

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on February 10, 1998 in Room 423-S-of the State Capitol.

All members were present except: Representative Tony Powell - excused

Committee staff present: Emalene Correll, Legislative Research Department
Robin Kempf, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Representative Jim Garner
Bob Williams, Kansas Pharmacists Association
Larry Froelich, Kansas State Board of Pharmacy
Kevin Kraushaar, Nonprescription Drug Manufacturers Association
Helen Stephens, Kansas Peace Officers Association

Others attending: See Guest List ([Attachment 1](#))

The minutes of the meetings held on February 2, 3, 4, and 5, 1998 were distributed for review and, by policy, will be approved as read if no changes are reported to the Chairperson by 5:00 p.m., February 10.

The Chairperson announced that **HB 2832** (county hospitals, board, method of selecting); and **HB 2835** (exemption from pharmacy act of dialysates, devices and drugs used to treat chronic kidney failure) had been assigned to the committee.

Chairperson Mayans then opened the hearing on **HB 2586** - controlled substances; relating to products containing ephedrine. Representative Jim Garner, sponsor of the bill, testified in support. Ephedrine has become a key ingredient in the manufacture of illegal and dangerous drugs, and it is the intention of the bill to make it more difficult to acquire and to address a very real problem in Kansas communities. (See testimony, [Attachment 2](#).)

Bob Williams, Executive Director of the Kansas Pharmacists Association, supported **HB 2586**, stating that the bill will help in controlling the illegal diversion of ephedrine by making it available only from a pharmacy. (See testimony, [Attachment 3](#).)

Larry Froelich, Executive Secretary to the Board of Pharmacy, also testified in support of the bill noting the various uses of ephedrine by laboratories for illegal purposes and use by athletes as stimulants during sporting events. He also included a chart to display the various states' restrictions on the sale of products containing only ephedrine and sale of "ephedrine-combination" products. (See testimony, [Attachment 4](#).) Representative Showalter asked the definition of "legend" and "controlled substance." Mr. Froelich answered that all controlled substances are legend items (or prescribed). There are different categories of controlled substances, ranging from levels 1 through 5. The drugs classified in the category of controlled substances are not considered legend products and do not require prescriptions for them.

Kevin Kraushaar, Associate General Counsel and Director of State Government Relations for the Nonprescription Drug Manufacturers Association, testified in support of **HB 2586**. Mr. Kraushaar noted that the association would be in support of the bill if it is amended to exempt from Schedule V those nonprescription drug products that are specifically formulated, packaged and marketed in what is generally called "blister packs" to prevent diversion to illegal uses. He also suggested the committee may want to consider an amendment that makes it illegal to possess any precursor substance with the intent to use the precursor to manufacture methamphetamine or any other controlled substance. He stated a number of states used this method to allow the criminal prosecution for the possession of any substance when it is diverted to an illegal use. The Ohio change was cited as an example. He stated this is a reasonable approach and provides a balance for products being sold legitimately. (See testimony, [Attachment 5](#).) Some questions were asked about the diversion of the product--wondering why blister packs would slow the illicit use of the drug; and Mr. Kraushaar responded that experience to date is the blister packs simply impede the process to get to the drug. Chairperson Mayans asked if Kansas is trying to micromanage drugs one-by-one as it becomes apparent they are being diverted illegally. Representative Morrison echoed that issue, asking if other products (like glycerine) may also be included; also many of the products needed to manufacture illicit products can be purchased off the shelf of most markets.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol, at 1:30 p.m. on February 10, 1998

Chairperson Mayans asked Mr. Froelich if a similar bill, for another drug, was being considered in the Senate and, if so, why the bills were not combined. Mr. Froelich answered there is a Senate bill to adjust the drug categories. Emalene Correll asked if the Federal Drug Administration had considered scheduling the drug; and Mr. Haushaar answered the Drug Enforcement Agency would be the one and they have not acted on it. They have looked at it, but took no action. Nebraska, Missouri, and Oklahoma have ephedrine as a controlled substance; Colorado does not.

Helen Stephens, Kansas Peace Officers Association, stated the association had been opposed to the bill. Peace officers are for any method to limit the purchase and use of drugs for illegal reasons and are now in support.

There being no others present to testify on **HB 2586**, the hearing was closed.

