

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on March 18, 1998 in Room 423-S-of the State Capitol.

All members were present except: Representative Vince Cook - excused
Representative Tony Powell - excused
Representative Clark Shultz - 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:
Larry Froelich, Executive Director, Kansas State Board of Pharmacy
Vicki Schmidt, Kansas State Board of Pharmacy Member
Daniel Gronniger, Legal Counsel, Department on Aging
John Kiefhaber, Kansas Health Care Association

Others attending: See Guest List (Attachment 1)

The minutes of the committee meeting held on March 17, 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. March 18.

Chairperson Mayans opened the hearing on **SB 507** - Pharmacy practice act amendments, civil fines, license suspension or revocation.

Larry Froelich, Kansas State Board of Pharmacy, testified in support of the Board's bill, stating that it changes the licensing period and increases fees and penalties, and makes some changes in the required educational hours. It also authorizes the Board to revoke or deny a license after formal legal proceedings have commenced whether in Kansas or any state. Mr. Froelich requested additional amendments to (1) permit test applicants to directly pay the examining service for tests, and (2) move the effective date of the bill forward (to "upon publication in the Kansas Register"). (See testimony, Attachment 2.) Mr. Froelich noted that, as an average, 150 to 200 tests are taken each year; and tests are administered by the American Council of Pharmaceutical Educators.

No others were present to testify on the bill; the hearing on **SB 507** was closed.

The hearing on **SB 484** (requirements for pharmacists filling transferred prescriptions) was opened.

Vicki Schmidt, member of the Board of Pharmacy, testified that the bill strikes antiquated language concerning the record keeping system for drug prescriptions and updates the law to authorize computerized record keeping systems, except where federal law pre-empts state law and requires paper records. The Board requests passage of the bill. (See testimony, Attachment 3.)

No others were present to testify on the bill; the hearing on **SB 484** was closed.

The hearing on **SB 129** (Secretary of aging powers and duties, older Americans act, senior care act and long-term care programs) was opened.

Daniel Gronniger, Legal Counsel for the Department on Aging, testifying in support of the bill also requested further amendments to restore the bill to its original version as was originally introduced. (See testimony, Attachment 4.)

No others were present to testify on the bill; the hearing on **SB 129** was closed.

Chairperson Mayans suggested that the committee may be ready to take action on bills previously heard.

Representative Morrison moved that **HB 484** be passed and asked that it be placed on the Consent Calendar. Representative Long seconded the motion. The motion carried.

CONTINUATION PAGE

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S State Capitol at 1:30 p.m. on March 18, 1998

Representative Morrison moved that **SB 507** be amended by adding on page 6, section 3, a new sub-section (g), as follows: "The board may require the fee paid for any examination under the pharmacy act be paid directly to the examining service by the person taking the examination." Representative Geringer seconded the motion. Mr. Froelich, when asked if the Board of Pharmacy would approve the amendment, answered that it would as it eliminates the work associated with the collection of such fees under the current system. It was noted that the portion of the fee presently paid to the General Fund for these collections will cease on approval of this amendment. On call of the motion, the motion carried.

Representative Morrison moved that line 20, section 7 of **SB 507**, be amended to delete "statute book" and insert "Kansas Register." Representative Storm seconded the motion. The motion carried.

Representative Morrison then moved that **SB 507** be passed as amended. Representative Long seconded the motion. The motion carried. Representative Morrison will carry the bill on the floor of the House.

Representative Morrison moved that **SB 129** be passed. Representative Horst seconded the motion. The motion carried. Representative Geringer will carry the bill on the floor of the House.

Chairperson Mayans asked if the committee was ready to act on **HB 2969** (quality enhancement wage pass-through program for nursing facilities).

Representative Henry moved that **HB 2969** be passed. Representative Storm seconded the motion. Some questions were posed about the \$4 limit for increasing wages. John Kiefhaber noted that the \$4 increase could be spread over more than one year; even so, the design is that the increase will not affect the reimbursement system or change the formula. A call of the motion was made. The motion carried. Representative Henry will carry the bill on the floor of the House.

Chairperson Mayans noted that tomorrow's agenda is being amended to include a hearing on **Substitute Senate Bill 437** (childhood lead poisoning prevention program) and the agenda includes possible action on bills previously heard. Representative Henry requested that the committee also consider action on **SB 242** (respiratory therapist licensure) at tomorrow's meeting.

The meeting adjourned at 2:50 p.m.

The next meeting is scheduled for March 19, 1998.

