

Approved: 3-30-98

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 March 17, 1998 in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Senator Stan Clark
Representative John M. Faber
Tom Bell, Kansas Hospital Association
Ron Hein, Baxter International
Stan Longhofer, Kansas Dialysis Services
Vicki Schmidt, Kansas State Board of Pharmacy

Others attending: See attached list

Approval of Minutes

Senator Becker made a motion to approve the Committee minutes of March 10, 11, and 12, 1998, as written, seconded by Senator Salmans. The motion carried.

Hearing on HB 2832 - County hospitals; boards; methods of selecting

Senator Stan Clark testified before the Committee in support of HB 2832 which would amend one of the statutes under which county hospitals are created and operate. Current law allows members of a county hospital board to be selected by the County Commission or elected by the majority of the citizens at a General Election. Senator Clark noted that the majority of members cannot be selected or elected at the same time, and most members of the hospital board serve three-year terms. He pointed out that the three-year term works well for county commissioner appointed boards, but there is considerable expense to the county when a special election has to be held every other year to elect members of a board. Senator Clark offered an amendment that would add new language which would grant authority to the County Commission to either lengthen or shorten present terms of board members by one year and then all members would be elected to a four-year term as shown in his written testimony. (Attachment 1)

Representative John Faber testified before the Committee in support of HB 2832. He recommended that a majority of members of the hospital board be elected in any given election, and then have an election every two years at the same time that school board elections take place. He felt this would help attract more people who would be willing to file and more people interested in the election as noted in his written testimony. (Attachment 2) Concern was expressed during Committee discussion that changes on page 2, lines 25 and 26 which would delete language relating to selection of the majority of members of a board would affect too many hospitals. It was suggested that this provision apply only to elected boards.

Senator Clark summarized testimony from Scott Beims, counsel for Rawlins County Health Center, in support of the bill (Attachment 3), and Les Burton, Chief of Police for Hill City, Kansas, requesting an amendment that would allow vacancies on the hospital board be filled by appointment of the commission and not by the hospital board, (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on March 17, 1998.

Tom Bell, Kansas Hospital Association, expressed his support for new language in **HB 2832** on page 2 relating to the ability of the commission to change the manner of selection of the hospital board, and suggested the Committee may want to change language relating to protest petition and require 5% of qualified electors apply to those who voted in the last Secretary of State's election. Other suggestions relating to selection of a hospital board were noted in his written testimony. (Attachment 5) It was pointed out during Committee discussion that protest petitions in small communities are a very serious matter for members serving on hospital boards.

The Chair noted that the Revisor will draft a balloon of the bill showing suggested amendments for Committee review when the bill is considered.

Written testimony in opposition to the bill was received from Don Paxson, Chairman of the Graham County Hospital Board of Trustees at Hill City. (Attachment 6)

Hearing on HB 2835 - Exemption from pharmacy act of dialysates, devices and drugs used to treat chronic kidney failure

Ron Hein, representing Baxter International, testified before the Committee in support of **HB 2835** which provides that the Pharmacy Act of Kansas would not apply to devices or drugs designated by the Board of Pharmacy as necessary to perform dialysis, prescribed or ordered by a physician, and delivered to a person with chronic kidney failure. Mr. Hein pointed out that the bill provides for certain criteria such as the Board of Pharmacy retains control over which drugs qualify for such home distribution, and the wholesale distributor continues to be required to be registered with the Board. The wholesale distributor is also required to be supervised by a pharmacist consultant pursuant to rules and regulations adopted by the Board. Mr. Hein also stated he would support the amendments that would be proposed by a representative of the Board of Pharmacy and a representative of the dialysis centers. (See Attachment 7)

Stan Langhofer, Kansas Dialysis Services, testified in support of **HB 2835** and offered amendments that would allow the dialysis service to continue to give medicine and perform dialysis treatments under the order of a physician for the patients who come to the units. The amendments defined "physician" and clarifies language relating to a Medicare approved renal dialysis facility for administering or delivering to a person with chronic kidney failure" as shown in the balloon of the bill. (See Attachment 8)

Vicki Schmidt, Kansas State Board of Pharmacy, testified in support of **HB 2835** and noted that the bill would solve several issues for both the wholesale distributors and the dialysis centers. She noted that members of all of the entities involved have had several meetings and have crafted amendments to be bill as noted in previous testimony. (Attachment 9)

There were no opponents to the **HB 2835**.

Adjournment

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

The next meeting is scheduled for March 18, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-17-98

NAME	REPRESENTING
Pete McGill	Pete McGill & Assoc.
Shirley F. Langhorne	Kansas Dialysis Services
Doris M. Hill	PMA
Barbara Belcher	Merck
Dolly Finney	Kansas Public Health Association
NANCY LYNN SARMAK	
Carol Stinson	
Charles M. Preston	



COMMITTEE ASSIGNMENTS

VICE CHAIR: UTILITIES
COMPUTERS &
TELECOMMUNICATIONS
MEMBER: AGRICULTURE
FINANCIAL INSTITUTIONS
& INSURANCE
RULES & REGULATIONS

Stan Clark

**TESTIMONY BEFORE THE SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE**

**HOUSE BILL 2832
MARCH 17, 1998**

Madam Chair and members of the committee:

Current law allows the members of a county hospital board to be selected by the County Commission or elected by the majority of the citizens at a General Election. The unique feature regarding Hospital Boards is that the majority of the members cannot be selected or elected at the same time. Because of this unique "wrinkle" in the law, most members of the hospital board serve 3 year terms. The 3 year term works well for county commissioner appointed boards but for elected boards there is special election held every other year to elect members of this board which creates considerable expense to the county.

The Rawlins County Hospital Board approached Rep. Faber and myself about solving this problem and HB 2832 before you today is the answer to our effort. In Rawlins County on the first Tuesday of April every year 3 members of the Hospital Board are elected. In the odd numbered years the election is held in conjunction with the school board and city council elections but in the even numbered years only hospital members are on the ballot. They estimate that the election costs between \$1500 and \$2000 and in a county with 2403 registered voters everyone agrees that this tax money can be more wisely spent.

