE BILL No. 197

By Committee on Public Health and Welfare

2-4

AN ACT concerning the regulation of pharmacists; amending K.S.A. 65-1626, as amended by section 118 of chapter 229 of the 1996 Session Laws of Kansas, and repealing the existing ~~section~~ sections K.S.A. 65-1645 and K.S.A. 1996 Supp. 65-1642,

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

Section. 1. K.S.A. 65-1626, as amended by section 118 of chapter 229 of the 1996 Session Laws of Kansas, 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 the 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) "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.

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

~~(m)~~ *(n)* (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 justice 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)~~ *(o)* "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)~~ *(p)* "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)~~ *(q)* "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

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

~~(r)~~ *(s)* "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)~~ *(t)* "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
English or any sign containing any of these words; or (3) where the
acteristic symbols of pharmacy or the characteristic prescription sign
" 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.

(u) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy, who,

(v) "Pharmacy technician" means an individual under the supervision direct and control of a pharmacist. ~~A pharmacy technician~~ may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and ~~assist~~ who assists the pharmacist in the performance of pharmacy related duties, but ~~shall~~ not perform duties restricted to a pharmacist. who does

~~(t)~~ (w) "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, 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)~~ (x) "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)~~ (y) "Prescription" means, according to the context, either a prescription order or a prescription medication.

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

~~(x)~~ (aa) "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)~~ (bb) "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)~~ (cc) "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 issued.

~~(aa)~~ (dd) "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

3-4

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)~~ *(ee)* "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)~~ *(ff)* "Secretary" means the executive secretary of the board.

(gg) "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.

~~(dd)~~ *(hh)* "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 prescriptions;

(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. ~~2~~ 4. K.S.A. 65-1626, as amended by section 118 of chapter 229 of the 1996 Session Laws of Kansas, ~~is~~ hereby repealed.

Sec. ~~3~~ 5. This act shall take effect and be in force from and after its publication in the statute book.

INSERT TWO NEW SECTIONS (ATTACHED)

K.S.A. 65-1645 and K.S.A. 1996 Supp. 65-1642 are

3-5

Sec. 2. K.S.A. 1996 Supp. 65-1642 is hereby amended to read as follows: 65-1642. (a) Each pharmacy shall be equipped with proper pharmaceutical utensils, in order that prescriptions can be properly filled and United States pharmacopoeia and national formulary preparations properly compounded, and with proper sanitary appliances which shall be kept in a clean and orderly manner. The board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess ~~and such list shall include the latest revisions of the United States pharmacopoeia dispensing information and all supplements thereto. The ratio of supportive personnel performing nonjudgmental functions in the compounding area of the pharmacy under the direction of a pharmacist, excluding pharmacist interns, to licensed pharmacists shall not exceed a one-to-one ratio in other than medical care facility pharmacies and a two-to-one ratio for medical care facility pharmacies except that any pharmacy may be specifically authorized by the board to exceed the ratio established under this subsection for that pharmacy upon the approval of a specific plan describing the manner in which additional supportive personnel shall be supervised.~~

(b) Each pharmacy shall keep a suitable book or file which records every prescription order filled at the pharmacy and a medication profile record system as provided under subsection (c). The book or file of prescription orders shall be kept for a period of not less than five years. The book or file of prescription orders shall at all times be open to inspection by members of the board, the secretary of health and environment, the duly authorized agents or employees of such board or secretary and other proper authorities.

Each pharmacy technician employed by a pharmacy shall be registered with the board before entering upon any of the duties authorized by subsection (v) of K.S.A. 65-1626, as amended by section 1 of this act. A pharmacy technician shall register with the board by completing and filing with the board a registration form prescribed by the board and by paying the fee prescribed by subsection (b)(15) of K.S.A. 65-1645, as amended by section 4 of this act. A pharmacy technician shall renew his or her registration annually, by paying the renewal fee prescribed by subsection (b)(15) of K.S.A. 65-1645, as amended by section 4 of this act.

A pharmacy technician shall work under the direct supervision and control of a pharmacist. It shall be the responsibility of the pharmacist to determine that the pharmacy technician is in compliance with the applicable rules and regulations of the board, and the pharmacist who supervises a pharmacy technician shall be responsible for the acts and omissions of the pharmacy technician in the performance of his or her duties. The ratio of pharmacy technicians to pharmacists in the prescription area of a pharmacy shall not exceed a two-to-one ratio.

The board shall adopt such rules and regulations as are necessary to ensure that pharmacy technicians are adequately trained as to the nature and scope of their lawful duties.