Chairperson Mayans suggested the committee may want to take action on **HB 2629**. He asked if there were any questions on the bill. There were none. Thereupon, Representative Morrison moved, and Representative Long seconded, that **HB 2629** (concerning joint legislative oversight committee on health care reform; expiration date) be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar. The motion carried.

The Chairperson also asked the committee if it was ready to act on **HB 2723** (use of automatic defibrillators by certain persons). Representative Morrison noted there was an amendment submitted by Emergency Medical Services that probably should be considered. Discussion was held, and on motion of Representative Morrison, seconded by Representative Henry, **HB 2723** was amended on page 1, in line 16, by striking "It is the intent of the legislature than an" and inserting "An"; in line 17, after "person" by inserting "who has satisfied the requirements of subsection (b)(1)"; in line 28, by striking "medical director"; in line 33, by striking all after "person" where it appears for the first time; and in line 34, by striking "surgery." The motion carried. Thereupon, Representative Morrison moved, seconded by Representative Hutchins, that **HB 2723** be passed as amended. The motion carried. Representative Powell will carry the bill on the floor of the House.

Chairperson Mayans noted that the committee may take action on **HB 2669** (investigations of abuse, neglect or exploitation of certain persons), as well as hear **HB 2681** (actions against licensees under the Kansas healing arts act) and **HB 2670** (investigations and proceedings conducted by board of healing arts) tomorrow at its meeting.

The meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for February 11, 1998.

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST
FEBRUARY 10, 1998

NAME	REPRESENTING
Kevin Kraushaar	Nonprescription Drug Manufacturers Assoc.
Pullman Pittman	Hearta Midwest
Craig Kabo	KCDD
Nancy Haferty	Def A
John Peterson	Ks Governmental Consulting
Bob Anderson	KPHA
Kathi Chalkey	Board of Nursing
Delores Price	Board of Nursing
LARRY FROELICH	BOARD of PHARMACY
Victoria Schmidt	Board of Pharmacy
Bob Williams	Ks. Pharmacists Assoc
Scott Knoer	Ks. Pharmacists Assoc.
Carolyn Dunt	KDHE
Steve Montgomery	Carter - Wallace
Michelle Peterson	PhARMA
Mary Draper	Kansas Medical Society
Susan Anderson	Heim + Weis
Ryle Sylvester	KII
LeRoy Starnet	(KEM) Wamogo

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST
FEBRUARY 10, 1998

NAME	REPRESENTING
Dean Schwenberger	Kansas Child Abuse Impact Committee ^{at large}
Phil Stevenson	INTERIM FOR REP. GARNER
Anne Haught	KID
Bud Sweet	J & J

JOHN D. GARNER
 REPRESENTATIVE, 11TH DISTRICT
 601 EAST 12TH, P.O. BOX 538
 (316) 251-1864 (H), (316) 251-5950 (O)
 COFFEYVILLE, KS 67337
 STATE CAPITOL, RM 284-W
 TOPEKA, KS 66612-1504
 (913) 296-7675
 1-800-432-3924 (DURING SESSION)



TOPEKA

HOUSE OF
REPRESENTATIVES

TESTIMONY IN SUPPORT
 OF HOUSE BILL 2586
 10 FEBRUARY, 1998

COMMITTEE ASSIGNMENT
 RANKING DEMOCRAT: JUDICIARY
 MEMBER: SELECT COMMITTEE ON JUVENILE
 CRIME
 RULES AND JOURNAL
 COUNCIL ON THE FUTURE OF
 POSTSECONDARY EDUCATION
 KANSAS JUDICIAL COUNCIL
 CRIMINAL LAW ADVISORY COMMITTEE
 NCSL ASSEMBLY ON FEDERAL ISSUES—LAW
 AND JUSTICE COMMITTEE

Chairman Mayans And Members of the Committee:

Thank you for this opportunity to express my support for HB 2586, which would restrict access to the drug ephedrine. Ephedrine is the main substance in the items marketed as "Minithins" and similar products. It has become a key ingredient in the quick and efficient manufacturing of the illegal and dangerous drug methamphetamine.

The manufacturer of methamphetamine (also know as meth, speed or crank) is out of control in Southeast Kansas. It is having negative impacts in communities across Kansas. This bill is one simple and logical approach to address the meth lab problem . There are a number of unscrupulous folks that purchase this drug in large quantities and use it to manufacture meth.