You will note on page 2 line 4 of the bill is the permissive language: "The commission *may* adopt. . ." so that other counties *may* continue to have special elections every other year. Also, the proposed bill allows for a protest petition to call for a county referendum if the citizens disagree with the County Commissioner's decision. The bill further limits Commission

authority in that the issue cannot be submitted to the voters more than once a year.

Page 2, lines 25 and 26, is the most important policy change in the bill. This allows the majority of the members of the hospital board to be selected at an election. In my opinion there are ample precedents to justify this policy change. Currently we select the majority of the County Commissioners, City council members and school board members in this manner. Additionally, all 40 of us were selected as State Senators at the same time. The Kansas House and the U.S. Congress were selected in a like manner.

Section (f) which starts on page 2, line 27, is our attempt to allow the flexibility of the County Commission when they decide to change the number of members on the hospital board. These changes allow the Commission to adjust the terms of the existing board members by not more than one year when the board membership either expands or is reduced. Current law allows for boards of either 5, 7 or 9 members (page 1, line 31).

I would like to propose a change to this bill and this change start on page 2, line 5. After the word "board," I would propose that you insert "and the term of office for each board member and setting new terms for existing board members and the date of expiration of the board members' respective terms." When this legislation becomes law there will be 3 current members of the hospital board whose terms will expire in April 2000. This would grant authority to the County Commission to either lengthen or shorten those terms by 1 year (I am certain either 2 will be lengthen and 1 shortened or 2 shortened and 1 lengthen) and then all members will the elected to 4 year terms.

Madam Chair, because of the icy roads I have testimony that was faxed to me from Scott Beims, the Rawlins County Attorney and hospital board attorney, and from Les Burton, the Police Chief in Hill City in support of this legislation. I will be glad to proceed with their testimony - or stop and answer any questions about my testimony - and then proceed with their testimony.

1 qualified electors voting on the question at such election vote in favor of
2 the question. Such question shall not be submitted to the electors of the
3 county at any election more than once in any one year.

4 (2) *The commission may adopt a resolution changing the manner of*
5 *selection of the board. Such resolution shall be published at least once*
6 *each week for two consecutive weeks in the official county newspaper. If*
7 *within 30 days following the last publication of such resolution, a petition*
8 *against such resolution signed by not less than 5% of the qualified electors*
9 *of the county is filed with the county election officer, such resolution shall*
10 *not be effective until submitted to and approved by a majority of the*
11 *qualified electors of the county voting at an election called and held*
12 *thereon. The question of changing the method of selection shall be sub-*
13 *mitted to a vote of the qualified electors of the county at a regular county*
14 *primary or county general election or, if no regular county election is to*
15 *be held within six months from the date of adoption of the resolution, at*
16 *a special election called for the purpose of submitting such question. Such*
17 *question shall not be submitted to the electors of the county at any election*
18 *more than once in any year.*

19 (e) Members serving on a board on July 1, 1986, shall continue to
20 serve until expiration of their respective terms and their successors shall
21 be selected for terms fixed by resolution of the commission in accordance
22 with the provisions of subsection (c) and this subsection (e). Members
23 selected to serve on the board of any county hospital shall be selected for
24 staggered terms so that: ~~(1) not all terms of office of such members expire~~
25 ~~at the same time; and (2) a majority of the members of the board are not~~
26 ~~selected at the same time.~~

27 (f) Subject to the provisions of subsection (c), the commission, by
28 resolution, may modify the number of members to serve on the board.
29 Whenever the number of members of a board is ~~increased by resolution~~
30 ~~of modified by~~ the commission, the commission shall provide for the
31 expiration of the terms of the members, appointed or elected to the new
32 positions on the board to coincide with the expiration of the terms of the
33 members serving on the board at the time of the creation of the new
34 positions so that a majority of the, so that not all terms of office of mem-
35 bers of the board are not selected at the same time. When complying
36 with the requirements of this subsection, the commission may extend or
37 shorten the length of a term of an existing member for a period not to
38 exceed one year from the date such member's term otherwise would ex-
39 pire.

40 (g) Vacancies in the membership of the board shall be filled by ap-
41 pointment by the commission or, in the case of an elected board, the
42 board. Any member appointed to fill a vacancy shall hold office until
43 expiration of the term of the vacated office.

1 (h) Members of the board are subject to removal from office in the
2 manner and for the causes prescribed by law for other county officers.

3 Sec. 2. K.S.A. 19-4605 is hereby repealed.

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

and the term of office for each board member
and setting new terms for existing board members
and the date of expiration of the board members'
respective terms.

1-3

JHN M. FABER
REPRESENTATIVE, 120TH DISTRICT
H. C. 2, BOX 130
BREWSTER, KS 67732

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENT
MEMBER: AGRICULTURE
EDUCATION
FEDERAL AND STATE AFFAIRS

Testimony for HB 2832

Thank you for the opportunity to testify in support of House Bill 2832. I am pleased that the committee has taken the time to consider this piece of legislation.

This issue was brought to my attention by the Rawlins County Attorney. It changes the law in such a way that makes it possible for the counties, in which elections for the hospital board are held, to not have an election every year. According to the law, hospital boards, which hold elections, must:

1. Have an odd number of members (5, 7, 9).
2. Board members are to serve no less than 2 and no more than 4 years per term.
3. Not all terms may expire at the same time. (The positions must be staggered).
4. Not elect more than a majority of members in any one year.

Current law requires an election be held every year in order to fulfill the requirements of filling open seats. On the years when there is no other election being held, the county has to pay the expense of an election and when more than two people file, a primary has to be held, which is even more expensive. If we can make it possible to have a majority elected in any given election, we can then have an election every two years. It can then be held at the same time the school board election takes place. This will help in two areas, more people will be willing to file and more people will be interested in the election. I don't have a figure for the number of county hospitals this will effect. No one currently tracks this information. **Let me stress** that this will not effect any county which does not wish to make any changes, they can continue to hold elections the same as they have in the past.

Again thank you for the opportunity to appear before the committee.