(c) (1) A medication profile record system shall be maintained in all pharmacies for persons for whom prescriptions are dispensed. The following information shall be recorded: (A) The name and address of the patient for whom the medication is intended; (B) the prescriber's name, the original date the prescription is dispensed and the number or designation identifying the prescription; ~~and~~ (C) the name, strength and quantity of the drug dispensed and the name of the dispensing pharmacist; and (D) drug allergies and sensitivities

(2) Upon receipt of a prescription order, the pharmacist shall examine the patient's medication profile record before dispensing the medication ~~to determine the possibility of a harmful drug interaction or reaction to the medication~~ according to federal and state laws and the provisions of the board's rules and regulations. Upon recognizing a potential harmful drug interaction or reaction to the medication, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the prescriber with documentation of actions taken on the prescription record

(3) A medication profile record shall be maintained for a period of not less than five years from the date of the last entry in the record.

(4) All prescription drug orders communicated by way of electronic transmission shall conform to federal and state laws and the provisions of the board's rules and regulations

(d) No registration shall be issued or continued for the conduct of a pharmacy until or unless the provisions of this section have been complied with.

Sec. 3. K.S.A. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for registrations or permits under K.S.A. 65-1643 and amendments thereto shall be made on a form prescribed and furnished by the board. Applications for registration to distribute at wholesale any drugs shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655 and amendments thereto. 1996 Supp. The application shall be accompanied by the fee prescribed by the board under the provisions of this section. When such application and fees

are received by the executive secretary of the board on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. However, if at the time of filing a proceeding is pending before the board which may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which is carried on any of the operations for which a registration or permit is required by K.S.A. 65-1643 and amendments thereto except that the board may provide for a single registration for a business entity registered to manufacture any drugs or registered to distribute at wholesale any drugs and operating more than one facility within the state, or for a parent entity with divisions, subsidiaries or affiliate companies, or any combination thereof, within the state when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(b) The fees required for the issuing of the registrations or permits required by K.S.A. 65-1643 and amendments thereto shall be fixed by the board as herein provided, subject to the following:

(1) Pharmacy, new registration not more than $150, renewal not more than $125;

(2) pharmacist, examination fee not more than $350;

(3) pharmacist, examination fee for previously licensed pharmacist not more than $250;

(4) pharmacist, renewal fee not more than $100;

(5) pharmacist, evaluation fee not more than $250;

(6) pharmacist, reciprocal licensure fee not more than $250;

(7) pharmacist, penalty fee, not more than $250;

(8) manufacturer, new registration not more than $500, renewal not more than $400;

(9) wholesaler, new registration not more than $500, renewal not more than $400, except that a wholesaler dealing exclusively in nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and reregistration not to exceed $50;

(10) special auction not more than $50;

(11) samples distribution not more than $50;

(12) institutional drug room, new registration not more than $40, renewal not more than $35;

(13) retail dealer selling more than 12 different nonprescription drug products, new permit not more than $12, renewal not more than $12; ~~or~~

(14) certification of grades for each applicant for examination and registration not more than $25; or

(15) pharmacy technician, new registration or renewal, not more than $50.

(c) For the purpose of fixing fees, the board may establish classes of retail dealers' permits for retail dealers selling more than 12 different nonprescription drug products, and the board may fix a different fee for each such class of permit.

(d) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall fix by rules and regulations the fees authorized for such year at the sum deemed necessary for such purposes. The fees fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(e) The board may deny renewal of any registration or permit required by K.S.A. 65-1643 and amendments thereto on any ground which would authorize the board to suspend, revoke or place on probation a registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643 and amendments thereto. Registrations and permits issued under the provisions of K.S.A. 65-1643 and 65-1644 and amendments thereto shall be conspicuously displayed in the place for which the registration or permit was granted. Such registrations

or permits shall not be transferable. All such registrations and permits except retail dealer permits shall expire on June 30 following date of issuance. Retail dealers' permits shall expire on the last day of February. All registrations and permits shall be renewed annually. Application blanks for renewal of registrations and permits shall be mailed by the board to each registrant or permittee at least 30 days prior to expiration of the registration or permit. If application for renewal is not made before 30 days after such expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee. Failure of any registrant or permittee to receive such application blank shall not relieve the registrant or permittee from the penalty hereby imposed if the renewal is not made as prescribed.

and pharmacy technician registrations

and pharmacy technicians' registrations

(b) Each pharmacy shall keep a suitable book or file which records every prescription order filled at the pharmacy and a medication profile record system as provided under subsection (c). The book or file of prescription orders shall be kept for a period of not less than five years. The book or file of prescription orders shall at all times be open to inspection by members of the board, the secretary of health and environment, the duly authorized agents or employees of such board or secretary and other proper authorities.