This bill makes it more difficult to purchase ephedrine. One could still purchase it without a prescription, but it would have to be bought at a pharmacy with identification much like codeine cough syrup. This bill will remove these items from the counter at the convenient stores where they usually are displayed at the eye level of a 10-year old. Also, this will go far to prohibit the sale of boxes or crates of minithins out of the back of vans. Such sales are only for questionable use.

Two years ago I sponsored an amendment, which is now law, that restricted the sale of pure ephedrine. The manufacturers have avoided this restriction by adding an additional element to their product. HB 2586 will close this loophole in the current law.

HB 2586 is an easy, but effective approach to make life more difficult for the neighborhood meth lab operators and will address a very real problem in Kansas communities.

Thanks again for the opportunity to testify, and I urge your favorable support of this bill.

HOUSE HHS COMMITTEE
 Attachment 2
 2-10-98



THE KANSAS PHARMACISTS ASSOCIATION
1308 SW 10TH AVENUE
TOPEKA, KANSAS 66604-1299
PHONE (785) 232-0439
FAX (785) 232-3764

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

TESTIMONY

February 3, 1998

HB2586

House Committee on Health and Human Service

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee regarding HB2586.

It is our understanding that HB2586 would reclassify ephedrine containing products to a schedule V, thus making them only available from a pharmacy. Individuals would still be able to purchase ephedrine containing products without a prescription. However, they would have to sign a registry, as we currently do for some codeine containing products. There are numerous reports across the country regarding abuse and diversion of ephedrine to clandestine methamphetamine ("speed") and methcathinone ("cat") laboratories, where it is the primary precursor for the illicit production of these controlled substances. HB2586 will help in controlling the illegal diversion of these drugs.

We encourage your support of HB2586.

Thank you.

HOUSE HHS COMMITTEE
Attachment 3
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Kansas State Board of Pharmacy

LONDON STATE OFFICE BUILDING
900 S.W. JACKSON STREET, ROOM 513
TOPEKA, KANSAS 66612-1231
PHONE (785) 296-4056
FAX (785) 296-8420

STATE OF KANSAS



BILL GRAVES
GOVERNOR

1998 KANSAS LEGISLATIVE SESSION House Bill No. 2586

PHARMACY PRACTICE ACT

House Committee on Health and Human Services

Tuesday, February 10, 1998

EXECUTIVE DIRECTOR
LARRY C. FROELICH
BOARD ATTORNEY
DANA W. KILLINGER

REPRESENTATIVE CARLOS MAYANS, Chairman
REPRESENTATIVE JIM MORRISON, Vice Chairman
COMMITTEE MEMBERS

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 HB 2586.

The Kansas Board of Pharmacy does support the proposed changes to K.S.A. 65-4113 entitled "Substances included in Schedule V".

Ephedrine is linked to reports of increasing abuse and diversion of ephedrine to illegal laboratories that make the products that are abused, most notably Methamphetamine (Speed). Another problem reported with this product are attempts by individuals to abuse the stimulant effect of this drug when performing in athletic events. This bill would restrict the sale of this product, not requiring a prescription to purchase the product, but for records to be documented with the purchase of this drug.

The National Association of Boards of Pharmacy (NABP) has conducted two surveys regarding States with restrictions on Ephedrine, in 1984 and again in 1997. From the comparison of the two surveys, NABP has determined the following:

- 21 States have placed some sort of restriction on ephedrine-only products AND 16 States have restrictions on ephedrine-combination products. This is an increase from the 1984 survey, when 14 States restricted ephedrine-only and 8 States restricted ephedrine-combinations.
- 11 States designate ephedrine-only products as controlled substances AND 10 States designate them as legend drugs. This is an increase from the 1984 survey, when 6 States designated them as controlled substances and 8 States designated them as legend drugs.
- 8 States designate ephedrine-combination products as controlled substances AND 6 States designate them as legend drugs. In 1984, the number of States reporting this were 3 and 2, respectfully.

The Board of Pharmacy respectfully requests favorable passage of HB-2586. I will be glad to answer any questions.