Senate Public Health and Welfare
Date: 3-17-98
Attachment No. 2

TESTIMONY BEFORE THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
IN SUPPORT OF HOUSE BILL 2832
MARCH 17, 1998

MADAM CHAIR AND MEMBERS OF THE COMMITTEE:

I AM H. SCOTT BEIMS OF ATWOOD, KANSAS APPEARING IN SUPPORT OF HOUSE BILL 2832. I AM COUNTY ATTORNEY IN RAWLINS COUNTY AND I ALSO AM COUNSEL FOR RAWLINS COUNTY HEALTH CENTER, A COUNTY HOSPITAL ORGANIZED AND EXISTING UNDER K.S.A. 19-4601 ET SEQ. RAWLINS COUNTY HEALTH CENTER IS ONE OF ONLY A FEW COUNTY HOSPITALS WITH ELECTED BOARDS. I NOW KNOW THAT HILL CITY IS ONE OF THE OTHER ONES AND I BELIEVE THAT PHILLIPSBURG IS ANOTHER. WE HAVE A NINE PERSON BOARD, EACH NOW SERVING STAGGERED THREE YEAR TERMS. CONSEQUENTLY, WE HAVE TO HAVE AN ELECTION EVERY YEAR. IN THE EVEN YEARS, THERE ARE NO OTHER ELECTIONS IN APRIL AND CONSEQUENTLY, RAWLINS COUNTY HAS TO HAVE AN ELECTION SOLELY TO ELECT HOSPITAL BOARD MEMBERS. IN THE ODD YEARS, THE ELECTION CORRESPONDS TO THE SCHOOL BOARD ELECTIONS. OUR ELECTION OFFICER ESTIMATES THAT THE EVEN YEAR ELECTIONS FOR THE HOSPITAL BOARD MEMBERS COSTS RAWLINS COUNTY BETWEEN \$1,500 AND \$2,000.

OUR LOCAL NEWSPAPER, THE SQUARE DEAL, RAN AN EDITORIAL ON JANUARY 15, 1998 ADDRESSING THE EVEN-YEAR ELECTIONS AND URGING THE COUNTY COMMISSIONERS TO CHANGE THE ELECTION SO THAT THE EVEN YEAR ELECTIONS WOULD NOT BE NECESSARY. WHILE THE COMMISSIONERS COULD, WITH A PETITION FROM 5% OF THE VOTERS OF THE COUNTY, CHANGE THE METHOD OF SELECTING THE BOARD, I REALIZED THAT THERE HAD BEEN A REASON THAT THE ELECTIONS WERE SET UP AS THEY WERE AND WHEN I RE-EXAMINED THE PRESENT LAW, AND IN PARTICULAR K.S.A. 19-4605, THE REASON BECAME OBVIOUS. THIS STATUTE PRESENTLY PROVIDES, IN PART:

1. THERE MUST BE AN ODD NUMBER OF MEMBERS, 5, 7, OR 9.
2. THE ELECTION OF MEMBERS MUST BE STAGGERED.
3. THE TERMS OF THE MEMBERS MUST BE NOT LESS THAN 2 NOR MORE THAN 4 YEARS.
4. A MAJORITY OF THE BOARD CANNOT BE ELECTED AT THE SAME ELECTION.

WITH THESE PROVISIONS, THERE IS NO CHOICE BUT TO HAVE EVEN YEAR ELECTIONS. I FIRST THOUGHT THAT THE ANSWER WOULD BE TO ALLOW 6 YEAR TERMS FOR THE BOARD MEMBERS, BUT WAS INFORMED THAT THE TERM COULD NOT BE MORE THAN 4 YEARS IN KANSAS. THIS LEAVES ONLY TWO OPTIONS:

1. THAT THE BOARD BE ALLOWED TO BE COMPOSED OF AN EVEN NUMBER OF MEMBERS, OR
2. THAT THE PROVISION THAT A MAJORITY OF THE BOARD CANNOT BE ELECTED AT THE SAME ELECTION BE DELETED.

THE BILL ADDRESSES THE PROBLEM ADEQUATELY BY DELETING THE PROVISION THAT A MAJORITY OF THE BOARD CANNOT BE ELECTED AT ONE ELECTION. IN OUR

INSTANCE, THIS MEANS THAT WE CAN ELECT 4 MEMBERS IN 1999 AND 5 MEMBERS IN 20001, ETC.. IT WILL ELIMINATE THE NECESSITY OF THE OFF-YEAR ELECTION. THE BILL ALSO AMENDS THE LAW BY PROVIDING FOR CHANGES IN THE MANNER OF SELECTION OF THE BOARD BY RESOLUTION, SUBJECT TO A PROTEST PETITION CALLING FOR AN ELECTION, WHERE BEFORE IT REQUIRED A PETITION BEFORE ANYTHING COULD BE DONE.

THE AMENDMENT THAT YOU HAVE TO THE HOUSE BILL WOULD SIMPLY CLARIFY WHAT CAN BE CHANGED BY THE COMMISSIONERS IN SUCH A RESOLUTION AND IS NECESSARY SO THAT QUESTIONS DO NOT ARISE LATER AS TO WHETHER OR NOT THEY CHANGED SOMETHING THAT THE LAW DID NOT AUTHORIZE.

RAWLINS COUNTY AND RAWLINS COUNTY HEALTH CENTER FULLY SUPPORT H.B. 2832, AS AMENDED BY THE PROPOSED AMENDMENT IN THIS COMMITTEE.

LEWIS & BEIMS, LTD.
509 MAIN, P.O. BOX 449
ATWOOD, KS 67730-0449
PHONE: (913) 626-3221
FAX: (913) 626-3908

Fax Cover Sheet

DATE: 3/16/98
TO: Sen. Stan Clark
FROM: L. Scott Beims
RE: HO 2832
CC: _____

TIME: _____
PHONE: _____
FAX: _____

Number of pages including cover sheet: 3

Message:

DEAR STAN:
I GOT TO COLBY & THEY SAID IT WAS ICE FROM OAKLEY
TO HAYS & MODERN EAST. DECIDED NOT TO MAKE THE TRIP. SORRY.
ENCLOSING MY PROPOSED TESTIMONY IF IT WILL BE OF ANY HELP
Scott

**BEFORE THE SENATE COMMITTEE ON
PUBLIC HEALTH AND WELFARE**

My name is Les Burton. My duties as Chief of Police for Hill City, Kansas, prevent my personal appearance. My wife is employed at the Graham County Hospital and I have taken an interest in the administration of the hospital.