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST
MARCH 18, 1998

NAME	REPRESENTING
Dan Gronniger	KDO Aging
Susan Anderson	Hein + Weir
Vicki Schmidt	Ho. Bd of Rx
Michelle Peterson	Peterson Public Affairs
Kim Pittman	Health Midwest
Larry Lusk	Slaps Wellcom
Sally Finney	Ks. Public Health Assn.
TK Shively	Ks Legal Services
Ruth Fink	—
Larry Fink	—
John and Evelyn Helm	—
Alfred Matthew	JO. Co older Ks. Org
Bill Matthew	" " " " "
Tom Knox	Pharmacia & Upjohn, Co.
DVD LOEWENT	KCCI
LARRY FROELICH	BOARD of PHARMACY
Erik Santorius	Pete McGill + Assoc
Tenille Poling	Colby High School
Brian Oedingen	Colby High School
Wendy Cook	Colby High School
Joan Mamebach	Colby High School
Beet Stramel	Colby High School
Alex W	CHS
Carrie Kitting	Basemor - Linwood HS
Nicki McDowell	BLHS
Joel Morgan	BLHS
Lair Burdick	Shrewsbury Ks

Juanita Harding

AARP

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GOVERNOR

EXECUTIVE DIRECTOR
LARRY C. FROELICH

BOARD ATTORNEY
DANA W. KILLINGER

1998 KANSAS LEGISLATIVE SESSION Senate Bill No. 507

PHARMACY PRACTICE ACT

House Committee on Health and Human Services

Wednesday, March 18, 1998

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 SB 507.

The current licensing period for a pharmacist is an annual period, expiring June 30th of each year. The proposed change would license pharmacists for a biennial period. The licensing amount would remain the same, currently **\$100 per year** is the statutory maximum that the board has on these licenses, and this would change to **\$200 for two years**. Additional changes would affect language referencing continuing education requirements, with no overall change in the amounts. The current statutory maximum is 20 hours annually, which would change to 40 hours for two years. The maximum number of hours to reinstate a license because of nonpayment of fees would increase to 60 hours. Also needed was language to prorate the licensing fee and continuing education hours when an individual becomes licensed between the two year period.

I would like to offer additional language to this bill. By adding language: "**The board may require that examination fees be paid directly to the examination service. Fees paid directly to the examination service for initial examination or any subsequent examination shall be in an amount determined by such service which amount shall be approved by the board.**" The board office charges the candidate \$300 for the examination with their application. With 20% of the money going to the general fund, the board nets \$240. After the exam has been given, the exam is billed to the office for \$250 which results in a loss to the board of \$10 per exam. If \$250 is paid directly to the exam service and \$50 to the board, the office would give \$10 of that amount into the general fund. The general fund would net \$10 per exam (as opposed to \$60) and the board would net \$40 per exam as opposed to -\$10.

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Another change in the bill would allow the board to take action against a pharmacist license based on action that has been done by another jurisdiction. Using the evidence obtained by that jurisdiction as conclusive evidence for the Kansas Board of Pharmacy to act upon.

The last change to the Pharmacy Act would allow the maximum fining amount to change from \$500 per violation to \$5,000 per violation. All amounts collected by this increase would be credited to the State's general fund.

Pharmacists license renewals are to be mailed by May 1, 1998. For these changes to occur this year, the statute change needs to be implemented as soon as possible, therefore, I request that this change go into effect upon publication in the ***Kansas Register*** as opposed to the July 1 publication in the statute book.

On behalf of the board, I respectfully request the committee's favorable passage and subsequent **support of SB 507**. I will be glad to answer any questions the committee may have.

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1998 KANSAS LEGISLATIVE SESSION Senate Bill 484

PHARMACY PRACTICE ACT

House Committee on Health and Human Services

Wednesday, Marcy 18, 1998

Representative Carlos Mayans, Chairperson
Representative Jim Morrison, Vice Chairperson

Mr. Chairperson and Members of the Committee:

My name is Vicki Schmidt and I am a pharmacist member of the Kansas State Board of Pharmacy. Thank you for the opportunity to address you today about Senate Bill 484. This bill comes to you from the Board of Pharmacy.

K.S.A. 65-1656 is entitled "Transfer of prescriptions and files from one pharmacy to another, establishing conditions and exceptions to such transfers". I would like to take a few moments to explain the current procedure and then explain how these proposed changes would effect the current practice.

CURRENT PRACTICE: A patient takes a prescription into their pharmacy for the initial filling. The prescription is entered into the computer system at the pharmacy. Upon filling, the computer generates a paper copy of the prescription from the entered information, which is attached to the prescription that the patient presented. These are then filed by the prescription number. When the patient requests a refill, the prescription number is entered into the computer system and brought up onto the screen where it is processed for refilling. All the records of the transaction are maintained in the computer with reports generated at the end of the day showing which prescriptions have been filled, the quantities, the pharmacist that filled the prescription, etc. When a patient asks a pharmacist at a different store to fill their prescription, the pharmacist at the second pharmacy calls the first pharmacy and obtains all the required information from the first pharmacist. The pharmacist at the first pharmacy obtains all of the information from the computer screen. Once the transfer has been completed, the pharmacist at the first

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pharmacy must then **retrieve** the prescription from their files and **write void** on the face of the prescription. If it were not for this final step, the pharmacist would never access the original prescription after the initial filling.

CHANGED PRACTICE: The same scenario would exist in the transfer process **except** that the pharmacist at the first pharmacy would not have to retrieve the original prescription from the files to write void on the prescription. Instead, the pharmacist can void the prescription in the computer system. If the pharmacist relies on the computer system to refill prescriptions, it makes more sense to make sure that the prescription is voided at the point that it is being refilled from.