(c) (1) A medication profile record system shall be maintained in all pharmacies for persons for whom prescriptions are dispensed. The following information shall be recorded: (A) The name and address of the patient for whom the medication is intended; (B) the prescriber's name, the original date the prescription is dispensed and the number or designation identifying the prescription; and (C) the name, strength and quantity of the drug dispensed and the name of the dispensing pharmacist.

(2) Upon receipt of a prescription order, the pharmacist shall examine the patient's medication profile record before dispensing the medication to determine the possibility of a harmful drug interaction or reaction to the medication. Upon recognizing a potential harmful drug interaction or reaction to the medication, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the prescriber.

(3) A medication profile record shall be maintained for a period of not less than five years from the date of the last entry in the record.

(d) No registration shall be issued or continued for the conduct of a pharmacy until or unless the provisions of this section have been complied with.

History: L. 1953, ch. 290, § 28; L. 1975, ch. 319, § 28; L. 1982, ch. 262, § 2; L. 1986, ch. 235, § 4; L. 1987, ch. 236, § 4; L. 1989, ch. 194, § 1; July 1.

Attorney General's Opinions:

Examination and registration of pharmacists; rules and regulations; patient profile records. 86-64.

65-1643. Registration or permit required; pharmacies, manufacturers, wholesalers, auctions, sales, distribution or dispensing of samples, retailers, institutional drug rooms, pharmacy interns; certain acts declared unlawful. On and after the effective date of this act, it shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products

Senate Public Health and Welfare
Date: 2-25-97
Attachment No. 4

covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute 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 product the label of which is required to bear substantially the statement: "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection (s) of K.S.A. 65-1626 and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a and amendments thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy intern without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy intern registration fee of $25 to the board.

History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 263, § 7; L. 1983, ch. 210, § 2; L. 1986, ch. 231, § 29; June 1.

Revisor's Note:
Section was amended twice in 1982 session, see 65-1643a.

Cross References to Related Sections:
Registration requirements, uniform controlled substances act, see 65-4116 et seq.

Research and Practice Aids:
Drugs and Narcotics ⇐ 13.
C.J.S. Drugs and Narcotics §§ 5, 29 to 39.

Attorney General's Opinions:
Registration of out-of-state pharmacists doing business in Kansas. 84-71.
Examination and registration of pharmacists; rules and regulations; patient profile records. 86-64.

CASE ANNOTATIONS

1. Health food store enjoined from using the word "Farmacy" in business name and advertising when not operated as licensed pharmacy. Kansas State Bd. of Pharmacy v. Wilson, 8 K.A.2d 359, 360, 361, 362, 657 P.2d 83 (1983).
2. Kansas medicaid program required disclosure of prescription filling process; failure to disclose material facts involves federal violation. United States v. Goldstein, 695 F.2d 1228, 1233, 1234 (1981).

65-1643a.

History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 262, § 3; Repealed, L. 1983, ch. 210, § 3; April 14.

65-1644. Duplicate licenses, registrations and permits; fees. The board may issue duplicate licenses, registrations or permits upon return of the original, or upon a sworn statement that the original has been lost or destroyed, and has not been given away or disposed of to some other person. Applications for such duplicate licenses, registrations and permits and the affidavits required by this section shall be made on forms furnished by the board. The fee for the issuance of a duplicate registration or permit shall be $1.25 for permits, and $10 for certificates of registration.

History: L. 1953, ch. 290, § 30; L. 1962, ch. 37, § 4; L. 1974, ch. 252, § 3; L. 1975, ch. 319, § 30; L. 1986, ch. 231, § 30; June 1.

65-1645. Applications for registrations and permits; renewals; forms; establishment of fees; establishment of retail dealer classes;

ambulance service district.

(q) "Nonemergency transportation" means the care and transport of a sick or injured person under a foreseen combination of circumstances calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the attendant whether within or outside the vehicle as part of such transportation services.

(r) "Operator" means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

(s) "Person" means an individual, a partnership, an association, a joint-stock company or a corporation.

(t) "Physician assistant" means a person whose name is on the register of physicians' assistants maintained by the state board of healing arts.

~~(t)~~ *(u)* "Physician" means a person licensed by the state board of healing arts to practice medicine and surgery.