A good deal of dissension exists with the employees of the hospital, due to a decrease in salaries by limiting the hours of employment, with some employees not receiving a decrease in hours and others being severely limited, one 20 year employee being cut about 50%. The employees feel that if cuts are to be made, they should be made "across the board", including administration and not all made with the persons caring for patients. Failure to furnish me with requested records at reasonable cost has bothered me.

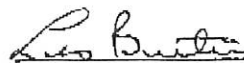
Chairman Don Paxson has served on the Hospital Board for 20 years. The five member Hospital Board is now elected with election of two members, 1 member and 2 members at different times. The present law does not provide for the election of a majority of the Board at one time which hinders and effectively prevents a change of administration.

Adoption of House Bill No. 2832 would afford the people, if they so desire, an opportunity to request, by petition, for a change in the terms of office of the members of the hospital board.

It does seem to this witness that vacancies on the Hospital Board should be filled only by appointment of the commission and not by the Board. This could be effected by striking the words "or, in the case of an elected board, the", on line 41 and the word "board" on line 42 on page 2 of the Bill.

Thank you for your consideration.

March 17, 1998



Les Burton

Senate Public Health & Welfare
Date: 3-17-98
Attachment No. 4

1 qualified electors voting on the question at such election vote in favor of
2 the question. Such question shall not be submitted to the electors of the
3 county at any election more than once in any one year.

4 (2) *The commission may adopt a resolution changing the manner of*
5 *selection of the board. Such resolution shall be published at least once*
6 *each week for two consecutive weeks in the official county newspaper. If*
7 *within 30 days following the last publication of such resolution, a petition*
8 *against such resolution signed by not less than 5% of the qualified electors*
9 *of the county is filed with the county election officer, such resolution shall*
10 *not be effective until submitted to and approved by a majority of the*
11 *qualified electors of the county voting at an election called and held*
12 *thereon. The question of changing the method of selection shall be sub-*
13 *mitted to a vote of the qualified electors of the county at a regular county*
14 *primary or county general election or, if no regular county election is to*
15 *be held within six months from the date of adoption of the resolution, at*
16 *a special election called for the purpose of submitting such question. Such*
17 *question shall not be submitted to the electors of the county at any election*
18 *more than once in any year.*

19 (e) Members serving on a board on July 1, 1986, shall continue to
20 serve until expiration of their respective terms and their successors shall
21 be selected for terms fixed by resolution of the commission in accordance
22 with the provisions of subsection (c) and this subsection (e). Members
23 selected to serve on the board of any county hospital shall be selected for
24 staggered terms so that: ~~(1) not all terms of office of such members expire~~
25 ~~at the same time; and (2) a majority of the members of the board are not~~
26 ~~selected at the same time.~~

27 (f) Subject to the provisions of subsection (c), the commission, by
28 resolution, may modify the number of members to serve on the board.
29 Whenever the number of members of a board is ~~increased by resolution~~
30 ~~of modified by~~ the commission, the commission shall provide for the
31 expiration of the terms of the members, appointed or elected to the new
32 positions on the board to coincide with the expiration of the terms of the
33 members serving on the board at the time of the creation of the new
34 positions so that a majority of the, so that not all terms of office of mem-
35 bers of the board are not selected at the same time. When complying
36 with the requirements of this subsection, the commission may extend or
37 shorten the length of a term of an existing member for a period not to
38 exceed one year from the date such member's term otherwise would ex-
39 pire.

40 (g) Vacancies in the membership of the board shall be filled by ap-
41 pointment by the commission, ~~or, in the case of an elected board, the~~
42 ~~board.~~ Any member appointed to fill a vacancy shall hold office until
43 expiration of the term of the vacated office.

1 (h) Members of the board are subject to removal from office in the
2 manner and for the causes prescribed by law for other county officers.

3 Sec. 2. K.S.A. 19-4605 is hereby repealed.

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

PROPOSED AMENDMENT IS THE STRIKES IN LINES
41 and 42.

4-2

Memorandum



Donald A. Wilson
President

March 17, 1998

TO: Senate Public Health and Welfare Committee
FROM: Kansas Hospital Association; Thomas L. Bell, Sr. V.P./Legal Counsel
RE: **House Bill 2832**

The Kansas Hospital Association appreciates the opportunity to share our concerns regarding the provisions of House Bill 2832, as amended by the House Health and Human Services Committee. This bill makes numerous changes to the county hospital board statutes.

✓ There are approximately 50 county hospitals in Kansas. State law places the day to day operation of county hospitals under the control of a board of trustees. This board can be selected in one of two ways—election by citizens of the county or appointment by the county ✓ commission. Presently, most of the county hospital boards are appointed.

House Bill 2832 would make several changes in Kansas law. First, it would allow the county commission to adopt a resolution changing the method of board selection. Such a resolution would be subject to protest petition. Second, it allows the county commission to extend or shorten a term of a board member when the number of board members is being changed. Finally, House Bill 2832 removes the current requirement that a majority of county hospital board members may not be selected at the same time. This change was not contained in the original bill, but was adopted by the House Health and Human Services Committee.

Every day the maintenance of a county hospital becomes more difficult. As the population ages, the patient mix of such a facility shifts even more toward Medicare. Although most county hospitals have not profited from the Medicare program, the federal government is in the process of restricting those payments even more. As governmental facilities, these hospitals face other restrictions to which private businesses are not subject. Local property taxpayers, who must make up revenue shortfalls if the facility is to stay open, are not anxious to see their taxes increase. As such, it is important to provide necessary flexibility to county hospitals.

Senate Public Health and Welfare
Date: 3-17-98
Attachment No. 5

As introduced, House Bill 2832 added flexibility to change the method of board member selection, subject to protest petition. The amendment added by the House, however, has the potential to disrupt the operation of numerous county hospitals throughout the state. Current law states that a majority of the members of a county hospital board may not be selected at any one time. This provision was included in the county hospitals for a good reason: it was agreed that continuity was an important element of the operation of a successful county hospital and that wholesale changes in the board could have a disruptive effect. This reasoning is, if anything, more applicable today with the many changes affecting the health care system. The House amendment would allow such wholesale changes to be made to any county hospital board in the state.