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State	Any restrictions on the sale of products containing only ephedrine? If so, what type of restriction?	Any restrictions on the sale of "ephedrine-combination" products? If so, what type of restriction?
AL	No	No
AZ	Yes-controlled substance	No
AR	Yes-controlled substance	Yes-controlled substance
CO	No	No
CT	No	No
DE	No	No
FL	Yes-legend drug	Yes-legend drug
ID	Yes-legend drug	Yes-legend drug
IL	Yes-controlled substance	Yes-controlled substance
IN	No	No
IA	No	No
KS	Yes-controlled substance	No
KY	No	No
LA	Yes-legend drug	Yes
ME	No	No
MD	No	No
MI	Yes-legend drug	Yes
MN	No	No
MS	No	No
MO	Yes-controlled substance	Yes-controlled substance
MT	No	No
NE	Yes-controlled substance	Yes-controlled substance
NV	Yes-controlled substance	No
NH	No	No
NJ	Yes-legend drug	
NM	Yes-legend drug	Yes-legend drug
NY	No	No
ND	Yes-legend drug	No
OH	Yes-controlled substance	Yes-controlled substance
OK	Yes-controlled substance	Yes-controlled substance
OR	Yes-legend drug	Yes-legend drug
RI	No	No
SC	No	No
SD	Yes-controlled substance	Yes-controlled substance
TN	Yes-legend drug	Yes-legend drug
TX	No	No
VA	No	No
WA	Yes-legend drug	Yes-legend drug
WI	Yes-controlled substance	Yes-controlled substance
WY	No	No

40 states responded to the survey.



Better Health
Through Responsible
Self-Medication

February 9, 1998

The Honorable Jim D. Garner
Kansas House of Representatives
Kansas Statehouse
300 SW 10th Avenue
Topeka, Kansas 66612-1504

Dear Representative Garner,

On behalf of the Nonprescription Drug Manufacturers Association (NDMA), I am writing in regard to HB 2586, a bill that would place nonprescription ephedrine-combination products on Schedule V (pharmacy only) of the Controlled Substance Schedules. The intent of this bill is to prevent the illegal diversion of products containing ephedrine to clandestine methamphetamine labs.

Current law in Kansas places on Schedule V only those products that contain ephedrine as a single ingredient. NDMA would have no objection to HB 2586 if the bill were amended to exempt from Schedule V those nonprescription drug products that are specifically formulated, packaged and marketed in a manner to prevent diversion.

Ephedrine is approved by the U.S. Food and Drug Administration for nonprescription use as a bronchodilator for the treatment mild symptoms of asthma. While NDMA acknowledges that there has been diversion of ephedrine to clandestine methamphetamine labs, the evidence suggests that legitimate OTC medicines, such as Primatene® Tablets and Bronkaid® Dual Action Caplets, sold at traditional retail outlets, are a very minor part of the diversion problems.

The purpose of our amendment would be to exempt from Schedule V only those ephedrine-combination products that are specifically formulated and packaged in blister packs. The amendment would not exempt the large-count bottles that have been most susceptible to diversion.

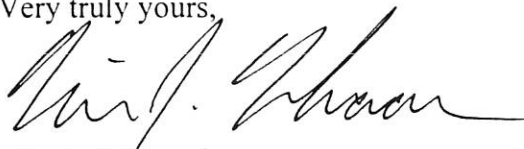
The House Committee on Health and Human Services may also want to consider an amendment that would make it illegal to possess any precursor substance with the intent to use the precursor to manufacture methamphetamine or any other controlled substance. This approach has been utilized in a number of states to allow the criminal prosecution for the

HOUSE HHS COMMITTEE
Attachment 5-1
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possession of any substance when it is illegally diverted to an illegal use. Someone possessing small amounts of nonprescription drugs or other meth ingredients (such as acetone, lithium, iodine, red phosphorous, lye) for legitimate reasons could not be prosecuted without extenuating circumstances.

Again, thank you very much for your consideration of our views on this matter. If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,



Kevin J. Kraushaar
Associate General Counsel and
Director of State Government Relations

Enc: amendment

KJK\


Proposed Amendment to Kansas House Bill 2586

Amend HB 2586 as follows:

At page 2, line 18, after the word "Ephedrine", insert:

"its salts, optical isomers, or salts of optical isomers, except the following:

- (1) Solid oral dosage forms, including soft gelatin caplets, that combine each recommended dose: twenty-five milligrams (25 mg.) of ephedrine and four hundred milligrams (400 mg.) of guaifenesin, according to label instructions and are packaged in blister packs of not more than two tablets per blister; or
- (2) Anorectal preparations containing less than five percent ephedrine".