The intent of the law was surely to void the prescription to make sure that the pharmacist does not refill it after it has been transferred to another pharmacy to ensure that a patient does not have multiple prescriptions available for the same medication. Consumer protection will remain in effect in addition to allowing the pharmacy to void the prescription on the computer screen, where the prescription is accessed.

The second change adds language that references the Code of Federal Regulations Section 1306.25. This language is proposed to reference the transfer of controlled substance prescriptions.

The Senate did amend the original wording of the bill to take effect “after publication in the *Kansas Register*”.

The Board of Pharmacy respectfully requests favorable passage of Senate Bill 484. I am happy to answer any questions or concerns that you may have. Thank you again!



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Bill Graves
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Thelma Hunter Gordon
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**Testimony Before the House Health and Human Services Committee
 on Senate Bill No. 129, as Amended
 by Daniel J. Gronniger for the Kansas Department on Aging
 1:30 p.m., March 9, 1998, Room 423-S**

Mr. Chairman and Committee Members:

Thank you for this opportunity to testify in support of Senate Bill No. 129, as amended, and to request this committee to consider making some amendments to the bill as reported out of the Senate. SB 129 would amend the statute listing the Secretary's powers and duties (K.S.A. 75-5908). The first two amendments, on lines 20-21 and line 34 on page 1, are technical amendments which don't make substantive changes in the existing law.

Section 1 of the bill, as introduced, would specifically authorize the Secretary:

1. (m) to adopt regulations for those programs administered by KDOA. Senate amendments would allow regulations only for those programs which are provided for in K.S.A. 75-5901 *et seq.*, but would not allow for regulations for other department programs not found in Chapter 75, Article 59, which the legislature funds and the department administers, such as the Custom Care Program, Environmental Modification Program, and the Case Management Program.

We request the restoration of the originally proposed language in (m) of Section 1, which would permit the Secretary to adopt regulations for all of the programs which the department administers, which we believe to be a fairly routine responsibility of state agencies. The Senate expressed concerns that permitting the Secretary to adopt regulations for all of her programs deprived the legislature of the ability to oversee the regulatory process, but the legislature retains oversight of the department's regulation process through the participation of its members on the State Rules and Regulation Board (for proposed temporary regulations) and through the Joint Committee on Rules and Regulations (for proposed permanent regulations). In addition, at any time before the end of the regular session, the legislature may adopt a concurrent resolution requesting revocation of a regulation and, of course, always retains oversight capability through the appropriation process.

2. (n) to lend the department's surplus state property to area agencies on aging while retaining ownership of it (thereby squeezing maximum value and use out of State property before it is disposed of through the surplus property act)

3. (o) to enter into contracts and agreements which the Secretary finds necessary to perform her duties (such as a contract for equipment or services let through the competitive bid process), another routine responsibility.

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4. (p) to permit the department to recoup some of the costs of printing and distributing the department's pamphlets and brochures. The Senate adopted a suggestion to strike, made by Revisor's staff, who noted that the provision in Section 1(p) was very similar to the language which has appeared in appropriations bills in recent years and that both provisions were not required.

Provisos in appropriations bills may or may not be included from year to year and are generally only good for one year when they are included. The department requests restoration of paragraph (p) to give the provision the relative permanency afforded a statute which will eventually appear in the Kansas Statutes Annotated. The department requests this committee to remove the element of uncertainty which results when authority is temporarily granted only by a proviso in an appropriations bill.

Section 2. The amendment in Section 2(d), lines 13-14 on page 3 cleans up a problem with syntax in the current statute. It doesn't make a substantive change to existing law.

Section 3.

1. The amendment in Section 3(b) adds an area agency on aging's Older Americans Act Advisory Council to the list of representatives which must annually "renew" the area agency's Senior Care Act Plan.

2. *The department requests this committee to consider amending Section 3(d)(1), on line 5 on page 4 by inserting the words "or contracts with" after "to" and before "area" so Subsection (1) will read: "Make grants to or contracts with area agencies on aging." The department requests this amendment to enable it to administer the Senior Care Act through contracts with the area agencies, instead of grants. The law regarding contracts and their enforceability is predictable and well-settled. Performance outcomes and quality assurance measures are traditionally found in contracts rather than grants. There are no hard, fast rules which govern grants and their performance or non-performance. The department feels it will be better able to control outcomes and ensure performance in the Senior Care Act if it is permitted to use contracts instead of grants. Although Subsection 3(d)(4) on lines 13-14, permits the Secretary to "enter into contracts as necessary to carry out the provisions of this act," under the current rules of statutory construction, this general grant of authority would not include the authority to contract with area agencies on aging because Subsection 3(d)(1) specifically requires the use of grants with the area agencies.*

Section 4. The amendment to Section 4(k) on lines 30-32 on page 7, strikes a duplicate sentence.

Section 5. The repeal of K.S.A. 75-5935 will eliminate the separate requirement for an evaluation and report on the Senior Care Act. Under K.S.A. 75-5908(b), the Secretary is required to evaluate and coordinate all state and federal programs and make recommendations to the legislature.

Thank you for your consideration of this legislation. I'll be happy to try to answer any questions you may have.