We understand that House Bill 2832 was introduced in an attempt to resolve a situation in one specific county. We are sympathetic to the concerns that have been expressed, but we would ask the committee to consider several suggestions:

- Changing a law of general applicability to take care of a specific situation sometimes does not result in the best overall policy;
- A county commission has the ability to lengthen the terms of board members, thereby decreasing the number of necessary elections;
- If counties are not happy with the election process, they can switch to appointment of county hospital boards; and
- Since it appears that a "hospital only" election had to be held in 1998, this situation will not occur for another two years. This would give all parties the opportunity to consider whether alternatives short of legislation are available.

Thank you for your consideration of our comments.

TLB:cdc

Graham County Hospital

Testimony to the Senate Public Health and Welfare Committee

March 17, 1998 10:00 AM

My name is Don Paxson. I am Chairman of the Graham County Hospital Board of Trustees at Hill City. The testimony I am presenting will be in opposition to HB 2832, which effects governance of County Hospital Boards. Please accept my apologies for not being here in person to testify.

To the best of my knowledge, there are only two Hospital Boards elected in the State of Kansas. Those two boards are Graham County and Rawlins County.

This proposed legislation is directed toward the concerns of the elected boards but would have serious implications for the other approximately fifty County Hospital Boards that are appointed by County Commissioners in the State, if enacted.

This proposed legislation has several areas that would be problematic, but the main area of concern would eliminate the provision that states, " A MAJORITY OF THE BOARD CAN NOT BE SELECTED AT THE SAME TIME ".

I believe this an important part of the law which has served County Hospitals very well for many years and should not be changed. It is different from other elected official laws and should remain that way.

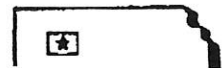
I have been a Hospital Trustee for over twenty years and have seen times when if a majority of the board was elected or appointed at the same time it would have had a devastating impact in years to come. I have served on many different boards in my lifetime, which confirms my belief that a Hospital Board is more difficult and unlike any other board because of the complexity of the Health Care Delivery System today.

The current law safeguards times when a board has to make tough decisions which may not be popular with people in the community who do not understand the confidentially laws regarding Patients, Physicians and employees. There are times when we make decisions that we do not like or want to make simply because we must conform to the law. Continuity of the board is essential and if you have a majority of the board elected at one time with a burning issue it takes to long to educate them properly to understand the complexities involved. It is my firm belief that it takes two or three years for a new board member to become fully functional.



304 W. Prout Street • P.O. Box 339 • Hill City, Kansas 67642-0339 • (913) 674-2034
FAX (913) 674-2034

Senate Public Health & Welfare
Date: 3-17-98
Attachment No. 6



Graham County Hospital

This proposed bill would allow three, five or seven people to be elected or appointed an one time to a board.

I understand the concerns of the folks in Rawlins County wanting to cut the costs of the off year election process, but believe there has to be a better way to achieve their goal without negatively impacting all other County Hospitals in the state.

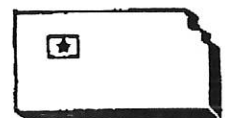
I believe the overall content of this proposed legislation is not in the best interests of Graham County or other County Hospitals in Kansas and should not move forward.

Thank You for the opportunity to present this testimony to the Committee.

Don Paxson



304 W. Prout Street • P.O. Box 339 • Hill City, Kansas 67642-0339 • (913) 674-2121
FAX (913) 674-2034



6-2

HEIN AND WEIR, CHARTERED

ATTORNEYS AT LAW

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Telephone: (785) 273-1441

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Ronald R. Hein

Stephen P. Weir

Susan Baker Anderson

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

TESTIMONY RE: HB 2835

Presented by Ronald R. Hein

on behalf of

BAXTER INTERNATIONAL

March 17, 1998

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for Baxter International. Baxter is a diversified healthcare corporation providing medical services, equipment, and supplies in many areas of healthcare. Among other services, Baxter is one of the industry providers of dialysis solutions and supplies to chronic end-stage renal disease patients. These services include hemodialysis and peritoneal dialysis.

HB 2835 amends the Kansas Pharmacy Act to establish the role of the Board of Pharmacy in the regulation of companies that distribute dialysis products to patients suffering from chronic kidney failure.

For those of you unfamiliar with peritoneal dialysis or home hemodialysis, such services permit chronic renal failure patients to live as normal a life as possible given their kidney failure. Dialysis is the means by which a kidney patient is able to perform the functions normally performed by a healthy, functioning kidney. Baxter has been a provider of home dialysis supplies, equipment, and solutions for 25 years. Baxter delivers 500-1,000 pounds of dialysis solutions and supplies monthly to approximately 325 Kansas home peritoneal dialysis patients upon order of their physician.

Baxter had thought that they delivered product on behalf of physicians. A couple of years ago, Baxter's lawyers reviewed state laws and thought they were technically dispensing drugs directly to consumers. So, they have approached state Boards of Pharmacy and legislatures to help craft language so that Baxter would be in full compliance. After discussions with the Kansas Board of Pharmacy, HB 2835 was the recommended solution to insure full compliance with the Kansas Statutes.

The bill provides that the distribution of such home dialysis solutions, devices and supplies as are designated by the Board, and which meet the other criteria set out in Section 1, are exempt from the provisions of the Kansas Pharmacy Act. However, the Board of Pharmacy retains control over which drugs qualify for such home distribution, and the wholesale distributor continues to be required to be registered with the Board. The wholesale distributor is also required to be supervised by a pharmacist consultant pursuant to rules and regulations adopted by the Board.

Senate Public Health & Welfare

Date: 3-17-98

Attachment No. 7

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

Testimony HB 2835

March 17, 1998

The Board of Pharmacy agreed with this legislation in the House, and the Kansas Pharmacists Association had no objection to the bill. HB 2835 as it passed the House did not directly deal with renal dialysis facilities.

However, some controversy arose when the Board of Pharmacy discovered that renal dialysis facilities were not regulated by the board and were not in compliance with existing pharmacy statutes. Numerous discussions were held between the parties to solve this controversy.

A representative of the Board of Pharmacy and a representative of the dialysis centers will testify regarding balloon amendments to HB 2835. Baxter supports those balloon amendments ~~if they~~ permit these centers to continue the fine work that they do for persons with chronic kidney failure in the same way that they have done for years.