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State Legislatures, Feb 1995 v21 n2 p7(1)

Death of Ohio teen impels legislation. (spate of overdose deaths prompt passage of law classifying ephedrine as Schedule V controlled substance) (On First Reading)



Explore

Abstract: Ohio legislators passed a law in Jul. 1994 classifying ephedrine as a Schedule V controlled substance in response to a spate of overdose deaths involving the drug recorded since 1988. Sen. Merle Grace Kearns sponsored the legislation after being approached by the parents of teen linebacker Carl Richardson, who died after ephedrine built up at high levels in his body. Under the new law, ephedrine can only be sold by registered pharmacists to persons at least 18 years of age. It also requires firms selling the substance to secure a special license.

Full Text: COPYRIGHT National Conference of State Legislatures 1995 He wanted to be bigger, stronger, faster and better than anyone else on the prep gridiron. Instead, 17-year-old Carl Richardson of Plain City, Ohio, died.

After a knee injury failed to heal as quickly as the inside linebacker thought it should, he turned to a high school classmate who provided him with "Pep-Tabs" at a cost of \$5 for a hundred tablets. The pills were perfectly legal, available in health food and convenience stores, truck stops, gas stations, and through mail-order advertisements in body-building magazines. The ephedrine pills were advertised as increasing strength and stamina.

After the boy's death, his parents turned to Senator Merle Grace Kearns, asking her to help sponsor legislation that would prevent similar tragedy from striking other families.

The federal Food and Drug Administration (FDA) approved over-the-counter sale of ephedrine as an asthma and bronchitis treatment in 1988. There are, in fact, 148 products containing ephedrine that have been approved by the FDA for over-the-counter sales.

A stimulant and appetite suppressant, ephedrine products are now being sold as muscle enhancement, diet and pep pills under such names as Pep Tabs, Thermo T, Thermogenic Enhancer, ThermaLoss or "white crosses" consumed by truckers to stay alert. Its herbal form is known as ma huang, ephedra or "the American desert herb."

But ephedrine and pseudo-ephedrine (a derivative of ephedrine) were implicated by medical examiners in the overdose deaths of 184 people between 1988 and 1992, according to the National Institute of Drug Abuse. The drugs also were involved in 14,825 drug-abuse-related episodes in hospital emergency rooms during the same four years.

One of the problems with the drug, usually marketed in 25- to 50-milligram doses, is that it builds up in the body over time. When the Ohio teen died, his body contained 1,100 milligrams of ephedrine.

Kearns' amendment listing ephedrine as a Schedule V controlled substance was unanimously approved as an emergency measure by the Ohio Senate in June 1994 and became Ohio law in July. Products containing ephedrine can be sold only by a registered pharmacist to patients 18 years of age or older. The law exempts asthma-relief products such as Primatene and Bronkaid as well as cold and hay fever medications that contain pseudo-ephedrine.



The law affects about 174 products although "there may be 500 or more over-the-counter products containing ephedrine or pseudo-ephedrine in the marketplace," according to the Ohio State Board of Pharmacy.

In an attempt to deal with mail-order firms offering ephedrine in diet, pep and muscle-building pills, the law also requires licensing of companies that sell ephedrine products.

"By making ephedrine a Schedule V drug, Ohio has said that, despite FDA approval, it is a dangerous drug and should be regulated more strictly by the state," Kearns said.

During hearings on the amendment, drug manufacturers challenged state restrictions on ephedrine as violations of the Interstate Commerce Clause of the Constitution. They also argued the drug could be safely sold over the counter.

Fourteen states restrict the sale of ephedrine products. Florida has the most stringent regulations, confining purchases of all ephedrine products to prescription-only. Michigan and New Jersey limit the amount that can be purchased without a prescription, while in states such as Missouri, New Mexico and North Dakota, products containing ephedrine as their single ingredient are available only through a prescription. Products that contain ephedrine in combination with other drugs can still be purchased over the counter.

The FDA is currently reviewing the over-the-counter status of ephedrine. And the Drug Enforcement Administration issued new regulations in November 1994 that require specific record-keeping on and reporting of ephedrine sales. Over-the-counter ephedrine is used as a base chemical for the manufacture of the illegal street drug "speed" (methamphetamine).

Article A16639948



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