~~(u)~~ *(v)* "Training officer I" means any person who has completed successfully a course of training, approved by the board, to conduct continuing education programs for attendants.

~~(v)~~ *(w)* "Training officer II" means any person who has: (1) Completed successfully a course of training, approved by the board, to conduct continuing education programs for attendants; and (2) completed successfully a supplemental course of training, approved by the board, to conduct initial training programs for first responders.

Sec. 2. K.S.A. 1996 Supp. 65-6119 is hereby amended to read as follows: 65-6119. Notwithstanding any other provision of law, mobile intensive care technicians may perform any of the following:

(a) May perform all the authorized activities of an emergency medical technician as described in K.S.A. 65-6121, and amendments thereto.

(b) Perform cardiopulmonary resuscitation and defibrillation in a pulseless, nonbreathing patient.

(c) When voice contact or a telemetered electrocardiogram is monitored by a person licensed to practice medicine and surgery, *a registered physician assistant* or a licensed professional nurse where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, and upon order of such person, *such physician assistant* or such nurse do any of the following:

(1) Perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions.

(2) Perform gastric suction by intubation.

(3) Perform endotracheal intubation.

(4) Administer parenteral injections of any of the following classes of drugs:

and who is acting under the direction of a responsible physician

(v) "Responsible physician" means responsible physician as such term is defined under K.S.A. 65-2897a and amendments thereto.

And by relettering subsections accordingly

where authorized by a person licensed to practice medicine and surgery

Senate Public Health & Welfare
Date: 2-25-97
Attachment No. 5

(A) Antiarrhythmic agents.
(B) Vagolytic agents.
(C) Chronotropic agents.
(D) Analgesic agents.
(E) Alkalinizing agents.
(F) Vasopressor agents.

(5) Administer such other medications or procedures as may be deemed necessary by such an ordering person.

(d) Perform, during an emergency, those activities specified in subsection (c) before contacting the person licensed to practice medicine and surgery *or* ~~authorized~~ *physician assistant* or ~~authorized~~ licensed professional nurse when specifically authorized to perform such activities by medical protocols.

(e) Perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 3. K.S.A. 1996 Supp. 65-6120 is hereby amended to read as follows: 65-6120. Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate:

(a) May perform any of the activities described by K.S.A. 65-6121, and amendments thereto, which an emergency medical technician may perform;

(b) when approved by medical protocols and where voice contact by radio or telephone is monitored by a person licensed to practice medicine and surgery, *a registered physician assistant* or a licensed professional nurse, where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, upon order of such person, *such physician assistant* or such nurse may perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions;

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the person licensed to practice medicine and surgery, ~~authorized~~ *registered physician assistant* or ~~authorized~~ licensed professional nurse when specifically authorized to perform such activities by medical protocols; or

(d) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 4. K.S.A. 1996 Supp. 65-6123 is hereby amended to read as follows: 65-6123. Notwithstanding any other provision of law to the contrary, an emergency medical technician-defibrillator:

(a) May perform any of the activities described by K.S.A. 65-6121,

registered

, where authorized by a person licensed to practice medicine and surgery,

5-7

and amendments thereto, which an emergency medical technician may perform;

(b) when approved by medical protocols and where voice contact by radio or telephone is monitored by a person licensed to practice medicine and surgery, *a registered physician assistant* or a licensed professional nurse, where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, upon order of such person, *such physician assistant* or such nurse, may perform electrocardiographic monitoring and defibrillation;

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the person licensed to practice medicine and surgery, ~~authorized~~ *registered physician assistant* or ~~authorized~~ licensed professional nurse when specifically authorized to perform such activities by medical protocols; or

(d) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 5. K.S.A. 1996 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No person licensed to practice medicine and surgery, *registered physician assistant* or ~~registered~~ professional nurse, who gives emergency instructions to a mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate who renders emergency care during an emergency pursuant to instructions given by a person licensed to practice medicine and surgery, *a registered physician assistant* or a ~~registered~~ professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate rendering such emergency care.

(c) No first responder who renders emergency care during an emergency shall be liable for civil damages as a result of rendering such emergency care, except for such damages which may result from gross negligence or from willful or wanton acts or omissions on the part of the first reponder rendering such emergency care.

(d) No person certified as an instructor-coordinator and no training officer shall be liable for any civil damages which may result from such instructor-coordinator's or training officer's course of instruction, except

, where authorized by a person licensed to practice medicine and surgery,

licensed

the responsible physician for

licensed

5-3