Baxter recognizes the need of the Board of Pharmacy to protect the public, but also recognizes the tremendous job that dialysis facilities do every day in providing dialysis treatment and services to persons with end stage renal disease. Baxter is wholeheartedly supportive of any solution that will prevent the dialysis centers from having to disrupt the way they have provided treatment in the past.

Therefore, I would urge the committee to adopt the balloon amendments agreed to by the Board of Pharmacy and the dialysis centers, and to recommend HB 2835 as amended favorably for passage.

Thank you very much for permitting me to testify, and I will yield to questions.

TESTIMONY PRESENTED
TO THE
SENATE
HEALTH AND PUBLIC WELFARE
COMMITTEE

BY

STAN LANGHOFER, R. N.

ON BEHALF OF
KANSAS DIALYSIS SERVICES

ON

HB 2835

MARCH 17, 1998

Madame Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today. My name is Stan Langhofer and I am a kidney dialysis registered nurse. I have worked in this field since 1981 and am the family member of a former dialysis patient. I currently serve as the administrator of Kansas Dialysis Services (KDS).

KDS is a group of 6 dialysis units in NE Kansas that are co-owned by divisions of Stormont Vail HealthCare and St. Francis Hospital and Medical Center. I also represent over 30 dialysis units in the State of Kansas operated by approximately 7 companies. Together we serve nearly 1800 patients (1638 in July of 1996 with an annual growth rate of 10%) with kidney failure. I have attached a list of those to my testimony.

✓ On behalf of the dialysis units across the state, we want to support HB 2835 in order to continue to allow patients who dialyze at home to receive medical supplies shipped directly to them from companies like Baxter Healthcare. These patients (home dialysis patients) are trained and monitored by our dialysis units.

✓ We do, however, need the bill amended allowing us to continue to give medicine and perform dialysis treatments under the order of a physician (nephrologist) for the patients who come in to our units. (incenter dialysis patients or home dialysis patients being treated in the unit)

Let me relate to you my experience on this issue over the last few weeks that has led to me testifying before you today. Around the first of February our Topeka dialysis unit was visited by a pharmacy inspector from the State of KS. Board of Pharmacy. Until that time our last contact with the Pharmacy Board had been in 1992 when they gave us permission to supply a medicine called Epogen (a red blood cell production stimulating hormone to treat anemia common to dialysis patients) to our home dialysis patients. I was out of the office and he visited with our staff for a few moments and left his card for me. I was unsuccessful in reaching him although I called both the Board of Pharmacy office and the inspectors home leaving messages requesting a return call. In mid February the inspector returned to our unit and dropped of pharmacy applications for each of our dialysis units. We again missed each other but this time I became very alarmed because the application in bold type gave us 30 days to comply with becoming a pharmacy or be fined and be in violation of the KS. Pharmacy Act. I again left messages for the pharmacy inspector to return my call without success. At this point I contacted other dialysis unit administrators in KS. and discovered that they too had been visited by pharmacy inspectors and were equally concerned. I then learned of HB 2835 and wondered what impact if any it had on dialysis units like KDS and if it was the reason dialysis units were now being contacted by the Pharmacy Board. After many hours of meetings with the representatives of the Board of Pharmacy, a productive dialogue was established. After some research we determined that it did indeed affect the dialysis units. The amendments before you have been agreed upon by all participants; Baxter, the sponsor of the bill, the State Board of Pharmacy and the majority of dialysis centers, subject to acceptance of rules and regs. ✓

A very important concern was raised by a number of dialysis units questioning the availability of consultant pharmacist for smaller communities in more remote locations which we will need to carefully evaluate in rules and regs.

We absolutely want to be in compliance with the laws of the State of Kansas. We do also want to demonstrate to you how well operated, federally regulated and state inspected dialysis units already are. I believe we are not "broken" and question why we need "fixed" with additional regulation, inspections and expense.

Medicines that are given to incenter dialysis patients are ordered by Nephrologists and administered by a nursing staff who know their patients intimately. Our patients typically need 3 sessions lasting 4 hours apiece, each week for the rest of their lives or until receiving a transplant. Because of this close, long term relationship the dialysis unit is referred to as an extension of the Nephrologist office practice. We are therefore very different than providers such as surgery centers or ambulance services that patients visit very infrequently by comparison.

Dialysis units are federally regulated by a comprehensive HCFA code 42, subpart U which details the conditions of coverage dialysis units must comply with to be eligible for Medicare reimbursement (approximately 90% of dialysis patients are covered by Medicare).

In addition to that, dialysis units are also responsible to an agency referred to as Network # 12 which HCFA contracts with to monitor patient quality standards. Important outcomes like hospitalization rates, mortality rates, critical lab values, etc. are assessed and reported.

The Kansas Department of Health and Environment also performs site inspections on dialysis units both initially when a unit is opened and periodically to assure continued compliance. Dialysis units have an excellent track record and at KDS our last 3 routine, unannounced inspections have each resulted in 0 deficiencies. I would like to call your attention to the last attachment to this testimony which details the first rate ranking Kansas Dialysis Services received. This inspection or survey process utilizes a format that involves meeting with the patients and staff and typically occurs over a one to two day period and uses an extensive set of criteria that are many pages in length with several hundred specific requirements.

I share these last several points to demonstrate that we are not "out of the loop" of appropriate governmental regulation (nor do we want to be) and we support it wholeheartedly believing it has helped and continues to help insure the safety of our patients. As I said earlier the current system of state and federal supervision of dialysis practices is working. We ask this committee to assist us in making sure that dialysis units like KDS can continue to legally provide life sustaining medical care to our patients without additional, unnecessary regulation. And most importantly, we stress the importance of remembering **the patient is our number one priority.**

Again, I want to thank you for the opportunity to appear before you and I will be happy to stand for questions.

HOUSE BILL No. 2835

By Committee on Health and Human Services

2-6

9 AN ACT concerning the pharmacy act of the state of Kansas; dialysates,
10 devices or drugs for chronic kidney failure.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Except as otherwise provided in this section, the pro-
14 visions of the pharmacy act of the state of Kansas shall not apply to di-
15 alylates, devices or drugs which are designated by the board for the pur-
16 poses of this section as necessary ~~to perform dialysis~~ and which are
17 prescribed or ordered by a physician for administration or delivery to a
18 person with chronic kidney failure if:

19 (1) The wholesale distributor is registered with the board and lawfully
20 holds the drug or device; and

21 (2) the wholesale distributor (A) delivers the drug or device to: (i) A
22 person with chronic kidney failure for self-administration at the person's
23 home or specified address ~~as ordered by a physician; or~~ (ii) a physician
24 for administration or delivery to a person with chronic kidney failure; and
25 (B) has sufficient and qualified supervision to adequately protect the pub-
26 lic health.

27 (b) The wholesale distributor pursuant to subsection (a) shall be su-
28 pervised by a pharmacist consultant pursuant to rules and regulations
29 adopted by the board.

30 (c) The board shall adopt such rules or regulations as are necessary
31 to effectuate the provisions of this section.

32 ~~(d)~~ This section shall be part of and supplemental to the pharmacy
33 act of the state of Kansas.

34 Sec. 2. This act shall take effect and be in force from and after its
35 publication in the ~~statute book~~

in the treatment of chronic kidney failure

; or (iii) a medicare approved renal dialysis facility for administering or delivering to a person with chronic kidney failure

(d) As used in this section, "physician" means a person licensed to practice medicine and surgery.

(e)

See attached

Renumber the existing section accordingly

Kansas register

85

Sec. 2. (a) A medicare approved renal dialysis facility which keeps prescription drugs as a part of the services provided by such facility shall obtain a registration from the board as a renal dialysis facility pharmacy. Application for such registration shall be made in accordance with procedures established by the board. All fees applicable to registration of a pharmacy, and the renewal of such registration, shall apply to the registration of a renal dialysis facility pharmacy.

(b) A registered renal dialysis facility pharmacy shall be supervised by a pharmacist consultant. The pharmacist consultant shall act as the pharmacist in charge. The pharmacist consultant shall be responsible for developing procedures, proper control and accountability for drugs and devices kept as part of the services provided by the renal dialysis facility and shall maintain complete and accurate records of the drugs and devices. The pharmacist consultant shall periodically conduct an inventory of the drugs and devices of the renal dialysis facility.

(c) Each renal dialysis facility pharmacy shall maintain a policy and procedure manual which includes a quality assurance program for monitoring the qualifications, training and performance of personnel and a written protocol for documentation of administration and distribution of drugs or devices to patients. The policy and procedure manual shall be approved by the pharmacy consultant.

(d) The board shall adopt rules and regulations relating to recordkeeping, storage of drugs and devices, labeling requirements and such other matters as are necessary for proper control of drugs and devices by the renal dialysis facility.

(e) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

KANSAS DIALYSIS COMPANIES AND UNIT LOCATIONS

KANSAS DIALYSIS SERVICES

TOPEKA
LAWRENCE
MANHATTAN
LEAVENWORTH
OTTAWA
SABETHA

RENAL CARE GROUP

WICHITA
ARKANSAS CITY
NEWTON
HUTCHINSON
GREAT BEND
DODGE CITY
LIBERAL
LAKIN
HAYS
EMPORIA
CHANUTE

TOTAL RENAL CARE

WICHITA
GARDEN CITY
NEWTON
WINFIELD
INDEPENDANCE
PARSONS

EVEREST HEALTHCARE

TOPEKA

SALINE COUNTY DIALYSIS

SALINA
CONCORDIA
JUNCTION CITY

JOPLIN MO. DIALYSIS

FT. SCOTT

KANSAS MEDICAL CENTER

For Kansas Dialysis Services, Patient Satisfaction and Increased Quality of Care Are the Main Treatment Ingredients

Information Supplied and Written by Stan Langhofer, RN, CNN

Introduction

Ability. Experience. A caring staff and a unique organizational structure. These are the main ingredients for patients doing well at Kansas Dialysis Services (KDS), Topeka, KS.

Improving the quality of life for people who need dialysis. Helping patients adjust and feel more comfortable with dialysis. Patients living longer and spending less time in the hospital. Having the best possible outcomes. Using a combination of hi-tech and a warm touch to provide a safe, friendly atmosphere. All renal care professionals strive to provide these for the patients they serve.

This article will describe how the KDS staff worked to successfully increase patient satisfaction and quality of life.

The Results

The KDS staff provides care for over 190 dialysis patients in five units in the northeast Kansas communities of Lawrence, Leavenworth, Manhattan, Ottawa, and Topeka. The average mortality rate in these units is considerably less than half the national average—only 5% for the first two quarters of 1997. More than 85% of the patients have albumin levels above 3.5, and over 87% of the patients have hematocrits (Hcts) in the target zone of 30%-36%, with an average of over 34%. The hemodialysis (HD) Kt/V average is above 1.5, and 85% of the patients have urea reduction ratios (URRs) greater than 65%, with the average being close to 70%. Eighty-five percent of the peritoneal dialysis (PD) patients have a Kt/V of 2.0 or greater.

The unit staff believes there are several key reasons for how well the patients at KDS are doing. Stan Langhofer, RN, CNN, unit administrator, believes much of it has to do with the "tremendous ability, care and experience" of the staff, with over 250 years of combined dialysis experience. The medical director, Robert Porter, MD, and the director of Nursing, Karen Steinlage, RN, CNN, for instance, each have 24 years of experience and have worked together their entire careers. Five KDS nurses recently completed Council of Nephrology Nursing (CNN) certification, express-

ing their commitment to the nephrology field. There is also a continuous quality improvement (CQI) nurse responsible for tracking such important matters as hospitalization, mortality/infection rates, and access malfunction.

"We assign outcomes to individual staff so one nurse is responsible for monitoring Hcts and adjusting erythropoietin (EPO)," Langhofer explained. "Another monitors dialysis adequacy, and our dietitians monitor patient nutritional status, calcijex dosage, and the related labs, all under the direction of our nephrologists. This means that each lab value gets the careful attention of an experienced professional, and changes are made when necessary.

"There is also a weekly interdisciplinary team meeting where patient needs are addressed in a very personal way. Even though this is a busy time for everyone involved in healthcare, this meeting continues to be a priority and allows special attention to be given one patient at a time."

Exercise Program

"Our bicycling and chair aerobic exercise program has been very popular with our patients," Langhofer continued. "They report having a higher activity tolerance at home, accept more easily coming to dialysis, and just plain feel better."

Unit "bikers" have earned specially-designed water bottles, towels, and Tee shirts by accomplishing their goals and are currently peddling in two teams to either "Denver" or "Las Vegas." Langhofer has no doubt they will make it. There is also a 12-week "Bike the Mountain" program. (See photo.)

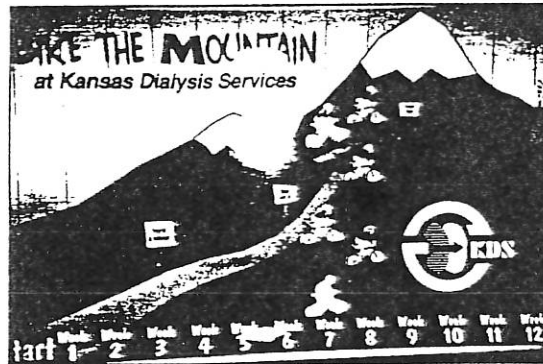
KDS social workers help the unit celebrate every holiday with parties that include bingo, treats, appearances by "celebrities" such as Minnie and Mickey Mouse, Barney, a giant panda, and violin-playing clowns. At Christmas time, each patient receives a special present wrapped especially for him or her and delivered by Santa Claus.

A Model For the Future?

Langhofer also believes that the organization struc-



TOP QUALITY CARE—Ability, experience, and a caring staff equal improved patient outcomes at Kansas Dialysis Services, Topeka. Clockwise: Robert Porter, MD, medical director (center), and Reeta Thukral, MD, and Scott Solcher, MD, associate medical directors; a happy patient works out on a special "exercycle" while a staff member cheers him on; a "Bike the Mountain" contest for unit "bikers."



ture and ownership of KDS plays such an important role in patient success that "we are a model for the future of renal disease management." Kansas Dialysis Services is co-owned by area hospitals and a group of physician specialists that includes a nephrologist, cardiologist, pulmonologist, neurologist, endocrinologist, hematologist, rheumatologist, gastroenterologist, infectious disease specialist, and family practitioners.

"This is very important because, under this umbrella of care, patients can be carefully monitored and appropriately treated, even prior to complete kidney failure, which we all know is vitally important to the health and well-being of those eventually requiring

dialysis," Langhofer emphasized.

This also allows for pre-dialysis access development and general education about dialysis to occur before a patient begins feeling ill.

KDS has inpatient contracts with five area hospitals, allowing its staff to provide continuing of care to patients, even through their illness or injury. This means the dialysis staff who knows their patients best will be assessing and treating them during the time their care is most critical.

A Personal Commitment

Langhofer has a personal as well as professional commitment to the work he does.

"I have been with this unit since 1981 as a technician, nurse, educator, coordinator, and, now, administrator," Stan reported. "I also had the unique opportunity of being involved with my grandfather's dialysis care right here at KDS and was able to learn what he experienced at home as well as on dialysis.

"I love the dialysis setting. As caregivers, it gives us the opportunity to build long-term relationships with our patients and their families that are very rewarding."

A note received recently from the spouse of one of KDS' former continuous ambulatory peritoneal dialysis (CAPD) patients reads: "Your staff became like family to us."

"That is the joy of our profession," Langhofer remarked.

At KDS' recent anniversary and open house, Porter and Langhofer presented 25 patient awards, including a 20-year HD and 10-year CAPD award. Both patients had dialyzed those entire times at the unit.

Following the open house, Stan received a note from a home HD patient that said: "You are all angels. Thank you for my 15th spring on dialysis and the chance to enjoy my grandchildren." Another patient told him: "You help us dialyze to live life instead of live life to dialyze."

"That says it all for why we strive to do our very best," Langhofer enthused.

Stan Langhofer, RN, CNN, is unit administrator and chief executive officer at Kansas Dialysis Services, Topeka. He is responsible for all dialysis operations in five units throughout northeast Kansas.

Should Your Facility Be Featured Here?

Does your dialysis facility have special programs to improve patient quality of care? Does it have unusual or unique methods of making the dialysis experience a happier one? Is facility design a factor in making patients feel more at home? What about educating patients on such important matters as diet and compliance? Is there a reward system or other incentives for patients? Do you have a better computer billing or record-keeping system to maintain continuous quality improvement?

If you think your facility stands out in some way in providing better care for your patients, we'd like to hear from you and possibly feature your innovations in this department. Contact Gordon Lore, editor, at (818) 704-5555, fax (818) 704-6500.

Kansas State Board of Pharmacy

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TOPEKA, KANSAS 66612-1231
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STATE OF KANSAS

1998 KANSAS LEGISLATIVE SESSION House Bill No. 2835

EXECUTIVE DIRECTOR
LARRY C. FROELICH

BOARD ATTORNEY
DANA W. KILLINGER



BILL GRAVES
GOVERNOR

MEDICARE APPROVED RENAL DIALYSIS FACILITY OR CENTER

Senate Committee on Public Health and Welfare

Tuesday, March 17, 1998

SENATOR SANDY PRAEGER, Chairperson
SENATOR LARRY SALMAS, Vice Chairperson
COMMITTEE MEMBERS

Madam Chairperson and members of the committee, my name is Vicki Schmidt and I serve as a pharmacist on the Kansas State Board of Pharmacy. I appear before you today on behalf of the Board in support of **HB 2835**.

As you have already heard in the previous testimony, this bill will solve several issues for both the wholesale distributors and the dialysis centers. Members of all of the involved parties have had several meetings and have all had a part in "crafting" this bill and the amendments that you have before you. In addition, Norman Furse provided the wording and the excellent suggestions for this bill.

The dispensing of prescription medications has always been the responsibility of practitioners or pharmacists. This bill brings this practice under the same umbrella as the other practice settings.

The Board of Pharmacy respectfully requests favorable passage of HB 2835. I would be happy to answer any questions or concerns that you may have.

Senate Public Health & Welfare
Date: 3-17-98
Attachment No. 9